



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/25/2023

ITEM NO: 2

DATE: October 20, 2023
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Development Review Committee Decision to Approve a Lot Line Adjustment Application in Accordance with California Government Code Section 66412(d) for Three Adjoining Lots on Property Zoned R-1:20. Located at 17200 Los Robles Way. APNs 532-36-075, -076, and -077. Lot Line Adjustment Application M-23-001. Statutorily Exempt from CEQA as a Ministerial Approval in Accordance with Public Resources Code Section 21080(b)(1) (CEQA Statute) and CEQA Guidelines Section 15268. Application is Only for Ministerial Approval of a Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act.
Property Owners: Daran Goodell, Trustee and Mark Von Kaenel.
Applicant: Tony Jeans. Appellant: Alison Steer. Project Planner: Ryan Safty.

RECOMMENDATION:

Deny the appeal and uphold the decision of the Development Review Committee (DRC) to approve the application, subject to the required determinations (Exhibit 2) and recommended conditions of approval (Exhibit 3).

BACKGROUND:

The subject parcels are located at the terminus of Los Robles Way and Worcester Lane (Exhibit 1). The lot line adjustment proposes to take three adjacent parcels and reconfigure their lot lines. The existing lot configuration has several non-conformities, all of which would be remedied with the proposed lot line adjustment; a legal, non-conforming front setback on Parcel 1 is allowed under current Town Code, as discussed in the DRC Report (Exhibit 4) and in the applicant's Letter of Justification (Exhibit 6). There is an existing residence on Parcel 1 (APN 532-36-076) that would remain, and the other two parcels are vacant. No new construction is proposed with the application.

PREPARED BY: Ryan Safty
Associate Planner

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

BACKGROUND (continued):

The current lot line adjustment application (M-23-001) seeks to cure the absence of certain factual information and presence of certain procedural flaws in the Town's original approval of Lot Line Adjustment Application M-20-012. A detailed history of application M-20-012 is provided in Exhibit 4, and a summary of the action items and dates are provided below:

- On November 11, 2020, the applicant submitted their previous lot line adjustment application (M-20-012) for the three parcels;
- On February 23, 2021, the applicant submitted Certificate of Compliance applications to verify the legality of Parcels 2 and 3;
- On May 25, 2021, the DRC approved the Certification of Compliance applications, which verified the legality of Parcels 2 and 3;
- On July 13, 2021, the DRC approved Application M-20-012;
- On July 22, 2021, the decision of the DRC was appealed to the Planning Commission by adjacent neighbors;
- On September 8, 2021, the Planning Commission denied the appeal and approved Application M-20-012;
- On September 20, 2021, the decision of the Planning Commission was appealed to the Town Council by adjacent neighbors;
- On December 7, 2021, the Town Council made a motion to uphold the decision of the Planning Commission and adopted a resolution denying the appeal and approved Application M-20-012; and
- On March 1, 2022, a resident challenged the Town's approval of Application M-20-012 by seeking a writ of administrative mandate to overturn the Town's approval.

In the course of the litigation, it became apparent that the Town had relied on the Subdivision Map Act's requirements regarding the approval of a tentative map instead of the Subdivision Map Act's requirements regarding a lot line adjustment [Government Code Section 66412(d)]. At the same time, the applicant for Application M-20-012 submitted a new application (Application M-23-001) for review in accordance with Government Code section 66412(d) (Exhibits 6 and 7).

In light of all of this, the Town requested a stay from the court to allow the Town to process Application M-23-001 in accordance with the Subdivision Map Act's requirements regarding lot line adjustments as set forth in Government Code Section 66412(d). The stay was granted.

A detailed staff report for Application M-23-001 (Exhibit 4) was prepared in advance of the DRC hearing which: summarizes the application request; provides a detailed background of the application beginning in 2020; specifies how the project is ministerial under the California Environmental Quality Act (CEQA) and therefore compliant with CEQA; and analyzes how each

BACKGROUND (continued):

of the required considerations for approval of Application M-23-001 are met in accordance with Subdivision Map Act requirements as set forth in Government Code Section 66412(d).

On August 15, 2023, the DRC opened the public hearing, listened to public testimony, and approved Lot Line Adjustment Application M-23-001 based on the information provided in the Report to the DRC, the draft conditions of approval, and in accordance with the required determinations provided in California Government Code Section 66412(d) (Exhibit 4). The meeting minutes are provided as Exhibit 5.

Pursuant to Town Code Section 29.20.257, any interested person as defined by Town Code Section 29.10.020 may appeal to the Planning Commission any decision of the DRC. For residential projects, an interested person is defined as, "a person or entity who owns property or resides within 1,000 feet of a property for which a decision has been rendered and can demonstrate that their property will be injured by the decision." The appellant meets the requirements.

On August 22, 2023, the decision of the DRC was appealed to the Planning Commission by an adjacent neighbor (Exhibit 8). The applicant has responded to the appeal letter, provided as Exhibit 9.

DISCUSSION:

A. Project Summary

The subject parcels are located at the terminus of Los Robles Way and Worcester Lane (Exhibit 1). The lot line adjustment proposes to take three adjacent parcels and reconfigure their lot lines. The existing lot configuration has several non-conformities, all of which would be remedied with the proposed lot line adjustment; a legal, non-conforming front setback on Parcel 1 is allowed under current Town Code, as discussed in the DRC Report (Exhibit 4) and in the applicant's submittal package (Exhibits 6 and 7). There is an existing residence on Parcel 1 (APN 532-36-076) that would remain, and the other two parcels are vacant. No new construction is proposed.

B. Lot Line Adjustment Review Process

Applications for lot line adjustments are ministerial in nature, but are required by Town Code Section 29.20.745(9) to go before DRC for approval.

DISCUSSION (continued):

The required determinations for approval of a lot line adjustment application pursuant to Government Code Section 66412(d) are: that the new lot line adjustment is between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created; and that the parcels resulting from the lot line adjustment will conform to the local general plan, any specific plans, any applicable coastal plan, and zoning and building ordinances (Exhibit 2). A detailed analysis showing compliance with each required determination is also provided in Exhibit 4.

C. Appeal Analysis

The appellant's reasoning is provided below, with applicant's responses in *italic* font, followed by staff analysis below each section of the appeal letter.

1. Appellant: The DRC's conclusion, at the urging of staff, that approval of this application is a ministerial act is legally erroneous because the DRC must exercise considerable judgment to ensure the lot line adjustment is consistent with all aspects of the Town's General Plan, Hillside Specific Plan and all applicable Hillside Development Standards and Guidelines. This approval is unlike a typical ministerial act where the responsible agency merely uses a pre-defined checklist to ensure the project is consistent with a set of well-established standards [...]. Moreover, staff's position that lot line adjustment approvals are per se ministerial is clearly erroneous in light of CEQA Guideline Section 15305, which provides that lot line adjustment approvals are exempt from CEQA under some circumstances. If, as staff contends and the DRC apparently accepted, lot line adjustment approvals are per se ministerial, Section 15305 is completely pointless and nonsensical because ministerial acts are not subject to CEQA at all, and therefore there would be no point in adopting a guideline to exempt them from CEQA [...]. The fact that under Section 15035, lot line adjustments between four or fewer lots with average slopes greater than 20 percent are not exempt from CEQA review is further persuasive evidence that approval of a lot line adjustment on parcels with greater than 20 percent slopes require exercise of discretion.

Applicant: *Pursuant to Government Code Section 66412(d), a lot line adjustment "between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created" is exempt from the Subdivision Map Act and review under CEQA. Approval of such a lot line adjustment is ministerial in nature.*

DISCUSSION (continued):

Staff analysis: As noted in the DRC Report (Exhibit 4), the CEQA Determinations Section on pages four and five explains staff's limitations in reviews of lot line adjustments in accordance with the required provisions and considerations of California Government Code Section 66412(d). The Town is relying on Public Resources Code Section 21080(b)(1) (CEQA statute) and CEQA Guidelines Section 15268, both of which provide that ministerial projects are exempt from the requirements of CEQA. The courts have determined that lot line adjustments pursuant to Government Code Section 66412(d) are ministerial approvals.

Additionally, CEQA Guideline Section 15268 provides that the determination of what is "ministerial" can most appropriately be made by the public agency involved and that this determination can be made on a case-by-case basis, and the California courts have determined that the Subdivision Map Act statute exempts from discretionary reviews, exactions, and conditions those lot line adjustments that fit the specifications of Government Code section 66412(d). The Town's review is expressly limited to determining whether the resulting lots will conform to the local general plan, any applicable specific or coastal plan, and building and zoning ordinances, which is a prototypical ministerial approval process, and, in this case because no other land use approvals are being sought by the applicant, involves only a ministerial action. Here, the lot line adjustment is simply: moving the existing lot lines between three existing, legal lots; is not creating any new additional lots; is removing existing non-conformities, and is not proposing any other land use approvals. On that basis, the lot line adjustment action by the Town is ministerial in nature.

The California Public Resources Code statute setting forth CEQA and dictating that ministerial projects are not subject to CEQA "trumps" any CEQA Guideline providing to the contrary. The California Government Code statute setting forth the Subdivision Map Act and its provisions regarding lot line adjustments, and the California Appellate courts determining those lot line adjustments to be ministerial in character "trumps" any CEQA Guidelines providing to the contrary. The fact that CEQA Guideline Section 15305 provides an exemption for certain minor alterations in land use limitations does not provide contrary or controlling evidence that the CEQA statute and Guidelines do not apply to "ministerial projects." CEQA Guideline Section 15305 does not provide contrary or controlling evidence that the Government Code provisions containing the Subdivision Map Act and its lot line adjustment requirements [Government Code section 66412(d)] do not describe a wholly ministerial process. As noted in Exhibit 4, Government Code Section 66412(d) and previous case law provides that this lot line adjustment application is ministerial and not subject to CEQA.

DISCUSSION (continued):

2. Appellant: Town is required to analyze the proposed lot line adjustment's consistency with goals and policies of the General Plan including land use element (LU 6.4) which "prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood." The Town has conducted no such analysis, and in any event, a finding that the lot line adjustment is, or is not, consistent with LU 6.4 necessarily requires an exercise of discretion.

Applicant: The application does not request the approval of any new homes nor development of the three (3) parcels. As such, it is premature to consider issues relating to development of the parcels. For instance, Appellant's reference to LU 6.4 is misplaced, as there is no proposed change of use or development of the parcels before the Town, there is no need to conduct any analysis under LU 6.4.

Staff analysis: No new land uses are proposed with this lot line adjustment application, and no development or construction is proposed. If development or construction activities and/or proposed land uses are proposed in the future, they would need to comply with the General Plan. As noted in Condition of Approval #5 of Exhibit 3, "Notice is hereby given to the Property Owners that any proposed disruption, development, or other related construction on, adjacent to, or related to the Adjusted Parcels shall require environmental review to determine appropriate CEQA compliance, review for General Plan, Specific Plan, Zoning, and Building Ordinance compliance, and an Architectural and Site Application approval with the Community Development Department of the Town, with related findings, considerations, and conditions of approval in compliance with applicable Town Code."

3. Appellant: Similarly, the Town has failed to analyze the potential impacts associated with the proposed cul-de-sac or its consistency relative to the Hillside Development Standards which also changes principal means of access to parcels 2 and 3 [...]. It is important to note, moreover, that regardless of whether the lot-line adjustment could be approved without compliance with CEQA, the Town must analyze the environmental impacts associated with the proposed access driveway to parcels 2 and 3, which is an essential part of the proposed lot line adjustment.

DISCUSSION (continued):

Applicant: The access at Worcester Lane has always been available to the property and this will not change with this lot line adjustment. The owners are offering to dedicate to the Town an appropriate easement for a cul-de-sac area at the terminus of Worcester Lane to satisfy ingress/egress to parcels 2 and 3 from this location and meet the Town's frontage requirements. This area has been identified on the plans based on a Town standard hillside cul-de-sac. According to the Town's staff report submitted to the DRC, Town Code Section 29.40.400 does not mandate that the cul-de-sac street frontage be along a paved roadway. This application does not request approval of plans to develop the cul-de-sac easement area. Thus, the Town need not analyze potential impacts associated with the cul-de-sac area.

Staff analysis: As noted in Condition of Approval #2 in Exhibit 3, the property owners have proposed to make irrevocable offers of dedication of easement to the Town to satisfy Town Zoning Code provisions regarding frontage. The provisions from Government Code Section 66412(d) regarding lot line adjustments authorizes the Town to impose conditions of approval to ensure Zoning Code compliance and consistency. However, construction of the cul-de-sac is not proposed or required, and Condition of Approval #5 makes clear that any and all disruption, development, construction, including future construction of the cul-de-sac, would require a discretionary Architecture and Site Application with environmental review to determine appropriate CEQA compliance, and review for General Plan, Specific Plan, Zoning, and Building Ordinance compliance. Again, no construction of any kind is proposed with this lot line adjustment application.

As a part of this lot line adjustment application review, Town staff has reviewed the cul-de-sac area delineated in Exhibit 7 that is offered as a dedication of easement to the Town and has confirmed that a cul-de-sac meeting the Town's required cul-de-sac dimensions would fit in this location. Again, no construction or development is being proposed. Any future construction and grading associated with this cul-de-sac would require a Town approved Architecture and Site Application, which would first require CEQA compliance before approval or denial.

In order to avoid confusion and clarify the intent of the condition for the cul-de-sac dedication, staff is recommending a revision to drafted Condition of Approval #2 in Exhibit 3. Staff is recommending a revision because the last two sentences are unnecessary. If the lot line adjustment is denied, the conditions of approval will not exist. The proposed amended condition language is shown in strikethrough text in Exhibit 3 and copied below.

DISCUSSION (continued):

2. CUL-DE-SAC DEDICATIONS: To ensure the consistency of the Approval of the New Lot Line Adjustment Application (M-23-001) with the Zoning Ordinance of the Town Code, within ninety (90) days of the Approval Date, the property owners (individually, "Property Owner," collectively, "Property Owners") of Adjusted Parcels 2 and 3 shall make irrevocable offers of dedication of easement to the Town of the "Cul-De-Sac Area" for right-of-way purposes (as that Cul-De-Sac Area is specifically delineated in the New Lot Line Adjustment Application (M-23-001) materials), and to the satisfaction of the Town Engineer, to ensure compliance with the minimum Town street frontage standards for cul-de-sacs. Within thirty (30) days of such Property Owners dedication, the Town Engineer shall accept such dedication(s) on behalf of the Town. ~~Should the Approval be placed before the Town Council for consideration and action on appeal, the Town Council shall determine whether or not to confirm such acceptance of such dedication in addition to considering the merits of the appeal. Failure of the Town Council to confirm acceptance of such Cul De Sac Area dedications, and/or approval of such appeal by the Town Council, shall void the Approval.~~
4. Appellant: To the extent the lot line adjustment creates a new buildable parcel from an unbuildable parcel [and not just moving lines around on paper as was mentioned at the DRC meeting (minute 6:20)], the Town is required to but has thus far failed to carefully review the consistency of the newly configured parcels with the Town's General Plan. Approval of the lot line adjustment will most likely result in the siting of up to two new dwellings on parcel 2, which is more than capable of creating ecological and visual impacts to neighboring properties (General Plan CD 6.4).

Applicant: In the plans, we have limited the details to the proposed lot configurations requested for the lot line adjustment, while providing sufficient information to analyze the adjusted parcels for compliance with applicable Town and State law [...]. This application does not request the approval of any new homes nor development of the three (3) parcels. As such, it is premature to consider issues relating to development of the parcels [...].

Staff analysis: As noted on pages six and seven in the DRC Report (Exhibit 4), the proposed lot line adjustment is in conformance with the General Plan. Specifically, the proposed lot line adjustment complies with the density allowance for properties with a Low Density Residential General Plan Land Use Designation and General Plan Community Design Goal CD-2, which states, "To limit the intensity of new development to a level that is consistent with surrounding development and with the Town at large."

DISCUSSION (continued):

The application is for a lot line adjustment between three existing, legal parcels. No construction or grading is proposed. It is important to note that, although both the General Plan and Zoning Ordinance specify how land may be developed, they do so in different ways. The General Plan has a long-term outlook. It identifies the types of development that will be allowed, the spatial relationships among land uses, and the general pattern of future development. Zoning regulates development through specific standards such as lot size, building setbacks, and allowable uses. Development must not only meet the specific requirements of the Zoning Ordinance, but also the broader policies set forth in the General Plan. Again, no development is proposed; any future proposed use and/or development would need to comply with all the provisions of the then-applicable General Plan.

The appeal states that the project would not comply with General Plan Policy CD.4, which requires that, "New homes shall be sited to maximize privacy, livability, protection of natural plant and wildlife habitats and migration corridors, and adequate solar access and wind conditions. Siting should take advantage of scenic views but should not create significant ecological or visual impacts affecting open spaces, public places, or other properties." Again, no construction is proposed; no new homes are proposed. This General Plan policy is not relevant to a lot line adjustment application.

5. Appellant: The Town's General Plan 2040 website specifically states the adopted plan "does not allow new housing potential in the Very High Fire Hazard Severity Zones" which is where this land is located. Increasing density increases fire risk to the neighborhood. The Town must consider whether this proposed lot line adjustment is consistent with the Town's policy of not increasing density in Very High Fire Hazard Severity Zones.

Applicant: Additionally, the Town need not consider whether the proposed lot line adjustment is consistent with the Town's policy of not increasing density in the Very High Fire Hazard Severity Zones, as there is no increase in density with this application. This application preserves the status quo (three single-family residential parcels) and leaves the determination of appropriate countermeasure for fire hazard safety to a subsequent Architecture and Site Application, which would be reviewed by Santa Clara County Fire Department as well as the building department.

DISCUSSION (continued):

Staff analysis: This is not an excerpt from the General Plan. Instead, it is an introductory statement on the Los Gatos 2040 General Plan website. The full quote is, “The adopted 2040 General Plan retains the Town’s Low Density neighborhoods as is, allows more housing in High (formerly known as Medium) Density Residential (i.e. small, multi-unit housing), does not allow new housing potential in the Very High Fire Hazard Severity Zone, and focuses the majority of the growth in the Community Growth Districts with mixed use and higher density developments.” The excerpt regarding no new housing potential in the Very High Fire Hazard Severity Zone is simply stating that the Town is proposing to increase allowed densities in certain areas of the Town in order to meet the State’s required housing numbers, and that the Town is not proposing to increase allowable densities in the Very High Fire Hazard Severity Zone. This is not saying that existing parcels cannot be developed in the Very High Fire Hazard Severity Zone. Additionally, allowed densities are listed in the Land Use Element of the General Plan, and the 2040 Land Use Element is on hold and is not currently in effect.

6. Appellant: Today Parcel 2 is not buildable, is landlocked, does not conform to minimum parcel size, cannot be accessed by vehicular or safety equipment (there’s a house/pool in the way, which according to the staff report will remain), and due to the steepness of the slope is outside of the LRDA (Least Restrictive Development Area) where no turnaround could be built, nor does it meet slope stability standards, yet the Town refuses to consider this land for merger per Municode Section 24.10.080.

Applicant: *It should also be noted that there are three (3) original existing parcels and there will remain three (3) parcels. Consideration of the lot line adjustment application is mandatory under controlling law, whereas the Town’s consideration of merger is permissive. For instance, Municipal Code Section 24.10.080, which addresses parcel mergers, specifies the Town “may” initiate a merger. There is no requirement that the Town initiate such a merger. Moreover, there is no showing that the three (3) parcels would meet the requirements of a merger under Section 24.10.080. As a result, there is no “intensification of use” or “increasing density” associated with this application, as the appellant suggests.*

Staff analysis: Town Code Section 24.10.080 states that, “The Town may initiate a merger of a parcel [...]” if all the requirements of the controlling law (the Subdivision Map Act) are met. Several things bear mentioning: (1) Town Code Section 24.10.080 does not require (it is not mandatory, there is no “shall”) the Town to initiate the merger of any or all parcels in the Town that may qualify for merger, it permits such review (it is permissive, it uses the word “may”) if the Town wishes to do so. The Town choosing not to commence a merger in the present case is not a challengeable nor appealable act; (2) the Subdivision Map Act does require the Town to act upon a lot line

DISCUSSION (continued):

adjustment application submitted, such as the one present here. The Map Act provisions regarding lot line adjustments use the word “shall,” and shall is mandatory; and (3) once the lot line adjustment is acted upon, as it must be under controlling law, no grounds for permissive Town merger will be present. In other words, the applicant came to the Town with a lot line adjustment application to remedy the non-conforming situations associated with these parcels. The Town is required to act upon the lot line adjustment application pursuant to the Subdivision Map Act; the Town is not required to commence a merger proceeding to determine which if any of the parcels in question can legally be merged, and merger is legally not available to the Town once the lot line adjustment is submitted, acted upon, and approved.

PUBLIC COMMENTS:

At the time of preparation of this report, no public comment has been received.

ENVIRONMENTAL REVIEW:

The lot line adjustment approval is Statutorily Exempt from CEQA as a ministerial approval in accordance with Public Resources Code section 21080(b)(1) (CEQA statute) and CEQA Guidelines Section 15268, both of which provide that ministerial projects are exempt from the requirements of CEQA, and Government Code Section 66412(d) regarding lot line adjustments, which Government Code Section 66412(d) has been determined to describe a ministerial approval. The application is only for ministerial approval of a lot line adjustment pursuant to Section 66412(d) of the Subdivision Map Act. Refer to pages four and five of the DRC Report (Exhibit 4) for more information.

CONCLUSION:

A. Summary

The appellant is requesting that the Planning Commission reconsider the DRC’s decision to approve Lot Line Adjustment Application M-23-001 in accordance with Government Code Section 66412(d) of the Subdivision Map Act for three adjoining lots on property zoned R-1:20, located at 17200 Los Robles Way.

CONCLUSION (continued):

B. Recommendation

For the reasons stated in this report, staff recommends that the Planning Commission make a motion to confirm the following determinations and actions to deny the appeal, uphold the decision of the DRC, and approve Lot Line Adjustment Application M-23-001 for consideration under Section 66412(d) of the Subdivision Map Act:

1. Find that approval of the lot line adjustment application is a ministerial project approval under CEQA (Exhibit 2);
2. Find that the required determinations regarding compliance with Section 66412(d) of the Subdivision Map Act are hereby adopted and confirmed (Exhibit 2); and
3. Approve Lot Line Adjustment Application M-23-001, superseding the Town's approval of the previous lot line adjustment application (M-20-012), with the modified Draft Conditions of Approval contained in Exhibit 3, the diagram showing existing and proposed parcel configurations in Exhibit 7, and all other related materials and attachments.

C. Alternatives

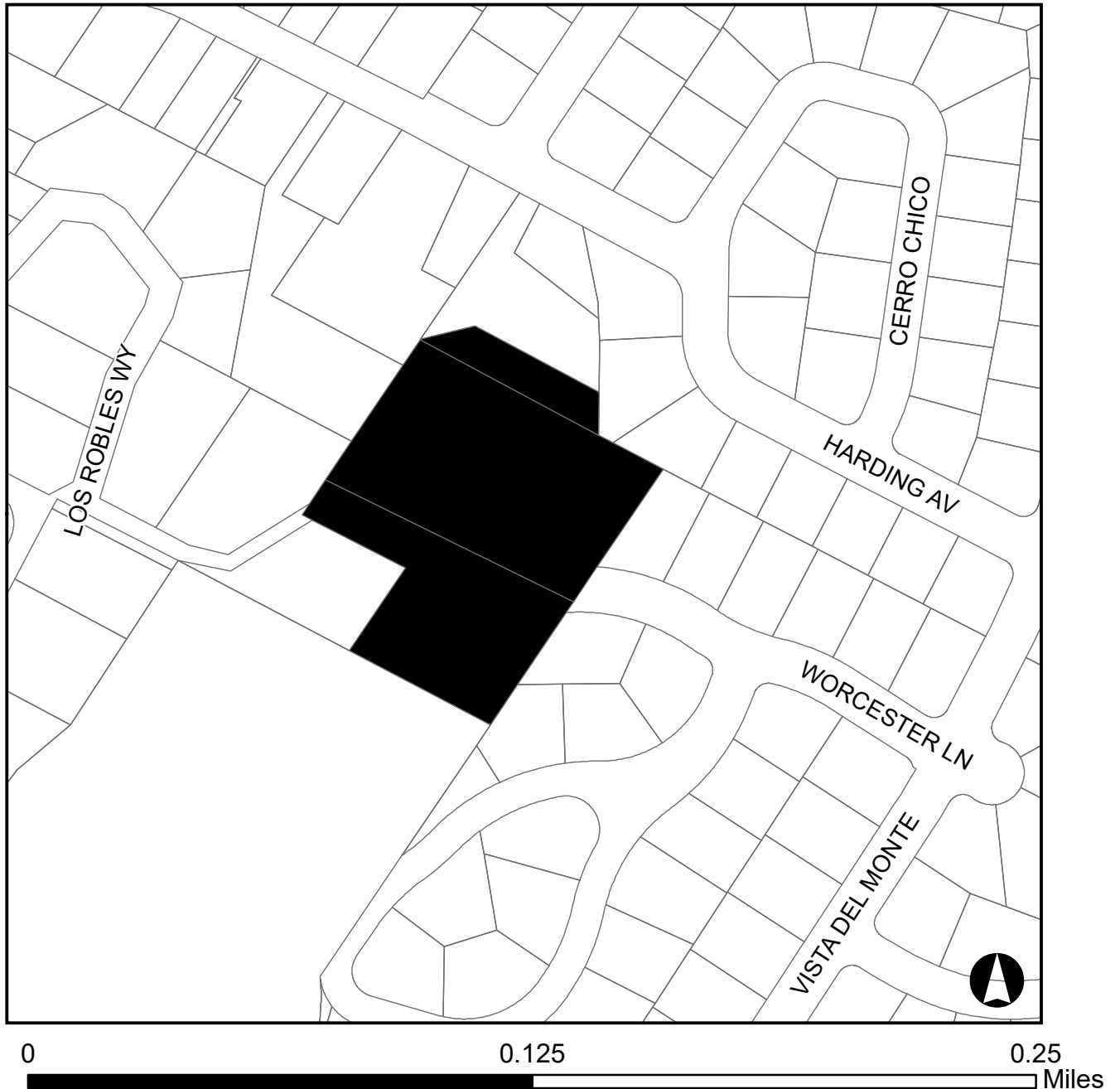
Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Deny the appeal and approve the application with additional and/or modified conditions;
3. Grant the appeal and remand the application to the DRC with direction for revisions; or
4. Grant the appeal and deny Lot Line Adjustment Application M-23-001.

EXHIBITS:

1. Location Map
2. Required Determinations Pursuant to Government Code Section 66412(d)
3. Recommended Conditions of Approval with Staff Edits
4. August 15, 2023 Development Review Committee Report and Desk Item
5. August 15, 2023 Development Review Committee Meeting Minutes
6. Applicant's Letter of Justification, received June 2, 2023
7. Diagram of Existing and Proposed Parcel Configurations, received August 9, 2023
8. Appeal of Development Review Committee, received August 22, 2023
9. Applicant's Response to Appeal, received October 16, 2023

17200 Los Robles Way (Three Lots)



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PLANNING COMMISSION – October 25, 2023
REQUIRED DETERMINATIONS

17200 Los Robles Way

Lot Line Adjustment Application M-23-001

Consider an Appeal of a Development Review Committee Decision to Approve a Lot Line Adjustment Application in Accordance with California Government Code Section 66412(d) for Three Adjoining Lots on Property Zoned R-1:20. Located at 17200 Los Robles Way. APNs 532-36-075, -076, and -077. Lot Line Adjustment Application M-23-001. Statutorily Exempt from CEQA as a Ministerial Approval in Accordance with Public Resources Code Section 21080(b)(1) (CEQA Statute) and CEQA Guidelines Section 15268. Application is Only for Ministerial Approval of a Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act. Property Owners: Daran Goodell, Trustee and Mark Von Kaenel. Applicant: Tony Jeans. Appellant: Alison Steer. Project Planner: Ryan Safty.

REQUIRED DETERMINATIONS PURSUANT TO GOVERNMENT CODE SECTION 66412(d):

Required determination for CEQA:

- **The application requires ministerial project approval pursuant to CEQA as the application is only for ministerial approval of a lot line adjustment pursuant to Section 66412(d) of the Subdivision Map Act (see below).**
 1. Application M-23-001 does not include any additional requests for other Town permits, approvals, or entitlements, whether discretionary or ministerial. Instead, the application involves only the proposed lot line adjustment of three existing and adjoining parcels identified as APN 532-36-075, -076, and -077, which, after adjustment, will result in three adjoining parcels with newly adjusted lot lines, which application will be reviewed and acted on by the Town pursuant to the California Subdivision Map Act, California Government Code section 66410 et seq. (“Map Act”).
 2. Pursuant to California Public Resources Code section 21080(b)(1) (and corresponding California Code of Regulations), CEQA does not apply to, “Ministerial projects proposed to be carried out or approved by public agencies.” Likewise, Title 14. California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) Section 15268 provides that, “Ministerial projects are exempt from the requirements of CEQA.” CEQA Guidelines section 15268 further provides that when there is an absence of any discretionary provisions in the law establishing the requirements of the approval - in this case, the Map Act’s Government Code section 66412(d) mandates governing lot line adjustments approvals – the law shall be presumed to be ministerial. Additionally, CEQA Guidelines section 15369 defines “ministerial” as a public agency’s decisions, “involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project.

The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.”

In considering the application, Map Act section 66412(d) mandates that the Town – and its Development Review Committee – shall ensure that the proposed lot line adjustment is between four or fewer existing adjoining parcels, where the land taken from one such parcel is added to an adjoining such parcel, and where a greater number of parcels than originally existed is not thereby created. Map Act section 66412(d) further mandates that the Town – and its hearing bodies – limit its review and approval, “to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.”

3. In so limiting the Town’s review, Government Code Section 66412(d) describes a prototypical ministerial approval process, where the fixed approval standards delineate objective approval criteria that simply require the hearing body to make certain factual determinations regarding the number of parcels involved, whether they are adjoining, whether they are four or fewer in number, whether a greater number of parcels are created than were existing (after adjustment), and whether the resulting parcels conform to local law – e.g., general plan, specific plan, any coastal plan, and building and zoning code provisions – given the facts presented in the application. As such, as set forth in the entirety of the administrative record, there are no other Town permits, approvals, or entitlements, whether discretionary or ministerial, being requested; Application M-23-001 involves only the proposed lot line adjustment of the three adjoining existing parcels into the new parcel configuration of the three adjoining adjusted parcels pursuant to the lot line provisions of the Map Act; the Development Review Committee’s (and subsequent hearing bodies on appeal) review of the application is limited to determining whether Application M-23-001 conforms with the requirements of the Map Act regarding lot line adjustments and applicable Town plans, ordinances, and regulations, and therefore the hearing body has no ability to exercise discretion to mitigate environmental impacts; and as such, the Town hearing body’s consideration of, and action on, Application M-23-001 is a ministerial project proposed to be carried out or approved by the Town, and therefore is exempt from the requirements of CEQA.

Required determinations for compliance with the Subdivision Map Act's provisions regarding lot line adjustments as set forth in Government Code Section 66412(d):

- **That Lot Line Adjustment Application M-23-001 is between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created;**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the application will result in the three adjoining parcels having land taken from and added to said parcels resulting in three adjoining parcels, thereby involving a situation where a greater number of parcels than originally existed is not thereby created by approval of the application, and where no more than four existing parcels are the subject of the application.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to the Town's General Plan;**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the application will result in the three adjoining parcels being in conformance with the entirety of the Town of Los Gatos General Plan, including without limitation, the following General Plan provisions:

- a. The General Plan designates the parcels as "Low Density Residential," with an allowed density range of zero to five residential units per acre and provides for single-family residential properties. Adjusted Parcel 1 would be approximately 62,172 square feet in size, has an existing house developed on it, and therefore is consistent with the General Plan's density range of zero to five residential units per acre and its allowance for single-family residential use. Any development of adjusted Parcels 2 and 3 (they are currently vacant) would be required to comply with all provisions of the General Plan. As discussed below, adjusted Parcels 2 and 3 are of a size consistent with the General Plan, as well as the Zoning mandated by the General Plan. There are several Zoning classifications (Zoning consistency is discussed in greater detail in later parts of this Report) that are consistent with the General Plan applicable to the parcels – each are Single-Family Residential zones, and each permits a single-family dwelling unit on each legal parcel. These Zones reflect the General Plan density range of zero to five residential units per acre: R-1:8 (8,000-square foot minimum parcel size - allowing a maximum of approximately five residential units per acre); R-1:10 (10,000-square foot minimum – allowing a maximum of approximately four residential units per acre); R-1:12 (12,000-square foot minimum – allowing a maximum of approximately three residential units per acre); R-1:15 (15,000-square foot minimum – allowing a maximum of approximately two residential units per acre); R-1:20 (20,000-square foot minimum – allowing a maximum of approximately two residential units per acre); and R-1:30 (30,000-square foot minimum – allowing a maximum of approximately one residential unit per acre). The adjusted parcels in Application M-23-001 are zoned R-1:20 (20,000-square foot minimum – allowing a maximum of approximately two residential units

per acre), and each adjusted parcel is greater than 20,000 square feet, revealing consistency with the R-1:20 Zone, and in turn, therefore revealing the consistency of the adjusted parcels in the application with the density provisions of the General Plan. Again, one residential unit already exists on adjusted Parcel 1, and adjusted Parcels 2 and 3 are both greater than 20,000 square feet, allowing one future single-family residential dwelling unit on each parcel if pursued in the future (speculative at this point), equating to a potential future density consistent to that allowed by the General Plan.

- b. General Plan Community Design Goal CD-2 states the following: “To limit the intensity of new development to a level that is consistent with surrounding development and with the Town at large.” The surrounding neighborhood (200 feet from the subject parcels) consists of Single-Family Residential Zoned properties consisting of R-1:8, R-1:10, and R-1:20 zoning classifications and all have a Low Density Residential General Plan designation. The neighboring parcels range in size from approximately 6,944 square feet to 40,510 square feet. The adjusted parcel sizes would be approximately: 62,172 square feet for adjusted Parcel 1; 27,073 square feet for adjusted Parcel 2; and 44,925 square feet for adjusted Parcel 3. As discussed, Parcel 1 is already developed with a home. Adjusted Parcels 2 and 3 are vacant. If in the future each vacant Adjusted Parcel were developed with one single-family residence, each such parcel would be consistent with the intensity of surrounding development.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to any specific plans, including the Hillside Specific Plan;**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval will result in the three adjoining parcels being in conformance with the entirety of the Town’s Hillside Specific Plan, including without limitation, the following Hillside Specific Plan provisions:

- a. The Town’s Hillside Specific Plan contains density provisions for certain “Sub-Areas”; however, the subject parcels in Application M-23-001 are not located within any of the Sub-Areas. Density for properties outside of the Sub-Areas are set in the General Plan (discussed above) and further regulated by the Zoning Ordinance (discussed below). All other goals, policies, and provisions of the Town’s Hillside Specific Plan relate to construction and subdivision applications, which are not present with the current application. No construction is proposed with this application. Any future construction would be required to comply with the Town’s Hillside Specific Plan.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to any applicable coastal plan; and**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the Town has no applicable coastal plan for the application (and adjusted parcels) to be in conformance with.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to the Town's Zoning Code and Building Ordinance.**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the application will result in the three adjoining parcels being in conformance with the entirety of the Town's Zoning and Building Ordinances, including without limitation, the following provisions:

- The Town's Zoning Ordinance Section 29.40.395 establishes a minimum lot size of 20,000 square feet for properties zoned R-1:20. The adjusted parcels in Application M-23-001 would comply with minimum lot size requirement as follows: Parcel 1 would have a lot size of approximately 62,172 square feet; Parcel 2 would have a lot size of approximately 27,073 square feet; and Parcel 3 would have a lot size of approximately 44,925 square feet. See tables below for more details on the existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum lot size.

Existing Parcels Configuration				
	APN	Size	Minimum Required	Complies?
Parcel 1	532-36-076	74,832 s.f.	20,000 s.f.	Yes
Parcel 2	532-36-077	11,226 s.f.	20,000 s.f.	No
Parcel 3	532-36-075	48,112 s.f.	20,000 s.f.	Yes
	total:	134,170 s.f.		

Adjusted Parcels Configuration				
	APN	Size	Minimum Required	Complies?
Parcel 1	532-36-076	62,172 s.f.	20,000 s.f.	Yes
Parcel 2	532-36-077	27,073 s.f.	20,000 s.f.	Yes
Parcel 3	532-36-075	44,925 s.f.	20,000 s.f.	Yes
	total:	134,170 s.f.		

- b. The Town's Zoning Ordinance Section 29.40.400 establishes a minimum street frontage of 100 feet for properties zoned R-1:20, and 30 feet for R-1:20 properties fronting on a cul-de-sac bulb. Town Code Section 29.40.400 does not mandate that the cul-de-sac street frontage be along a paved roadway. Instead, Section 29.10.020 of the Town Code defines lot frontage as, "the property line of a lot abutting on a street, which affords access to a lot other than the side line of a corner lot. On a corner lot either property line on a street may be determined to be the frontage." Town Code Section 29.10.020 then defines a street as, "any thoroughfare for the motor vehicle travel which affords the principal means of access to abutting property, including public and private rights-of-way and easements." Therefore, street frontage would need, at a minimum, frontage on a right-of-way or easement to comply with Town Code. The applicant has suggested a future cul-de-sac at the terminus of Worcester Lane for Parcels 2 and 3. To accomplish this, the applicant is proposing a dedication of land as an easement for cul-de-sac right-of-way purposes, which is included as Condition of Approval #2 (Exhibit 3) and noted in Exhibits 6 and 7. Once this condition of approval is complied with and the Town accepts dedication of this area for the future cul-de-sac at the terminus of Worcester Lane, the adjusted parcels in the Application M-23-001 comply with minimum street frontage as follows: Parcel 1 would have approximately 242 feet of frontage on the Los Robles Way right-of-way where 100 feet is required; Parcel 2 would have approximately 40 feet of frontage on a cul-de-sac bulb easement at the terminus of Worcester Lane where 30 feet is required; and Parcel 3 would have approximately 60 feet of frontage on a cul-de-sac bulb easement at the terminus of Worcester Lane where 30 feet is required. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum street frontage.

Existing Parcels Configuration				
	APN	Frontage	Minimum Required	Complies?
Parcel 1	532-36-076	42 feet	100 feet (30 feet for cul-de-sac)	No
Parcel 2	532-36-077	0 feet	100 feet (30 feet for cul-de-sac)	No
Parcel 3	532-36-075	205 feet	100 feet (30 feet for cul-de-sac)	Yes

Adjusted Parcels Configuration				
	APN	Frontage	Minimum Required	Complies?
Parcel 1	532-36-076	242 feet	100 feet (30 feet for cul-de-sac)	Yes
Parcel 2	532-36-077	40 feet (cul de sac)	100 feet (30 feet for cul-de-sac)	Yes
Parcel 3	532-36-075	60 feet (cul de sac)	100 feet (30 feet for cul-de-sac)	Yes

- c. The Town's Zoning Ordinance Section 29.40.400 establishes a minimum lot depth of 140 feet for properties zoned R-1:20. The adjusted parcels in Application M-23-001 would comply with the minimum lot depth requirement as follows: Parcel 1 would have a lot depth of approximately 323 feet; Parcel 2 would have a lot depth of approximately 194 feet; and Parcel 3 would have a lot depth of approximately 258 feet. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum lot depth.

Existing Parcels Configuration				
	APN	Depth	Minimum Required	Complies?
Parcel 1	532-36-076	207 feet	140 feet	Yes
Parcel 2	532-36-077	50 feet	140 feet	No
Parcel 3	532-36-075	305 feet	140 feet	Yes

Adjusted Parcels Configuration				
	APN	Depth	Minimum Required	Complies?
Parcel 1	532-36-076	323 feet	140 feet	Yes
Parcel 2	532-36-077	194 feet	140 feet	Yes
Parcel 3	532-36-075	258 feet	140 feet	Yes

- d. The Town's Zoning Ordinance Section 29.40.400(1) establishes a minimum lot width of 60 feet for R-1:20 parcels fronting on a cul-de-sac bulb. Adjusted Parcels 2 and 3 in Application M-23-001 would have frontage on a cul-de-sac bulb and comply with the minimum lot width requirement as follows: Parcel 2 would have a lot width of approximately 155 feet; and Parcel 3 would have a lot width of approximately 217 feet. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum lot width for properties fronting on a cul-de-sac bulb.

Existing Parcels Configuration				
	APN	Lot Width (if on a cul-de-sac)	Minimum Required	Complies?
Parcel 1	532-36-076	n/a	60 feet	n/a
Parcel 2	532-36-077	n/a	60 feet	n/a
Parcel 3	532-36-075	n/a	60 feet	n/a

Adjusted Parcels Configuration				
	APN	Lot Width (if on a cul-de-sac)	Minimum Required	Complies?
Parcel 1	532-36-076	n/a	60 feet	n/a
Parcel 2	532-36-077	155 feet	60 feet	Yes
Parcel 3	532-36-075	217 feet	60 feet	Yes

Adjusted Parcels Configuration						
	APN	Front Setback	Right Side Setback	Left Side Setback	Rear Setback	Complies?
Parcel 1	532-36-076	* 0'	43'	90'	200'	Yes
Parcel 2	532-36-077	n/a	n/a	n/a	n/a	n/a
Parcel 3	532-36-075	n/a	n/a	n/a	n/a	n/a
Minimum Required		30'	15'	15'	25'	
<i>* denotes an existing, legal non-conformity</i>						

- f. The Town's Zoning Ordinance Section 29.40.075 and Chapter IV of the Town's Hillside Development Standards and Guidelines establish maximum allowed floor area for residential zones with average parcel slopes greater than 10 percent. Floor area requirements can only be analyzed for Parcel 1 in Application M-23-001, as Parcel 1 is the only parcel that would contain existing built floor area. The maximum allowed floor area for Parcel 1 in the adjusted parcel configuration would be 6,000 square feet. The existing 2,715-square foot residence on Parcel 1 would comply with the maximum allowed floor area of the adjusted parcel configuration because it is less than 6,000 square feet. While development is not proposed on Parcels 2 and 3, they would allow an average sized residence in relation to the surrounding neighborhood as shown in the table below. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for maximum allowed floor area.

Existing Parcels Configuration						
	APN	Size	Average Slope	Existing House	Maximum Allowed Floor Area	Complies?
Parcel 1	532-36-076	74,832 s.f.	26%	2,715 s.f.	6,000 s.f.	Yes
Parcel 2	532-36-077	11,226 s.f.	26%	vacant site	1,985 s.f.	Yes
Parcel 3	532-36-075	48,112 s.f.	26%	vacant site	5,300 s.f.	Yes

Adjusted Parcels Configuration						
	APN	Size	Average Slope	Existing House	Maximum Allowed Floor Area	Complies?
Parcel 1	532-36-076	62,172 s.f.	25%	2,715 s.f.	6,000 s.f.	Yes
Parcel 2	532-36-077	27,073 s.f.	27%	vacant site	3,714 s.f.	Yes
Parcel 3	532-36-075	44,925 s.f.	26%	vacant site	5,100 s.f.	Yes

In summary, the adjusted parcels within Application M-23-001 are in conformance with applicable provisions of the Town's Zoning Ordinance because the Adjusted Parcels each comply with minimum lot size, minimum street frontage, minimum lot depth, minimum lot width for parcels fronting on a cul-de-sac bulb, minimum setback standards, and maximum allowed floor area ratio standards.

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the Town's Building Ordinance would be complied with as the application does not propose any construction or grading activities. The Town's Building Ordinance in Chapter 6 of the Town Code was adopted to administer the California Building Code, including local amendments. "The California Building Code (CBC) contains general building design and construction requirements relating to fire and life safety, structural safety, and access compliance. CBC provisions provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all building and structures and certain equipment." The existing residential structure on adjusted Parcel 1 meets the Town's Building Ordinance and Building Code provisions relating to existing structures that were built to then-applicable Building Code requirements. Any future proposed modifications to that existing structure would be required to meet the then-current Town's Building Ordinance and Building Code provisions. No construction currently exists on or is proposed for adjusted Parcel 2 or adjusted Parcel 3. Any future proposal for residential construction on any of the adjusted parcels would be required to meet the then-current Town's Building Ordinance and Building Code requirements. Therefore, Application M-23-001 is in conformance with the Town's Building Ordinance and Building Code requirements.

PLANNING COMMISSION – October 25, 2023
DRAFT CONDITIONS OF APPROVAL

17200 Los Robles Way

Lot Line Adjustment Application M-23-001

Consider an Appeal of a Development Review Committee Decision to Approve a Lot Line Adjustment Application in Accordance with California Government Code Section 66412(d) for Three Adjoining Lots on Property Zoned R-1:20. Located at 17200 Los Robles Way. APNs 532-36-075, -076, and -077. Lot Line Adjustment Application M-23-001. Statutorily Exempt from CEQA as a Ministerial Approval in Accordance with Public Resources Code Section 21080(b)(1) (CEQA Statute) and CEQA Guidelines Section 15268. Application is Only for Ministerial Approval of a Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act. Property Owners: Daran Goodell, Trustee and Mark Von Kaenel. Applicant: Tony Jeans. Appellant: Alison Steer. Project Planner: Ryan Safty.

Planning Division and Engineering Division

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT AND/OR THE DIRECTOR OF PARKS AND PUBLIC WORKS, AS RELEVANT:

1. **APPROVAL:** The New Lot Line Adjustment Application (M-23-001) has been approved (“Approval”) on this August 15th, 2023, date (“Approval Date”), subject to and including these “Conditions of Approval” (listed herein). Any reference to the Approval shall mean and include these Conditions of Approval, and all related application materials, environmental determinations, and other Town determinations and findings relating to New Lot Line Adjustment Application (M-23-001). Any proposed revisions or modifications to the Approval shall be applied to the Community Development Department by the relevant property owners and reviewed by the Town pursuant to Section 29.20.305 of the Town Code. Any and all time periods for applicant action under these Conditions of Approval shall be tolled during the pendency of any appeal of the Approval.
2. **CUL-DE-SAC DEDICATIONS:** To ensure the consistency of the Approval of the New Lot Line Adjustment Application (M-23-001) with the Zoning Ordinance of the Town Code, within ninety (90) days of the Approval Date, the property owners (individually, “Property Owner,” collectively, “Property Owners”) of Adjusted Parcels 2 and 3 shall make irrevocable offers of dedication of easement to the Town of the “Cul-De-Sac Area” for right-of-way purposes (as that Cul-De-Sac Area is specifically delineated in the New Lot Line Adjustment Application (M-23-001) materials), and to the satisfaction of the Town Engineer, to ensure compliance with the minimum Town street frontage standards for cul-de-sacs. Within thirty (30) days of such Property Owners dedication, the Town Engineer shall accept such dedication(s) on behalf of the Town. ~~Should the Approval be placed before the Town Council for consideration and action on appeal, the Town Council shall determine whether or not to confirm such acceptance of such dedication in addition to considering the merits of the appeal. Failure of the Town Council to confirm acceptance of such Cul De Sac Area dedications, and/or approval of such appeal by the Town Council, shall void the Approval.~~

3. PROOF OF RECORDATION: Assuming Condition #2 herein has been satisfied, proof of the recordation of grant deeds reflecting the configuration of parcels permitted by the Approval shall be provided to the Town within six (6) months of the Approval Date.
4. ENGINEERING FEES: Engineering fees associated with this New Lot Line Adjustment Application (M-23-001) Approval (see item 270 in the Town's [Comprehensive Fee Schedule](#)) shall be deposited with the Engineering Division of the Parks and Public Works Department prior to any recordation required by these Conditions of Approval.
5. NOTICE OF ARCHITECTURE & SITE APPROVAL: Notice is hereby given to the Property Owners that any proposed disruption, development, or other related construction on, adjacent to, or related to the Adjusted Parcels shall require environmental review to determine appropriate CEQA compliance, review for General Plan, Specific Plan, Zoning, and Building Ordinance compliance, and an Architectural & Site Application approval with the Community Development Department of the Town, with related findings, considerations, and conditions of approval in compliance with applicable Town Code.
6. TOWN INDEMNITY: Pursuant to Town Code Section 1.10.115, and the police power of the Town to craft appropriate Conditions of Approval, the property owners securing the Original Lot Line Adjustment Application (M-20-012) and this New Lot Line Adjustment Application (M-23-001) Approval and their successors (collectively, "Property Owners") shall indemnify and hold harmless the Town for any challenge to the Approval and/or to the Original Lot Line Adjustment Application (M-20-012), whether administrative appeal, judicial review, and/or otherwise (collectively, "Challenge"), including without limitation and subject to the following:
 - a. Generally: Regarding any such Challenge, Property Owners shall defend, indemnify, and hold harmless the Town (any reference to "Town" shall mean and include without limitation Town's elected officials, appointed officials, legal counsel, agents, officers, employees, contractors, and special legal counsel) (with legal counsel approved by Town), from and against any Challenge.
 - b. Property Owners (any reference to Property Owners shall mean and include without limitation Property Owners' successors, legal counsel, consultants, and contractors) shall bear any and all losses, damages, injuries, liabilities, costs and expenses (including, without limitation, staff time and in-house attorney's fees on a fully-loaded basis, attorney's fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge ("Costs"), whether incurred by the Property Owners, Town, or awarded to any third party, and shall pay to the Town upon demand any Costs incurred by the Town.
 - c. The total of all obligations owing by the Property Owners under this Condition of Approval #6 is collectively referred to as the "Challenge Indemnity." No modification of the Approval and/or the Original Lot Line Adjustment Application (M-20-012), nor any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the Property Owners obligations pursuant to this Condition of Approval # 6. The Town shall promptly notify the Property Owners of any such Challenge, and the Town shall cooperate with the Property Owners as Property Owners fulfil their obligations pursuant to this Condition of Approval # 6.



**TOWN OF LOS GATOS
REPORT TO THE DEVELOPMENT
REVIEW COMMITTEE**

MEETING DATE: 08/15/2023

ITEM NO: 2

DATE: August 11, 2023
TO: Development Review Committee
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval of a Lot Line Adjustment Application in Accordance with California Government Code Section 66412(d) for Three Adjoining Lots on Property Zoned R-1:20. Located at 17200 Los Robles Way. APNs 532-36-075, -076, and -077. Lot Line Adjustment Application M-23-001. Ministerial Project Approval Under CEQA. Application is Only for Ministerial Approval of Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act. PROPERTY OWNERS: Daran Goodsell, Trustee and Mark Von Kaenel. APPLICANT: Tony Jeans.

SUMMARY:

The "Original Lot Line Adjustment Application" was approved by the Town and challenged in court. The "New Lot Line Adjustment Application" seeks to cure the absence of certain factual information and the presence of certain procedural flaws in the Town's original approval, discussed below. The New Lot Line Adjustment Application is being processed through the Development Review Committee as a new application. The Original Lot Line Adjustment Application (M-20-012) will be superseded if the Town approves the New Lot Line Adjustment Application (M-23-001).

This Staff Report to the Development Review Committee summarizes the factual aspects of the New Lot Line Adjustment Application, presents the relevant considerations regarding the New Lot Line Adjustment Application pursuant to the California Environmental Quality Act (CEQA), and sets forth determinations for the Development Review Committee to consider relating to the Subdivision Map Act's requirements regarding lot line adjustments, as set forth in Government Code Section 66412(d). Pursuant to Government Code Section 66412(d), in order for the Town to approve the New Lot Line Adjustment Application, the Town must make the following determinations:

PREPARED BY: RYAN SAFTY
Associate Planner

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

SUMMARY (continued):

1. That the lot line adjustment is between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created;
2. That the parcels resulting from the lot line adjustment will conform to the local general plan;
3. That the parcels resulting from the lot line adjustment will conform to any applicable specific plan;
4. That the parcels resulting from the lot line adjustment will conform to any applicable coastal plan; and
5. That the parcels resulting from the lot line adjustment will conform to zoning and building ordinances.

BACKGROUND:

The subject parcels are located at the terminus of Los Robles Way and Worcester Lane (Exhibit 1). Both the Original Lot Line Adjustment Application and the New Lot Line Adjustment Application propose to take three adjacent parcels and reconfigure their lot lines. The existing lot configuration has several non-conformities, all of which would be remedied with the New Lot Line Adjustment Application; a legal, non-conforming front setback on Parcel 1 is allowed under current Town Code, as discussed below and in the applicant's Letter of Justification (Exhibit 3). There is an existing residence on Parcel 1 (APN 532-36-076) that would remain, and the other two parcels are vacant. No new construction is proposed.

On November 11, 2020, the applicant submitted the Original Lot Line Adjustment Application for the three parcels (M-20-012). After the initial review, the applicant was informed that they must verify the legality of Parcel 2 (APN 532-36-077) and Parcel 3 (APN 532-36-075).

On February 23, 2021, the applicant submitted Certificate of Compliance applications to verify the legality of Parcels 2 and 3. The Town's Consulting Surveyor reviewed the applications and determined that the parcels were legally created per California Subdivision Map Act 66499.35(a).

On May 25, 2021, the Development Review Committee approved the Certificate of Compliance applications. The Development Review Committee's approval of the Certificate of Compliance applications was not appealed. Following verification of the legality of Parcels 2 and 3, the applicant continued with the Original Lot Line Adjustment Application.

On July 13, 2021, the Development Review Committee approved the Original Lot Line Adjustment Application. On July 22, 2021, the decision of the Development Review Committee was appealed to the Planning Commission by adjacent neighbors.

BACKGROUND (continued):

On September 8, 2021, the Planning Commission denied the appeal and approved the Original Lot Line Adjustment Application. On September 20, 2021, the decision of the Planning Commission was appealed to the Town Council.

On November 2, 2021, the Town Council considered the appeal, considered the substantial evidence in the record, including public testimony, and discussed the Original Lot Line Adjustment Application. Following that discussion, the Town Council continued the matter to the December 7, 2021, Town Council meeting, with direction for the applicant to include, among other things, information on compliance with the General Plan, Specific Plans, Zoning Ordinance, and Building Code.

On December 7, 2021, the Town Council made a motion to uphold the decision of the Planning Commission and adopted a resolution denying the appeal and approving the Original Lot Line Adjustment Application M-20-012 with findings and conditions of approval.

On March 1, 2022, a resident challenged the Town's approval of the Original Lot Line Adjustment Application by seeking a writ of administrative mandate to overturn the Town's approval.

In the course of the litigation, it became apparent that the Town had relied on the Subdivision Map Act's requirements regarding the approval of a tentative map instead of the Subdivision Map Act's requirements regarding a lot line adjustment (Government Code Section 66412(d)). At the same time, the applicant for the Original Lot Line Adjustment Application submitted a new application (i.e., the New Lot Line Adjustment Application M-23-001) for review in accordance with Government Code section 66412(d) (Exhibits 3 and 4).

In light of all of this, the Town requested a stay from the court to allow the Town to process the New Lot Line Adjustment Application in accordance with the Subdivision Map Act's requirements regarding lot line adjustments set forth in Government Code Section 66412(d). The stay was granted.

Therefore, the Development Review Committee is now processing and acting on the New Lot Line Adjustment Application M-23-001 in accordance with the Subdivision Map Act's requirements regarding lot line adjustments as set forth in Government Code Section 66412(d).

PROJECT DATA:

General Plan Designation:	Low Density Residential
Zoning Designation:	R-1:20
Applicable Plans & Standards:	General Plan, Zoning Ordinance, Hillside Specific Plan

PROJECT DATA (continued):

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:8
South	Residential, Open Space	Low Density Residential, Open Space	R-1:10
East	Residential	Low Density Residential	R-1:8, R-1:10
West	Residential	Low Density Residential	R-1:8, R-1:20

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS:

CEQA DETERMINATIONS

Staff presents the following relevant aspects of the New Lot Line Adjustment Application M-23-001 and its compliance with CEQA for Development Review Committee consideration:

1. The New Lot Line Adjustment Application M-23-001 does not include any additional requests for other Town permits, approvals, or entitlements, whether discretionary or ministerial. Instead, the New Lot Line Adjustment Application involves only the proposed lot line adjustment of three existing and adjoining parcels identified as APN 532-36-075, -076, and -077 (collectively, the “Existing Parcels”), which, after adjustment, will result in three adjoining parcels with newly adjusted lot lines (collectively, the “Adjusted Parcels”), which New Lot Line Adjustment Application will be reviewed and acted on by the Town pursuant to the California Subdivision Map Act, California Government Code section 66410 et seq. (“Map Act”).
2. Pursuant to California Public Resources Code section 21080(b)(1) (and corresponding California Code of Regulations), CEQA does not apply to, “Ministerial projects proposed to be carried out or approved by public agencies.” Likewise, Title 14. California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) Section 15268 provides that, “Ministerial projects are exempt from the requirements of CEQA.” CEQA Guidelines section 15268 further provides that when there is an absence of any discretionary provisions in the law establishing the requirements of the approval - in this case, the Map Act’s Government Code section 66412(d) mandates governing lot line adjustments approvals – the law shall be presumed to be ministerial. Additionally, CEQA Guidelines section 15369 defines “ministerial” as a public agency’s decisions, “involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project.

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.”

In considering the New Lot Line Adjustment Application, Map Act section 66412(d) mandates that the Town – and its Development Review Committee – shall ensure that the proposed lot line adjustment is between four or fewer existing adjoining parcels, where the land taken from one such parcel is added to an adjoining such parcel, and where a greater number of parcels than originally existed is not thereby created. Map Act section 66412(d) further mandates that the Town – and its Development Review Committee – limit its review and approval, “to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.”

3. In so limiting the Town’s review, Government Code Section 66412(d) describes a prototypical ministerial approval process, where the fixed approval standards delineate objective approval criteria that simply require the Development Review Committee to make certain factual determinations regarding the number of parcels involved, whether they are adjoining, whether they are four or fewer in number, whether a greater number of parcels are created than were existing (after adjustment), and whether the resulting parcels conform to local law – e.g., general plan, specific plan, any coastal plan, and building and zoning code provisions—given the facts presented in the New Lot Line Adjustment Application. As such, as set forth in the entirety of the administrative record, there are no other Town permits, approvals, or entitlements, whether discretionary or ministerial, being requested; the New Lot Line Adjustment Application M-23-001 involves only the proposed lot line adjustment of the three adjoining Existing Parcels into the new parcel configuration of the three adjoining Adjusted Parcels pursuant to the lot line provisions of the Map Act; the Development Review Committee's review of the New Lot Line Adjustment Application is limited to determining whether the New Lot Line Adjustment Application conforms with the requirements of the Map Act regarding lot line adjustments and applicable Town plans, ordinances, and regulations, and therefore the Development Review Committee has no ability to exercise discretion to mitigate environmental impacts; and as such, the Town and its Development Review Committee consideration of, and action on, the New Lot Line Adjustment Application is a ministerial project proposed to be carried out or approved by the Town, and therefore is exempt from the requirements of CEQA.

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

GOVERNMENT CODE SECTION 66412(d) DETERMINATIONS:

Staff presents the following relevant aspects of the New Lot Line Adjustment Application M-23-001 and its compliance with the Subdivision Map Act's provisions regarding lot line adjustments as set forth in Government Code Section 66412(d) for Development Review Committee consideration:

- 1. That the New Lot Line Adjustment Application M-23-001 is between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created;**

Approval of the New Lot Line Adjustment Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the New Lot Line Adjustment Application will result in the three adjoining Existing Parcels having land taken from and added to said Existing Parcels resulting in three adjoining Adjusted Parcels, thereby involving a situation where a greater number of parcels than originally existed is not thereby created by approval of the New Lot Line Adjustment Application, and where no more than four existing parcels are the subject of the New Lot Line Adjustment Application.

- 2. That the parcels resulting from the New Lot Line Adjustment Application M-23-001 will conform to the local general plan;**

Approval of the New Lot Line Adjustment Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the New Lot Line Adjustment Application will result in the three adjoining Adjusted Parcels being in conformance with the entirety of the Town of Los Gatos General Plan, including without limitation, the following General Plan provisions:

- a. The General Plan designates the Existing Parcels and Adjusted Parcels as "Low Density Residential," with an allowed density range of zero to five residential units per acre and provides for single-family residential properties. Adjusted Parcel 1 would be approximately 62,172 square feet in size, has an existing house developed on it, and therefore is consistent with the General Plan's density range of zero to five residential units per acre and its allowance for single-family residential use. Any development of Adjusted Parcels 2 and 3 (they are currently vacant) would be required to comply with all provisions of the General Plan. As discussed below, Adjusted Parcels 2 and 3 are of a size consistent with the General Plan, as well as the Zoning mandated by the General Plan. There are several Zoning classifications (Zoning consistency is discussed in greater detail in later parts of this Report) that are consistent with the General Plan applicable to the Existing Parcels and Adjusted Parcels – each are Single-Family Residential zones and each permits a single-family dwelling unit on each legal parcel. These Zones reflect

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

the General Plan density range of zero to five residential units per acre: R-1:8 (8,000-square foot minimum parcel size - allowing a maximum of approximately five residential units per acre); R-1:10 (10,000-square foot minimum - allowing a maximum of approximately four residential units per acre); R-1:12 (12,000-square foot minimum - allowing a maximum of approximately three residential units per acre); R-1:15 (15,000-square foot minimum – allowing a maximum of approximately two residential units per acre); R-1:20 (20,000-square foot minimum – allowing a maximum of approximately two residential units per acre); and R-1:30 (30,000-square foot minimum – allowing a maximum of approximately one residential unit per acre). The Adjusted Parcels in the New Lot Line Adjustment Application are zoned R-1:20 (20,000-square foot minimum - allowing a maximum of approximately two residential units per acre), and each Adjusted Parcel is greater than 20,000 square feet, revealing consistency with the R-1:20 Zone, and in turn, therefore revealing the consistency of the Adjusted Parcels in the New Lot Line Adjustment Application with the density provisions of the General Plan. Again, one residential unit already exists on Adjusted Parcel 1, and Adjusted Parcels 2 and 3 are both greater than 20,000 square feet, allowing one future single-family residential dwelling unit on each parcel if pursued in the future (speculative at this point), equating to a potential future density consistent to that allowed by the General Plan.

- b. General Plan Community Design Goal CD-2 states the following: “To limit the intensity of new development to a level that is consistent with surrounding development and with the Town at large.” The surrounding neighborhood (200 feet from the subject parcels) consists of Single-Family Residential Zoned properties consisting of R-1:8, R-1:10, and R-1:20 zoning classifications and all have a Low Density Residential General Plan designation. The neighboring parcels range in size from approximately 6,944 square feet to 40,510 square feet. The Adjusted Parcel sizes would be approximately: 62,172 square feet for Adjusted Parcel 1; 27,073 square feet for Adjusted Parcel 2; and 44,925 square feet for Adjusted Parcel 3. As discussed, Parcel 1 is already developed with a home. Adjusted Parcels 2 and 3 are vacant. If in the future each vacant Adjusted Parcel were developed with one single-family residence, each such Adjusted Parcel would be consistent with the intensity of surrounding development.

3. That the parcels resulting from the New Lot Line Adjustment Application M-23-001 will conform to any applicable specific plans;

Approval of the New Lot Line Adjustment Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the New Lot Line Adjustment Application will result in the three adjoining Adjusted Parcels being in conformance with the entirety of the Town’s Hillside Specific Plan, including without limitation, the following Hillside Specific Plan provisions:

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

- a. The Town's Hillside Specific Plan contains density provisions for certain "Sub-Areas"; however, the subject parcels in the New Lot Line Adjustment Application are not located within any of the Sub-Areas. Density for properties outside of the Sub-Areas are set in the General Plan (discussed above) and further regulated by the Zoning Ordinance (discussed below). All other goals, policies, and provisions of the Town's Hillside Specific Plan relate to construction and subdivision applications, which are not present with the current New Lot Line Adjustment Application. No construction is proposed with this New Lot Line Adjustment Application. Any future construction would be required to comply with the Town's Hillside Specific Plan.

4. That the parcels resulting from the New Lot Line Adjustment Application M-23-001 will conform to any applicable coastal plan;

Approval of the New Lot Line Adjustment Application M-23-001 is in compliance with Government Code Section 66412(d) because the Town has no applicable coastal plan for the New Lot Line Adjustment Application (and Adjusted Parcels) to be in conformance with.

5. That the parcels resulting from the New Lot Line Adjustment M-23-001 will conform to zoning and building ordinances;

Approval of the New Lot Line Adjustment Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the New Lot Line Adjustment Application will result in the three adjoining Adjusted Parcels being in conformance with the entirety of the Town's Zoning and Building Ordinances, including without limitation, the following provisions:

- a. The Town's Zoning Ordinance Section 29.40.395 establishes a minimum lot size of 20,000 square feet for properties zoned R-1:20. The Adjusted Parcels in the New Lot Line Adjustment Application would comply with minimum lot size requirement as follows: Parcel 1 would have a lot size of approximately 62,172 square feet; Parcel 2 would have a lot size of approximately 27,073 square feet; and Parcel 3 would have a lot size of approximately 44,925 square feet. See tables below for more details on Existing Parcel configuration and Adjusted Parcel configuration in relation to Zoning Code compliance for minimum lot size.

Existing Parcels Configuration				
	APN	Size	Minimum Required	Complies?
Parcel 1	532-36-076	74,832 s.f.	20,000 s.f.	Yes
Parcel 2	532-36-077	11,226 s.f.	20,000 s.f.	No
Parcel 3	532-36-075	48,112 s.f.	20,000 s.f.	Yes
	total:	134,170 s.f.		

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

Adjusted Parcels Configuration				
	APN	Size	Minimum Required	Complies?
Parcel 1	532-36-076	62,172 s.f.	20,000 s.f.	Yes
Parcel 2	532-36-077	27,073 s.f.	20,000 s.f.	Yes
Parcel 3	532-36-075	44,925 s.f.	20,000 s.f.	Yes
	total:	134,170 s.f.		

- b. The Town's Zoning Ordinance Section 29.40.400 establishes a minimum street frontage of 100 feet for properties zoned R-1:20, and 30 feet for R-1:20 properties fronting on a cul-de-sac bulb. Town Code Section 29.40.400 does not mandate that the cul-de-sac street frontage be along a paved roadway. Instead, Section 29.10.020 of the Town Code defines lot frontage as, "the property line of a lot abutting on a street, which affords access to a lot other than the side line of a corner lot. On a corner lot either property line on a street may be determined to be the frontage." Town Code Section 29.10.020 then defines a street as, "any thoroughfare for the motor vehicle travel which affords the principal means of access to abutting property, including public and private rights-of-way and easements." Therefore, street frontage would need, at a minimum, frontage on a right-of-way or easement to comply with Town Code. The applicant has suggested a future cul-de-sac at the terminus of Worcester Lane for Parcels 2 and 3. To accomplish this, the applicant is proposing a dedication of land as an easement for cul-de-sac right-of-way purposes, which is included as Condition of Approval #2 (Exhibit 2) and noted in Exhibit 4. Once this condition of approval is complied with and the Town accepts dedication of this area for the future cul-de-sac at the terminus of Worcester Lane, the Adjusted Parcels in the New Lot Line Adjustment Application comply with minimum street frontage as follows: Parcel 1 would have approximately 242 feet of frontage on the Los Robles Way right-of-way where 100 feet is required; Parcel 2 would have approximately 40 feet of frontage on a cul-de-sac bulb easement at the terminus of Worcester Lane where 30 feet is required; and Parcel 3 would have approximately 60 feet of frontage on a cul-de-sac bulb easement at the terminus of Worcester Lane where 30 feet is required. See tables below for more details on Existing Parcel configuration and Adjusted Parcel configuration in relation to Zoning Code compliance for minimum street frontage.

Existing Parcels Configuration				
	APN	Frontage	Minimum Required	Complies?
Parcel 1	532-36-076	42 feet	100 feet (30 feet for cul-de-sac)	No
Parcel 2	532-36-077	0 feet	100 feet (30 feet for cul-de-sac)	No
Parcel 3	532-36-075	205 feet	100 feet (30 feet for cul-de-sac)	Yes

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

Adjusted Parcels Configuration				
	APN	Frontage	Minimum Required	Complies?
Parcel 1	532-36-076	242 feet	100 feet (30 feet for cul-de-sac)	Yes
Parcel 2	532-36-077	40 feet (cul de sac)	100 feet (30 feet for cul-de-sac)	Yes
Parcel 3	532-36-075	60 feet (cul de sac)	100 feet (30 feet for cul-de-sac)	Yes

- c. The Town's Zoning Ordinance Section 29.40.400 establishes a minimum lot depth of 140 feet for properties zoned R-1:20. The Adjusted Parcels in the New Lot Line Adjustment Application would comply with the minimum lot depth requirement as follows: Parcel 1 would have a lot depth of approximately 323 feet; Parcel 2 would have a lot depth of approximately 194 feet; and Parcel 3 would have a lot depth of approximately 258 feet. See tables below for more details on Existing Parcel configuration and Adjusted Parcel configuration in relation to Zoning Code compliance for minimum lot depth.

Existing Parcels Configuration				
	APN	Depth	Minimum Required	Complies?
Parcel 1	532-36-076	207 feet	140 feet	Yes
Parcel 2	532-36-077	50 feet	140 feet	No
Parcel 3	532-36-075	305 feet	140 feet	Yes

Adjusted Parcels Configuration				
	APN	Depth	Minimum Required	Complies?
Parcel 1	532-36-076	323 feet	140 feet	Yes
Parcel 2	532-36-077	194 feet	140 feet	Yes
Parcel 3	532-36-075	258 feet	140 feet	Yes

- d. The Town's Zoning Ordinance Section 29.40.400(1) establishes a minimum lot width of 60 feet for R-1:20 parcels fronting on a cul-de-sac bulb. Adjusted Parcels 2 and 3 in the New Lot Line Adjustment Application would have frontage on a cul-de-sac bulb and comply with the minimum lot width requirement as follows: Parcel 2 would have a lot width of approximately 155 feet; and Parcel 3 would have a lot width of approximately 217 feet. See tables below for more details on Existing Parcel configuration and Adjusted Parcel configuration in relation to Zoning Code compliance for minimum lot width for properties fronting on a cul-de-sac bulb.

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

Existing Parcels Configuration				
	APN	Lot Width (if on a cul-de-sac)	Minimum Required	Complies?
Parcel 1	532-36-076	n/a	60 feet	n/a
Parcel 2	532-36-077	n/a	60 feet	n/a
Parcel 3	532-36-075	n/a	60 feet	n/a

Adjusted Parcels Configuration				
	APN	Lot Width (if on a cul-de-sac)	Minimum Required	Complies?
Parcel 1	532-36-076	n/a	60 feet	n/a
Parcel 2	532-36-077	155 feet	60 feet	Yes
Parcel 3	532-36-075	217 feet	60 feet	Yes

- e. The Town's Zoning Ordinance Section 29.40.405(a) establishes minimum setback standards for R-1:20 properties of 30 feet in the front yard, 15 feet in the side yard, and 25 feet in the rear yard. There is one existing residence located in the Existing Parcels that is proposed to remain on the Adjusted Parcels on Parcel 1. The residence on Adjusted Parcel 1 within the New Lot Line Adjustment Application would have a front setback of approximately zero feet, side setbacks of approximately 43 feet and 90 feet, and a rear setback of approximately 200 feet. The zero-foot front setback is an existing, legal, non-conforming configuration that is allowed to continue by current Town law and would not change with the Adjusted Parcels New Lot Line Adjustment Application. The front setback on Parcel 1 is legal, non-conforming because the Town Code "grandfathers" such structures. According to the Santa Clara County Assessor's Office, the residence on Parcel 1 was built in 1938, at which time the property was not annexed into the Town as the Town's 1943 Zoning Map (five years after the construction date) does not include these properties. Because the 1943 Zoning Map does not show the property, Town staff has concluded that it was annexed sometime after 1943, and thus after the construction date of 1938. Town Code Section 29.10.020 defines a nonconforming building as, "a building which was lawfully erected but under the terms of this chapter is too close to a property line, too close to a street, too high, covers too much of lot or is of a wrong type." Pursuant to Town Code Section 29.10.180(a), one of the ways a building or use becomes nonconforming is because of annexation of territory to the Town. Because the existing residence on Parcel 1 is considered "nonconforming" pursuant to Town Code Section 29.10.180(a) as the residential building was lawfully erected and become nonconforming after annexation, the residence is not considered "unlawful" or a "nuisance" pursuant to Town Code Section 29.10.185 and can therefore remain. Although no modifications are proposed to the existing nonconforming residential building, Town Code Section 29.10.245(e)(1) would allow expansion or reconstruction of an existing nonconforming building that is too close to the property

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

line as long as it does not become nearer to a property line than the existing building is to that property line. Pursuant to Town Code Sections 29.10.020, 29.10.180(a), 29.10.185, and 29.10.245(e)(1), although the residential building on Adjusted Parcel 1 is determined to be non-conforming, it is nonetheless allowed under the current Town Code because such non-conformity is not proposed to worsen: the front setback of Existing Parcel 1 and the front setback of Adjusted Parcel 1 will be identical. See tables below for more details on Existing Parcels configuration and Adjusted Parcels configuration in relation to Zoning Code compliance for minimum building setbacks.

Existing Parcels Configuration						
	APN	Front Setback	Right Side Setback	Left Side Setback	Rear Setback	Complies?
Parcel 1	532-36-076	* 0'	200'	90'	153'	Yes
Parcel 2	532-36-077	n/a	n/a	n/a	n/a	n/a
Parcel 3	532-36-075	n/a	n/a	n/a	n/a	n/a
Minimum Required		30'	15'	15'	25'	
<i>* denotes an existing, legal non-conformity</i>						

Adjusted Parcels Configuration						
	APN	Front Setback	Right Side Setback	Left Side Setback	Rear Setback	Complies?
Parcel 1	532-36-076	* 0'	43'	90'	200'	Yes
Parcel 2	532-36-077	n/a	n/a	n/a	n/a	n/a
Parcel 3	532-36-075	n/a	n/a	n/a	n/a	n/a
Minimum Required		30'	15'	15'	25'	
<i>* denotes an existing, legal non-conformity</i>						

- f. The Town's Zoning Ordinance Section 29.40.075 and Chapter IV of the Town's Hillside Development Standards and Guidelines establish maximum allowed floor area for residential zones with average parcel slopes greater than 10 percent. Floor area requirements can only be analyzed for Parcel 1 in the New Lot Line Adjustment Application, as Parcel 1 is the only parcel that would contain existing built floor area. The maximum allowed floor area for Parcel 1 in the Adjusted Parcels configuration would be 6,000 square feet. The existing 2,715-square foot residence on Parcel 1 would comply with the maximum allowed floor area of the Adjusted Parcels configuration because it is less than 6,000 square feet. While development is not proposed on Parcels 2 and 3, they would allow an average sized residence in relation to the surrounding neighborhood as shown in the table below. See tables below for more details on Existing Parcel configuration and Adjusted Parcel configuration in relation to Zoning Code compliance for maximum allowed floor area.

DEVELOPMENT REVIEW COMMITTEE DETERMINATIONS (continued):

Existing Parcels Configuration						
	APN	Size	Average Slope	Existing House	Maximum Allowed Floor Area	Complies?
Parcel 1	532-36-076	74,832 s.f.	26%	2,715 s.f.	6,000 s.f.	Yes
Parcel 2	532-36-077	11,226 s.f.	26%	vacant site	1,985 s.f.	Yes
Parcel 3	532-36-075	48,112 s.f.	26%	vacant site	5,300 s.f.	Yes

Adjusted Parcels Configuration						
	APN	Size	Average Slope	Existing House	Maximum Allowed Floor Area	Complies?
Parcel 1	532-36-076	62,172 s.f.	25%	2,715 s.f.	6,000 s.f.	Yes
Parcel 2	532-36-077	27,073 s.f.	27%	vacant site	3,714 s.f.	Yes
Parcel 3	532-36-075	44,925 s.f.	26%	vacant site	5,100 s.f.	Yes

In summary, the Adjusted Parcels within the New Lot Line Adjustment Application M-23-001 are in conformance with applicable provisions of the Town's Zoning Ordinance because the Adjusted Parcels each comply with minimum lot size, minimum street frontage, minimum lot depth, minimum lot width for parcels fronting on a cul-de-sac bulb, minimum setback standards, and maximum allowed floor area ratio standards.

Approval of the New Lot Line Adjustment Application M-23-001 is in compliance with Government Code Section 66412(d) because the Town's Building Ordinance would be complied with as the New Lot Line Adjustment Application does not propose any construction or grading activities. The Town's Building Ordinance in Chapter 6 of the Town Code was adopted to administer the California Building Code, including local amendments. "The California Building Code (CBC) contains general building design and construction requirements relating to fire and life safety, structural safety, and access compliance. CBC provisions provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all building and structures and certain equipment." The existing residential structure on Adjusted Parcel 1 meets the Town's Building Ordinance and Building Code provisions relating to existing structures that were built to then-applicable Building Code requirements. Any future proposed modifications to that existing structure would be required to meet the then-current Town's Building Ordinance and Building Code provisions. No construction currently exists on or is proposed for Adjusted Parcel 2 or Adjusted Parcel 3. Any future proposal for residential construction on any of the Adjusted Parcels would be required to meet the then-current Town's Building Ordinance and Building Code requirements. Therefore, the New Lot Line Adjustment Application is in conformance with the Town's Building Ordinance and Building Code requirements.

CONCLUSION:

A. Summary

The applicant is requesting that the Town approve its New Lot Line Adjustment Application M-23-001 in accordance with Government Code Section 66412(d) of the Subdivision Map Act. The New Lot Line Adjustment Application would reconfigure the Existing Parcels so that they are in conformance with (comply) with all applicable Town Code requirements, including the front setback requirement on Parcel 1, which is legal, non-conforming, and allowed, as discussed above. No construction is proposed with this New Lot Line Adjustment Application. The determinations pursuant to Government Code Section 66412(d) can all be made as discussed in this Report.

B. Recommendation

For all of the reasons set forth in this Staff Report, the New Lot Line Adjustment Application M-23-001, and all related materials and attachments, Staff recommends that the Development Review Committee make a motion to confirm the following determinations and actions to approve New Lot Line Adjustment Application M-23-001 for consideration under Section 66412(d) of the Subdivision Map Act:

1. That approval of New Lot Line Adjustment Application M-23-001 (and its related Conditions of Approval and materials) is a ministerial project approval under CEQA;
2. That the determinations presented in this Staff Report regarding compliance with Section 66412(d) of the Subdivision Map Act are hereby adopted and confirmed;
3. That the New Lot Line Adjustment Application, with the Draft Conditions of Approval contained in Exhibit 2, the diagram showing existing and proposed parcel configurations in Exhibit 4, and all other related materials and attachments, is hereby approved by the Development Review Committee (the "Approval"); and.
4. That this Approval supersedes the Town's approval of the Original Lot Line Adjustment Application (M-20-012).

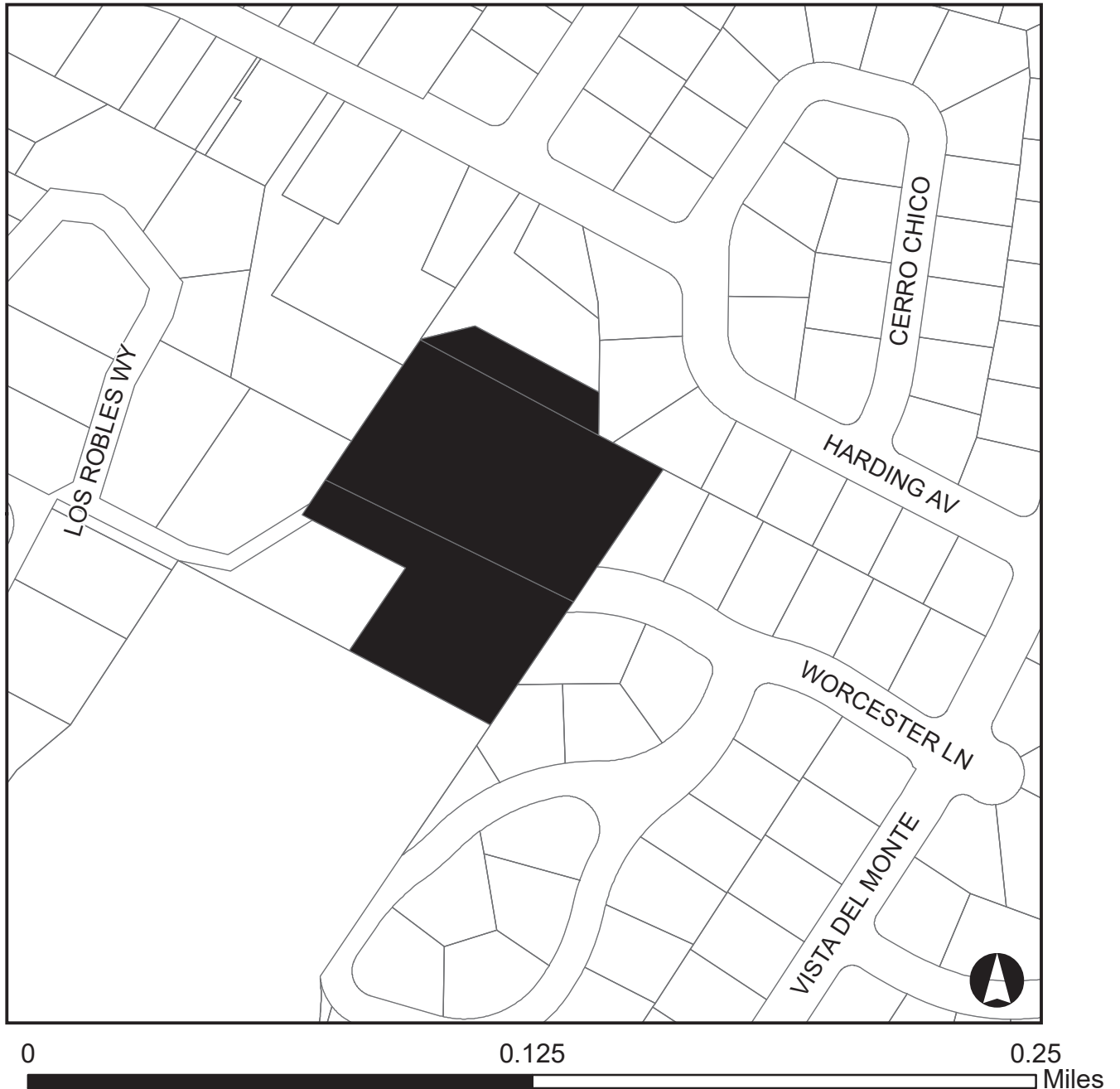
ACTION:

The decision of the Development Review Committee is final unless appealed within ten days.

EXHIBITS:

1. Location Map
2. Draft Conditions of Approval
3. Applicant's Letter of Justification
4. Diagram of Existing and Proposed Parcel Configurations

17200 Los Robles Way (Three Lots)



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DEVELOPMENT REVIEW COMMITTEE – August 15, 2023
CONDITIONS OF APPROVAL

17200 Los Robles Way
New Lot Line Application M-23-001

Requesting Approval of a Lot Line Adjustment Application in Accordance with California Government Code Section 64412(d) for Three Adjoining Lots on Properties Zoned R-1:20. APNs 532-36-075, -076, and -077.

Ministerial Project Approval Under CEQA. Application is Only for Ministerial Approval of Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act.

PROPERTY OWNERS: Daren Goodsell, Trustee and Mark Von Kaenel.

APPLICANT: Tony Jeans.

Planning Division and Engineering Division

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT AND/OR THE DIRECTOR OF PARKS AND PUBLIC WORKS, AS RELEVANT:

1. **APPROVAL:** The New Lot Line Adjustment Application (M-23-001) has been approved (“Approval”) on this August 15th, 2023, date (“Approval Date”), subject to and including these “Conditions of Approval” (listed herein). Any reference to the Approval shall mean and include these Conditions of Approval, and all related application materials, environmental determinations, and other Town determinations and findings relating to New Lot Line Adjustment Application (M-23-001). Any proposed revisions or modifications to the Approval shall be applied to the Community Development Department by the relevant property owners and reviewed by the Town pursuant to Section 29.20.305 of the Town Code. Any and all time periods for applicant action under these Conditions of Approval shall be tolled during the pendency of any appeal of the Approval.
2. **CUL-DE-SAC DEDICATIONS:** To ensure the consistency of the Approval of the New Lot Line Adjustment Application (M-23-001) with the Zoning Ordinance of the Town Code, within ninety (90) days of the Approval Date, the property owners (individually, “Property Owner,” collectively, “Property Owners”) of Adjusted Parcels 2 and 3 shall make irrevocable offers of dedication of easement to the Town of the “Cul-De-Sac Area” for right-of-way purposes (as that Cul-De-Sac Area is specifically delineated in the New Lot Line Adjustment Application (M-23-001) materials), and to the satisfaction of the Town Engineer, to ensure compliance with the minimum Town street frontage standards for cul-de-sacs. Within thirty (30) days of such Property Owners dedication, the Town Engineer shall accept such dedication(s) on behalf of the Town. Should the Approval be placed before the Town Council for consideration and action on appeal, the Town Council shall determine whether or not to confirm such acceptance of such dedication in addition to considering the merits of the appeal. Failure of the Town Council to confirm acceptance of such Cul De Sac Area dedications, and/or approval of such appeal by the Town Council, shall void the Approval.
3. **PROOF OF RECORDATION:** Assuming Condition #2 herein has been satisfied, proof of the recordation of grant deeds reflecting the configuration of parcels permitted by the Approval shall be provided to the Town within six (6) months of the Approval Date.

4. ENGINEERING FEES: Engineering fees associated with this New Lot Line Adjustment Application (M-23-001) Approval (see item 270 in the Town's [Comprehensive Fee Schedule](#)) shall be deposited with the Engineering Division of the Parks and Public Works Department prior to any recordation required by these Conditions of Approval.
5. NOTICE OF ARCHITECTURE & SITE APPROVAL: Notice is hereby given to the Property Owners that any proposed disruption, development, or other related construction on, adjacent to, or related to the Adjusted Parcels shall require environmental review to determine appropriate CEQA compliance, review for General Plan, Specific Plan, Zoning, and Building Ordinance compliance, and an Architectural & Site Application approval with the Community Development Department of the Town, with related findings, considerations, and conditions of approval in compliance with applicable Town Code.
6. TOWN INDEMNITY: Pursuant to Town Code Section 1.10.115, and the police power of the Town to craft appropriate Conditions of Approval, the property owners securing the Original Lot Line Adjustment Application (M-20-012) and this New Lot Line Adjustment Application (M-23-001) Approval and their successors (collectively, "Property Owners") shall indemnify and hold harmless the Town for any challenge to the Approval and/or to the Original Lot Line Adjustment Application (M-20-012), whether administrative appeal, judicial review, and/or otherwise (collectively, "Challenge"), including without limitation and subject to the following:
 - a. Generally: Regarding any such Challenge, Property Owners shall defend, indemnify, and hold harmless the Town (any reference to "Town" shall mean and include without limitation Town's elected officials, appointed officials, legal counsel, agents, officers, employees, contractors, and special legal counsel) (with legal counsel approved by Town), from and against any Challenge.
 - b. Property Owners (any reference to Property Owners shall mean and include without limitation Property Owners' successors, legal counsel, consultants, and contractors) shall bear any and all losses, damages, injuries, liabilities, costs and expenses (including, without limitation, staff time and in-house attorney's fees on a fully-loaded basis, attorney's fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge ("Costs"), whether incurred by the Property Owners, Town, or awarded to any third party, and shall pay to the Town upon demand any Costs incurred by the Town.
 - c. The total of all obligations owing by the Property Owners under this Condition of Approval #6 is collectively referred to as the "Challenge Indemnity." No modification of the Approval and/or the Original Lot Line Adjustment Application (M-20-012), nor any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the Property Owners obligations pursuant to this Condition of Approval # 6. The Town shall promptly notify the Property Owners of any such Challenge, and the Town shall cooperate with the Property Owners as Property Owners fulfil their obligations pursuant to this Condition of Approval # 6.

Town of Los Gatos
110E Main St,
Los Gatos CA 95030
Attn: Planning/Engineering

June 2nd, 2023

17200 Los Robles Way, Los Gatos

Application M 23-001

This application is made as a correction to the previous LLA application M 20-012 at this address, asking the Town modify its prior approval of the LLA and to consider the LLA application under Government Code Section 66412, subsection (d).

The Property:

The Property comprises 3 legal parcels of land in the R1:20 zoning district [as Identified by the Certificate of Compliance approved by the Town on May 25th, 2021] initially referred to as APNs: 532-36/075/6/7. They are presently accessed from the end of Los Robles Way and total approximately 3 Acres. The General Plan designation is for Low Density Residential. The overall slope of the combined 3 lots is 26%. At the moment there is one very dilapidated 1800 sq ft house on the entire property with an empty swimming pool. The house is on a septic system.

On June 7th, 2021 Mark VonKaenel purchased two of the Parcels.

The Parcel Configuration:

532-36-075 is traversed by a portion of Los Robles Way with 205 ft of frontage [considering both sides] on the right-of-way. It also has 19 ft of frontage at the termination of Worcester Lane.

532-36-076 is at the terminus of Los Robles Way with 37' of frontage. It also has 42 ft of frontage at the termination of Worcester Lane.

532-36-077 has no improved street access at present, but rather is accessed across APN 532-36-076 by its owner.

The Proposed LLA Solution:

It is proposed to reconfigure the 3 parcels to make them compliant with the Town Standards for the zoning district. They would be 1½, 1 and ½ acres in size. In doing so, the plan is to access only one of the resulting parcels from Los Robles Way and the other 2 from a cul-de-sac at Worcester Lane. In addition to improving the compatibility of the 3 parcels themselves, it will bring the street frontages for the three resulting lots into compliance with the General Plan and zoning ordinance.

The Existing Residence:

The existing residence was built in 1938, before it was annexed into the Town. It is, and remains legal, non-conforming and has been removed from the historic register for pre-1941 houses.

There are no house or improvement plans being submitted with this application.

The Plans show that R1-20 Zoning and General Plan compliance can be achieved with this proposal and we request consideration of the LLA application under Government Code Section 66412, subsection (d).

Thank you



Tony Jeans [REDACTED]

Request for Minor Subdivision Approval:

We are providing:

A Cover Sheet.

A Tentative Map Supporting the LLA.

Existing and Proposed Site Plans [Conceptual].

Aerial Topography of the Site and the Neighborhood.

COMPLIANCE NOTE:

In this Application we have shown:

- | | |
|---|--------------|
| <input type="checkbox"/> Existing and Proposed Lot Sizes | Sheet 1 - 4 |
| <input type="checkbox"/> Existing/Proposed Frontages, Lot Widths/Depths | Sheets 3 & 4 |
| <input type="checkbox"/> Existing Building Setbacks | Sheets 3 & 4 |
| <input type="checkbox"/> Location of Existing Structures | Sheets 2 - 6 |
| <input type="checkbox"/> Average Slope of Property at 26% | Sheet 3 |
| <input type="checkbox"/> APNs as identified | Sheet 3,5,6 |
| <input type="checkbox"/> GP and Zoning Classifications | Sheet 1 |

BENCH MARK:
LEGAL BRASS DISK IN MONUMENT BOX
AT INTERSECTION OF VISTA DEL MONTE AND
VISTA DEL MAR. ELEVATION = 445.21'

LEGEND

EXISTING	PROPOSED

NOTES:

OWNERS:
MARK VON KAENEL
10680 OLD SANTA CRUZ HWY.
LOS GATOS, CA 95033

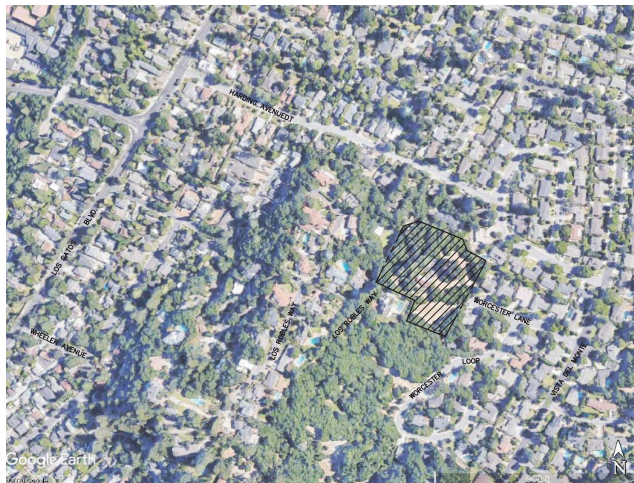
408-568-6602
DARAN GOODSELL, SUCCESSOR TRUSTEE OF THE JNT TRUST
DGOODSELL@CSJCSJCHICO.EDU
CHICO, CA 95973
530-521-6754

ENGINEER:
WESTFALL ENGINEERS, INC.
14583 BIG BASIN WAY
SARATOGA, CA 95070
408-867-0244

UTILITIES:

WATER - SAN JOSE WATER COMPANY
SANITARY SEWER - WEST VALLEY SANITATION DISTRICT
GAS AND ELECTRIC - P.G.&E.
TELEPHONE - ATT
CABLE - COMCAST

THE SUBJECT PROPERTY IS NOT SUBJECT TO INUNDATION.
ZONE V - AREA DETERMINED TO BE OUTSIDE OF THE 0.2%
ANNUAL CHANCE FLOOD PLAN
GENERAL PLAN DESIGNATION - LOW DENSITY RESIDENTIAL
ZONING DESIGNATION R1:20



VICINITY MAP

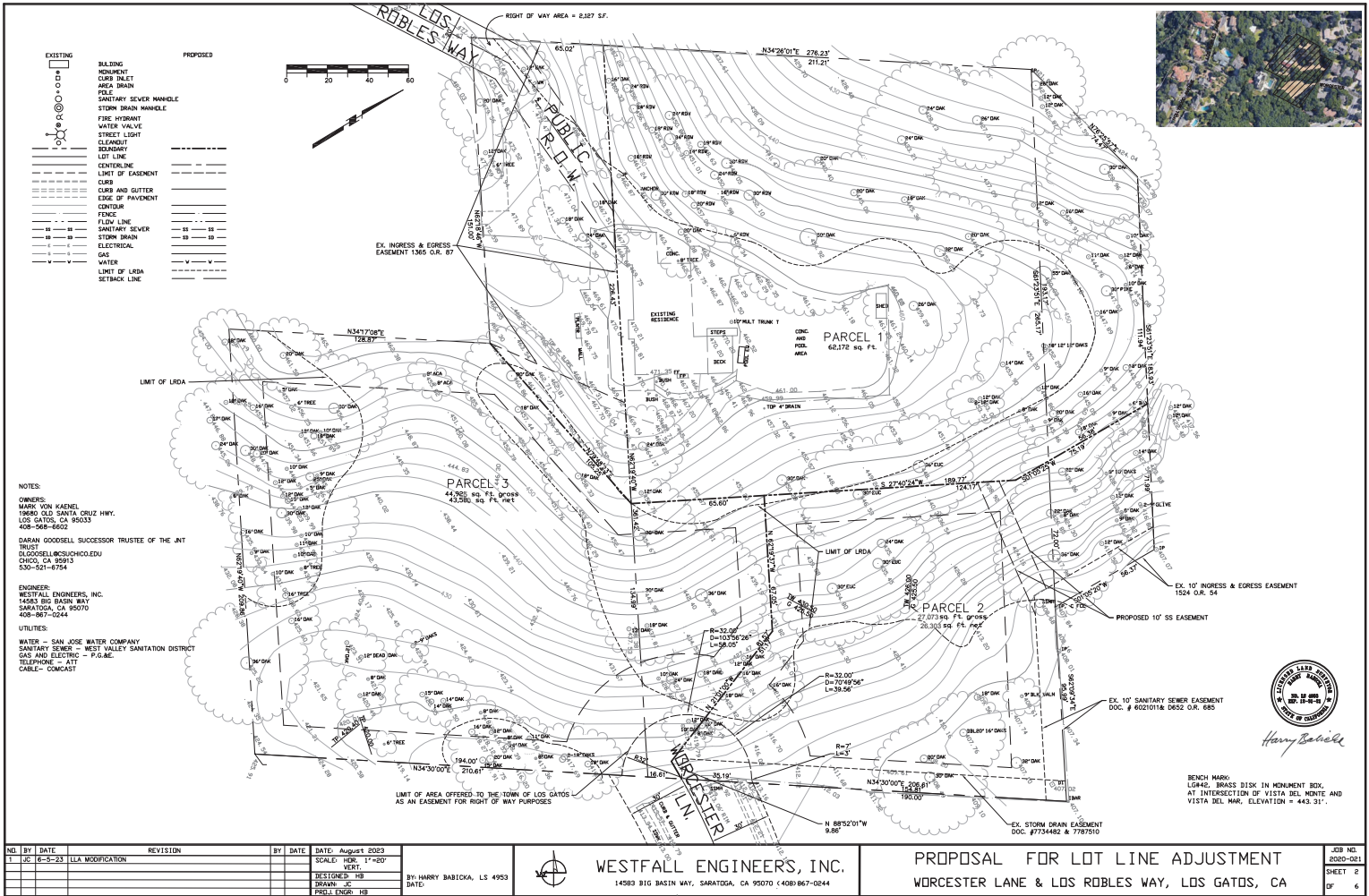
	APN	EXISTING	PROPOSED
PARCEL 1	532-36-076	74,832 s.f.	62,172 s.f.
PARCEL 2	532-36-077	11,226 s.f.	27,073 s.f.
PARCEL 3	532-35-075	48,112 s.f.	44,925 s.f.
LOS ROBLES	R.O.W.	2,127 s.f.	2,127 s.f..

INDEX

SHEET 1 COVER SHEET
SHEET 2 PROPOSAL FOR LOT LINE ADJUSTMENT
SHEET 3 EXISTING SITE PLAN
SHEET 4 PROPOSED SITE PLAN
SHEET 5 AERIAL TOPO 1"=20'
SHEET 6 AERIAL TOPO 1"=30'



NO.	BY	DATE	REVISION	BY	DATE	SCALE: HORIZ. N.T.S.		WESTFALL ENGINEERS, INC. 14583 BIG BASIN WAY, SARATOGA, CA 95070 (408) 867-0244	COVER SHEET WORCESTER LANE & LOS ROBLES WAY, LOS GATOS	JOB NO. 2020-081
1	JC	6/2/23	11A MODIFICATION			VERT.				
						DESIGNED: JC				
						CHECKED: KS				
						DRAWN: JC				



NO.	BY	DATE	REVISION	BY	DATE
1	JC	8-5-23	LLA MODIFICATION		

SCALE: HORIZ. 1"=20'
VERT. 1"=20'
DESIGNED: HB
DRAWN: JC
CHECKED: HB

BY: HARRY BARICKA, LS 4953
DATE:

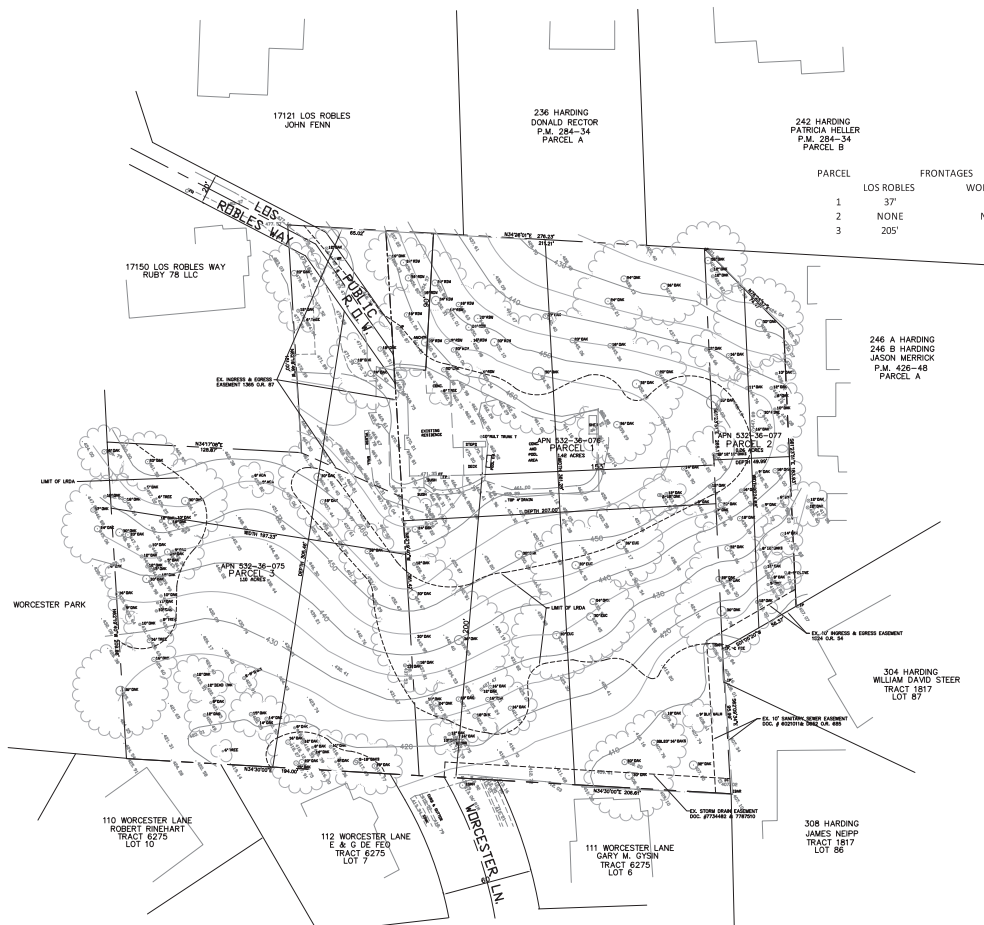
WESTFALL ENGINEERS, INC.
14583 BIG BASIN WAY, SARATOGA, CA 95070 (408) 667-0244

PROPOSAL FOR LOT LINE ADJUSTMENT
WORCESTER LANE & LOS ROBLES WAY, LOS GATOS, CA

JOB NO. 0000-001
SHEET 2
OF 6



BRIDGE OVER
LOS ROBLES DRIVE TO NEARBY BLD.
AT INTERSECTION OF VISTA DEL MONTE AND
VISTA DEL MONTE. ELEVATION = 440.31'.



PARCEL	FRONTAGES		SETBACKS			
	LOS ROBLES	WORCESTER	FRONT	LT. SIDE	RT. SIDE	REAR
1	37'	42'	0	200	90	153'
2	NONE	NONE	--	--	--	--
3	205'	19'	--	--	--	--

AVERAGE SLOPE CALCULATIONS:
(ENTIRE PROPERTY)
CONTOUR INTERVAL (I) 5 FEET
CONTOUR LENGTH (L) 7040 FEET
AREA (A) 3.13 ACRES 134216 SQUARE FEET
AVERAGE SLOPE (S)
 $S = I/L = 5 \times 7040 / 134216.F. = 26\%$



NO.	BY	DATE	REVISION
1	JC	8/5/23	LLA MODIFICATION

BY	DATE
JC	August 2023

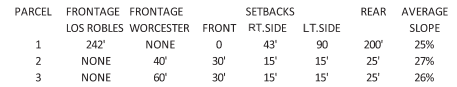
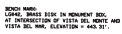
SCALE: HORIZ. 1"=30'
VERT. 1"=10'
DESIGNED: JC
CHECKED: JC
PREPARED: JC

WESTFALL ENGINEERS, INC.
14583 BIG BASIN WAY, SARATOGA, CA 95070 (408) 867-0244

EXISTING SITE PLAN
WORCESTER LANE & LOS ROBLES WAY, LOS GATOS

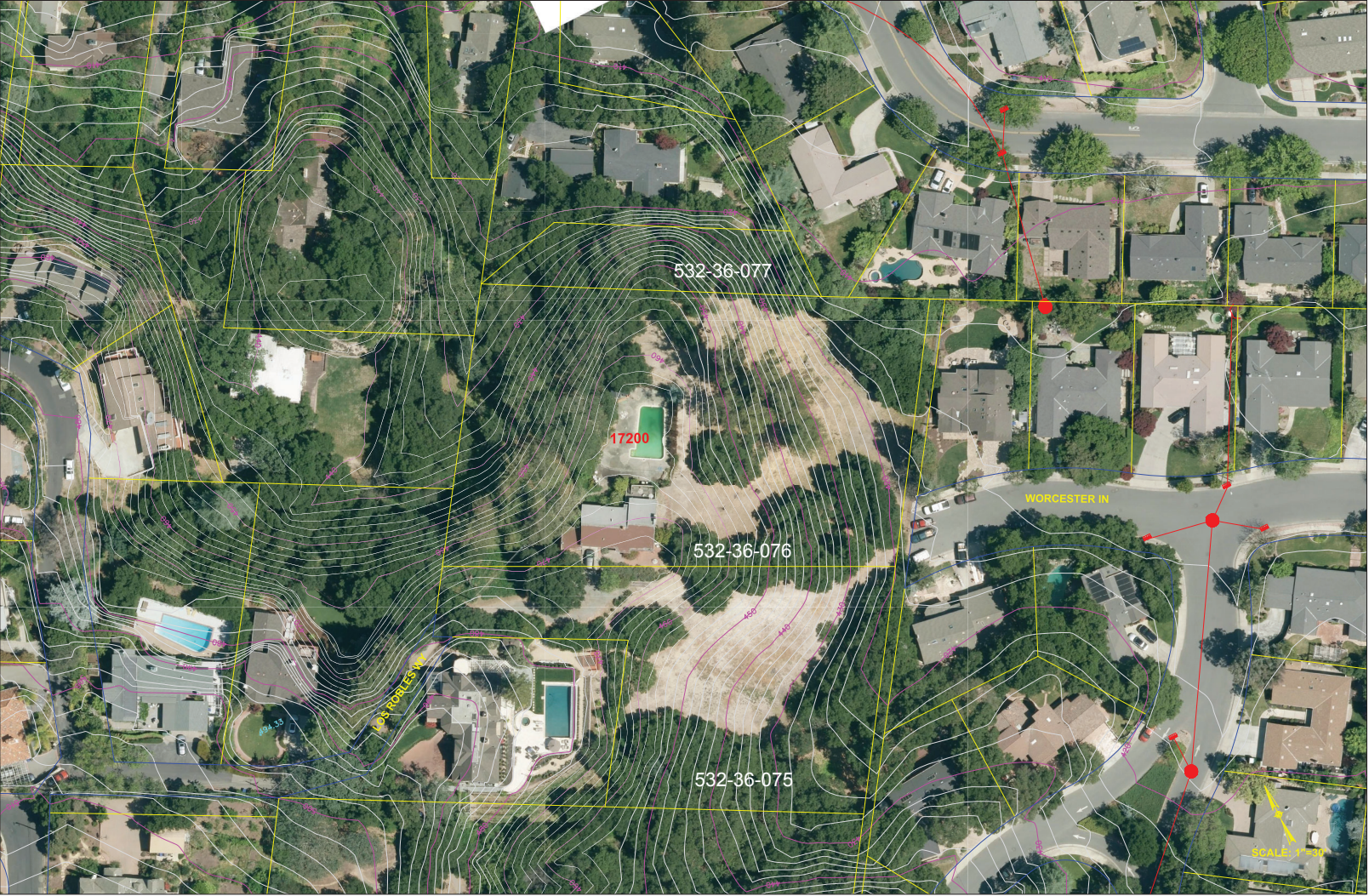
JOB NO.
2020-021

SHEET
3
OF
6



PARCELS 2 & 3 FRONTAGES ARE ON CUL-DE-SAC
PARCEL 1 SETBACKS AT LOS ROBLES WAY UNCHANGED
TO EXISTING HOUSE

NO.	BY	DATE	REVISION	BY	DATE	DATE: August 2023	 	WESTFALL ENGINEERS, INC. 14583 810 BASIN WAY, SARATOGA, CA 95070 408-867-0244	PROPOSED SITE PLAN WORCESTER LANE & LOS ROBLES WAY, LOS GATOS	JOB NO. 2020-021
1	JC	6/7/23	LLA MODIFICATION			SCALE: H&R, 1"=30'				
						DESIGNED: JC				
						CHECKED: JC				
						PROJECT LEAD: JC				
						DATE:	BY: KAREL CYMAL, RCC 34534			SHEET 4 OF 6







**TOWN OF LOS GATOS
REPORT TO THE DEVELOPMENT
REVIEW COMMITTEE**

MEETING DATE: 08/15/2023
ITEM NO: 2
DESK ITEM

DATE: August 15, 2023
TO: Development Review Committee
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval of a Lot Line Adjustment Application in Accordance with California Government Code Section 66412(d) for Three Adjoining Lots on Property Zoned R-1:20. Located at 17200 Los Robles Way. APNs 532-36-075, -076, and -077. Lot Line Adjustment Application M-23-001. Ministerial Project Approval Under CEQA. Application is Only for Ministerial Approval of Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act.
PROPERTY OWNERS: Daran Goodsell, Trustee and Mark Von Kaenel.
APPLICANT: Tony Jeans.

Remarks:

Exhibit 5 includes public comment received prior to the August 15, 2023, Development Review Committee meeting.

EXHIBITS:

Previously received with the August 15, 2023, Report to the Development Review Committee:

1. Location Map
2. Draft Conditions of Approval
3. Applicant's Letter of Justification
4. Diagram of Existing and Proposed Parcel Configurations

Received with this Desk Item Report:

5. Public Comments received prior to August 15, 2023.

PREPARED BY: RYAN SAFTY
Associate Planner

Reviewed by: Planning Manager and Community Development Director

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Left Blank***

From: [REDACTED]
To: [Ryan Safty](#)
Cc: [REDACTED]
Subject: APNs 532-36-075, -06, -077
Date: Monday, August 14, 2023 7:26:49 AM

[EXTERNAL SENDER]

Dear Mr Safty,

We are unable to attend the DRC meeting on Tuesday August 15th discussing ministerial approval of the lot line adjustment for APNs 532-36-075, -06, -077. As we presented at previous town council meetings, we object to this approval due to the fire and flood risk, as well as privacy concerns to our property. We live adjacent to the lot, on [REDACTED]. Our primary concern is the water run-off issues coming from the lot as, despite our significant and costly efforts to prevent it, our property is consistently flooded during rains by water coming off the hill on the lots in question. This will certainly be exacerbated by increasing the buildable plots from two to three. Access to the lots in question have always been from Los Robles Way, the addition of driveways through a new access from Worcester lane will also lead to the removal of many trees (California Oak and otherwise) that affect our view and privacy as well as having the potential to increase fire risk. The General Plan Vision Statement states that "the impacts of new development must be evaluated in light of the development's overall benefit to the community, and that input from surrounding residents and property owners is a major consideration during any development review process". We have continued to voice our opposition to this project. We appreciate your attention to our concerns.

Sincerely, Gianfranco and Eileen de Feo [REDACTED], Los Gatos CA.

From: [REDACTED]
To: [Ryan Safty](#)
Subject: DRC meeting on Tuesday
Date: Sunday, August 13, 2023 5:32:33 PM

[EXTERNAL SENDER]

Dear Mr. Safty,

We will not be able to attend the DRC meeting on Tuesday morning. We wanted to voice our strong disagreement with the town's plan to reapprove the DRC for 17200 Los Robles Way LLA. This LLA violates the towns own General Plan in many ways. This plan allows several trees to be cut down, the habitat for the local wildlife will be effected, it does not protect the privacy of several of the neighbors and the seismic considerations have not been taken into consideration.

Also, by allowing several properties to be built and extending Worcester Lane it further cuts into the hillside risking erosion and possible land slides. We feel that the town is showing a preference to one builder and going against its own rules and standards set up by the General Plan.

Thank you for your time,

[REDACTED]
[REDACTED]
Los Gatos, Ca 95030

From: [REDACTED]
To: [Ryan Safty](#)
Subject: Frontage from Los Robles Way
Date: Monday, August 14, 2023 4:51:42 PM

[EXTERNAL SENDER]

Dear Mr Safty,

I'm reading the staff report and would like to understand more about page 9. The frontage specified for Parcel 3 is 200ft while parcel 1 only has 42ft of frontage.

When the lots are reconfigured, the staff report claims that the frontage will achieve 242ft of frontage. However by virtue of the reconfiguration, there would be no private or public easement across parcel 1, so the frontage would be at the terminus to Los Robles Way. That wouldn't be more than 20ft? Thus you are taking a conforming lot and making it non-conforming to the Town's zoning laws?

I will be raising this in person at tomorrow's meeting, along with the objection to this being a ministerial approval, as the land is still not exempt from CEQA review.

Also, since this is a new application in front of the DRC, I want to remind the committee as part of their assignment of duties they SHALL determine when lots have merged. The new lot merger ordinance lays out the criteria for review to determine whether lots have merged but no report has been provided to show that this property meets all 8 criteria.

As you mentioned a couple of years ago when we spoke, there are many non-conforming lots in the town and there would be no way to know about them until an application like this LLA came in. The DRC [assignment of duties](#) says that the DRC SHALL determine when lots have merged. This appears to be a neglect of their duties. If the lot merger ordinance exists. is it only randomly applied where convenient and not to protect the Town's constituents?

Per the new lot merger ordinance this land is owned contiguously, has no adequate turnaround for vehicular and safety equipment, nor could one ever be built on parcel 2, and has soil stability issues. The hillside behind the Merrick's property at 246 Harding Ave can attest to this.

https://library.municode.com/ca/los_gatos/codes/code_of_ordinances?nodeId=CO_CH24SURE_ARTIINGE_S24.10.080TOITPAME

Sincerely,

[REDACTED]

From: [REDACTED]
To: [Ryan Safty](#)
Cc: [Corvell Sparks](#); [James Watson](#); [Gary Heap](#); [Jennifer Armer](#)
Subject: FW: 17200 Los Robles - Right of Way
Date: Monday, August 14, 2023 6:48:08 PM
Attachments: [image001.png](#)
[Map Subdivision XM48.pdf](#)
[Map RoS 579M33 End Los Robles Lt.pdf](#)
[Map RoS 580M20 End Los Robles Rt.pdf](#)
[Property Records - 17200 Los Robles Way.pdf](#)

[EXTERNAL SENDER]

Hi Ryan,

The terminus of Los Robles Way as documented was at the corner of the original lots 15 and 16. How could there be documentation of vacating a portion of Los Robles Way that never existed?

I am looking for clear documentation as to when Los Robles Way was extended across APN 532-36-075 and became a public ROW.

Beginning at a point on the dividing line between Lots 15 and 16 where the same is intersected by the terminus of the center line of Los Robles Way, as said Lots and Way are shown upon the Map hereinafter referred to; thence running along the dividing line between said Lots 15 and 16, S. 62° 05' E. 276.3 feet to the easterly common corner of said Lots 15 and 16; thence running along the southeasterly line of said Lot 15, S. 34° 30' W. 194 feet to the most southerly corner thereof; thence running N. 62° 05' W. and along the southwesterly line of said Lot 15, 210 feet; thence leaving said line and running N. 34° 30' E. and parallel with the southwesterly line of said Lot 15, 129 feet; thence N.

Thanks

[REDACTED]

From: Ryan Safty <RSafty@losgatosca.gov>
Date: Monday, August 14, 2023 at 3:47 PM
To: [REDACTED]
Cc: Corvell Sparks <CSparks@losgatosca.gov>, James Watson <JWatson@losgatosca.gov>, Gary Heap <GHeap@losgatosca.gov>, Jennifer Armer <JArmer@losgatosca.gov>
Subject: RE: 17200 Los Robles - Right of Way

Hi [REDACTED]

I have copied Parks and Public Works to this email. PPW, please add on to this response if I have missed anything.

Regarding Los Robles Way right-of-way, the Town does not have any record of vacating any portion of Los Robles Way, which means that the portion that is shown on the subject parcels is a public right-of-way.

Regarding the future Worcester Lane cul-de-sac, the applicant is offering the area as an easement

dedication for future right-of-way purposes, meaning that the property owners would have to maintain any future cul-de-sac that is developed at this location.

Respectfully,

Ryan Safty • Associate Planner

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6802 • rsafty@losgatosca.gov

www.losgatosca.gov • <https://www.facebook.com/losgatosca>

COMMUNITY DEVELOPMENT HOURS:

Counter Hours: 8:00 AM – 1:00 PM, Monday – Friday/

Phone Hours: 8:00 AM – 5:00 PM, Monday – Friday

All permit submittals are to be done online via our Citizen's Portal platform. All other services can be completed at the counter. For more information on permit submittal, resubmittal, and issuance, please visit the [Building](#) and [Planning](#) webpages.

CONFIDENTIALITY DISCLAIMER

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Think Green, please consider the environment before printing this e-mail.

From: [REDACTED]
Sent: Monday, August 14, 2023 12:01 PM
To: Ryan Safty <RSafty@losgatosca.gov>
Subject: 17200 Los Robles - Right of Way

[EXTERNAL SENDER]

Hi Ryan,

I am interested in when the vacated right of way became a public ROW. Do you have documentation that this is a public road maintained by the town?

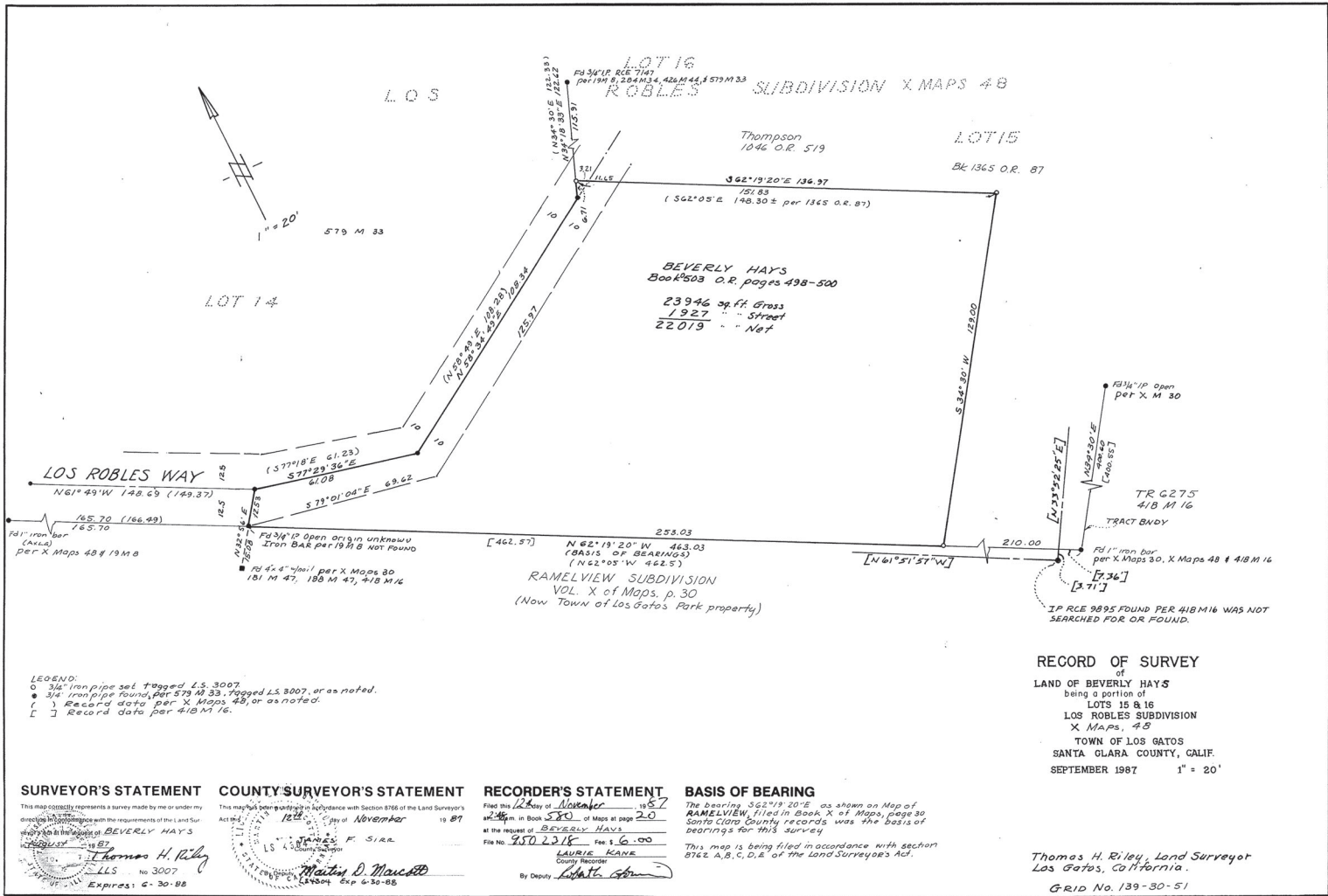
In the DRC and planning commission staff reports, you had mentioned the frontage for parcel 1 was non-conforming:

<https://mccmeetingspublic.blob.core.usgovcloudapi.net/losgatos-meet-6d032661823f4cb6a9943f7c6ddbc3e8/ITEM-Attachment-004-7b105ec1a90c4d92813496a1a0becb0c.pdf>

It appears the interpretation of frontage has now been changed by the Town.

Please share documentation that this is actually a public ROW.





Book 503
Page 20

580
20

20

20



MAP OF
LOS ROBLES SUBDIVISION
SITUATED IN THE
CITY OF LOS GATOS
AND
RANCHO RINCONADA DE LOS GATOS
SANTA CLARA COUNTY-CALIF.

McMILLAN & McMillan - CIVIL ENGRS.
AUGUST, 1927 SAN JOSE, CALIF.

H 17864

FILED FOR RECORD at the request
of S. G. Hays on
the 12 day of August A.D. 1927,
at 24 Minutes past 3 o'clock
P.M., and recorded in Volume X
of Maps, Pages 4874, Records of
Santa Clara County, California
May E. Flannery
County Recorder
\$5.00
Deputy

This is to certify that Josephine M. Hays and S.G. Hays, her husband, and Fern L. Nuss are the owners of that tract of land embraced within the red lines on sheet No. 1 of a map entitled "Map of Los Robles Subdivision" that F.H. Benson is the Trustee under that certain Deed of Trust recorded in Book 339 of Official Records, Page 301, Records of Santa Clara County, California, and Nellig J. Head is the Beneficiary, are the only persons whose consent is necessary to pass a clear and legal title to that certain tract of land shown on the within map, and that they hereby dedicate all streets and parts of streets, as shown on said map, as public thoroughfares.

Josephine M. Hays
S. G. Hays
Fern L. Nuss
F. H. Benson Trustee Nellig J. Head Beneficiary

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
On this 12 day of October
A.D. 1927, before me A. H. Jackson a Notary Public in and for the County of Santa Clara, State of California, residing therein, duly commissioned and sworn, personally appeared Josephine M. Hays, S. G. Hays, Fern L. Nuss, F. H. Benson, and Nellig J. Head, known to me to be the persons whose names are subscribed to the within instrument, and duly acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 22 day of October, A.D. 1927.
A. H. Jackson
Notary Public in and for the County of Santa Clara, State of California

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
It is hereby certified that a bond in an amount fixed by the Board of Supervisors inuring to the benefit of said County, and conditioned for the payment of taxes which were at the time of the filing of the annexed map, a lien against the tract or subdivision of land delineated on said map, but not yet payable, has been filed with the Board of Supervisors, as approved by law.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Board of Supervisors, this 22 day of October, A.D. 1927.

Henry A. Deater
Clerk of the Board of Supervisors of Santa Clara County, California
Deputy

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
On this 12 day of October, A.D. 1927, before me A. H. Jackson a Notary Public in and for the County of Santa Clara, State of California, residing therein, duly commissioned and sworn, personally appeared Josephine M. Hays, S. G. Hays, Fern L. Nuss, F. H. Benson, and Nellig J. Head, known to me to be the person whose name is subscribed to the within instrument, and duly acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 22 day of October, A.D. 1927.

A. H. Jackson
Notary Public in and for the County of Santa Clara, State of California.

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
On this 12 day of October, A.D. 1927, before me A. H. Jackson a Notary Public in and for the County of Santa Clara, State of California, residing therein, duly commissioned and sworn, personally appeared Josephine M. Hays, S. G. Hays, Fern L. Nuss, F. H. Benson, and Nellig J. Head, known to me to be the person whose name is subscribed to the within instrument, and duly acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 22 day of October, A.D. 1927.

A. H. Jackson
Notary Public in and for the County of Santa Clara, State of California.

This is to certify that Yosemite Way is dedicated to public use forever, that the 16 foot strip shown as Lot 17 on the within map be dedicated to public use forever, whenever the adjacent property owners dedicate a 200 foot strip for public use.

Josephine M. Hays
S. G. Hays
Fern L. Nuss
F. H. Benson
Nellig J. Head

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
It is hereby certified that a bond in an amount fixed by the Board of Supervisors inuring to the benefit of said County, and conditioned for the payment of taxes which were at the time of the filing of the annexed map, a lien against the tract or subdivision delineated on said map, but not yet payable, has been filed with the Board of Supervisors, as approved by law.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Board of Supervisors, this 12 day of August, A.D. 1927.

Henry A. Deater
Clerk of the Board of Supervisors of Santa Clara County, California
Deputy

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
The within map, having been presented to the Board of Supervisors of Santa Clara County, California, on the 21 day of November, A.D. 1927, it is hereby ordered by said Board that said map be, and the same is hereby approved.

It is further ordered that all streets and parts of streets offered for dedication on sheet No. 1 of said map, be rejected as public thoroughfares on behalf of the public.

In witness whereof, I have hereunto set my hand and affixed the seal of the Board of Supervisors, this 21 day of November, A.D. 1927.

Henry A. Deater
Clerk of the Board of Supervisors of Santa Clara County, California
Deputy

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
I, Arthur B. Langford, County Auditor of Santa Clara County, California, do hereby certify that there are no liens for unpaid State, County, or municipal, or other taxes, except taxes not yet payable against the tract or subdivision of land described in and by the annexed map or any other part thereof.

Signed and Sealed this 21 day of November, A.D. 1927.
Arthur B. Langford
County Auditor
By Richard B. Smith
Deputy

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
We, W. B. Chandler and C. F. Pitman County Surveyor and County Assessors, respectively of Santa Clara County, California, do hereby certify that we have examined the annexed map, and that the lots delineated thereon are suitable for residence and commercial purposes.

Robert B. Chandler County Surveyor
Deputy
C. F. Pitman County Assessor
By D. C. Smith Deputy

I hereby certify that the subdivision shown on the annexed map is made from my own survey of the ground, and that the monuments are of the nature and in locations shown on said map.

Deacy W. McMillan
Licensed Surveyor
Approved by the City Planning Commission of the City of Los Gatos
Richard H. Jackson
Secretary

The accompanying map having been presented to the City Board of Trustees of the City of Los Gatos, California on this 7 day of November, A.D. 1927, it is hereby ordered by said board that said map be and the same is hereby approved. It is further ordered that all streets and parts of streets as shown on said map be accepted as public highways on behalf of the public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Los Gatos this 7 day of November, A.D. 1927.

Donna M. Williams
City Clerk.

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
I, H. B. Fisher, City Engineer of the City of Los Gatos, California, do hereby certify that I have examined the annexed map, and that the lots delineated thereon are suitable for residence and commercial purposes.

Henry B. Fisher
City Engineer of the City of Los Gatos. SHEET 2

BOOK 1524 PAGE 546

No Revenue Stamps Required

Grant Deed

L. N. BALL and GRACE BALL, his wife,

the first parties, hereby Grant to

TOM C. HAIRE

the second party, all that real property situated in the

County of Santa Clara, State of California, described as follows:

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Reserving therefrom a right of way for ingress and egress over the Easterly 10 feet of said lands, said Easterly 10 feet being a strip of land 10 feet wide adjacent to and Westerly of the Easterly line of said lands.

Together with a right of way for ingress and egress over a strip of land 10 feet wide adjacent to and Easterly of the Easterly line of the parcel of land hereinabove described said strip extending from the Southeasterly prolongation of the Northeasterly line of said lands hereinabove described to the Southwesterly line of said 24.98 acre tract.

In Witness Whereof, the said first parties have executed this conveyance this

4th day of

November

, 1947

L. N. Ball
Grace Ball

State of California,
County of Santa Clara } ss.

On this 4th day of November, 1947, before me

Lesta Wicker, a Notary Public in and for said

County, personally appeared L. N. Ball and Grace Ball

known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same.

Witness my hand and official Seal.



Lesta Wicker

Notary Public in and for the County of Santa Clara, State of California.

1487634

Grant Deed

INDIVIDUAL

L. N. Ball, et ux

— TO —

Tom C. Haire

Dated November 4, 1947

INDEXED
GRANTOR
GRANTEE
SPECIAL

Filed for record at the Request of
San Jose Abstract & Title Insurance Co.
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76 NORTH FIRST STREET
SAN JOSE, CALIF.

200

Order No. 18715
When recorded please mail this deed to
Deliver to Joseph W. Oatle

BOOK 1524 PAGE 546

Grant Deed

JOINT TENANCY

(152700) TOM O. HAIRE and MARYON E. HAIRE, husband and wife

Do hereby Grant to CLARENCE W. GITLE and MARGARET E. GITLE, husband and wife,

as joint tenants

all that real property situate in the

County of Santa Clara, State of California, described as follows:

Beginning at a one inch bar in the Southwesterly boundary of that certain 24.98 acre tract of land conveyed by Scott Investment Company, a corporation, to L. N. Ball and Grace Ball, his wife, by Deed dated February 27, 1945 and recorded March 21, 1945 in Book 1250 of Official Records, at page 168, Santa Clara County Records, and distant thereon S. 62° E. 174.60 feet from the Westerly corner of said 24.98 acre tract of land; thence parallel with the Northwesterly boundary of said 24.98 acre tract of land N. 34° E. 232.45 feet to a 3/4 inch iron pipe set in the Southwesterly line of the proposed extension of Harding Avenue; thence along the Southwesterly line of proposed extension of Harding Avenue, S. 62° E. 93.65 feet to a point in the center line of a right of way 20 feet wide, hereinafter referred to; thence along the center line of said 20 foot right of way, S. 11° 52' E. 100.82 feet, S. 2° 14' E. 50.04 feet and S. 0° 33' W. 69.27 feet to the point of intersection of said center line with a line running parallel with and distant Northeasterly at right angles 50 feet from the Southwesterly line of said 24.98 acre tract, said point of intersection being distant N. 0° 33' E. 56.34 feet from a point in the Southwesterly line of said 24.98 acre tract, said last mentioned point being distant along said Southwesterly line S. 62° E. 265.30 feet from the point of beginning of this description; thence leaving the center line of said 20 foot right of way and running along said line that is parallel with and distant Northeasterly 50 feet at right angles from the Southwesterly line of said 24.98 acre tract, N. 62° W. 124.03 feet to a point in said parallel line that is distant thereon S. 62° E. 50 feet from the intersection of said parallel line with the first course of this description; thence S. 75° 51' W. 74.51 feet to the point of beginning and containing 0.75 acres of land, more or less, and being a portion of said 24.98 acre tract in the Rancho Rinconada de Los Gatos, and also being a portion of that parcel of land designated as Parcel No. 7, on that certain Map entitled, "Record of Survey of a portion of Land of L. N. and Grace Ball, being a portion of the Kennedy Tract in the Rancho Rinconada de Los Gatos, Santa Clara County, Calif.", and which said Map was recorded in the office of the Recorder of the County of Santa Clara, State of California, on August 8, 1946 in Book 9 of Maps, at page 28.

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Reserving therefrom a right of way for ingress and egress over the Easterly 10 feet of said lands, said Easterly 10 feet wide strip of land 10 feet wide adjacent to and Easterly of the Easterly line of said lands.

4th day of November 1947

Tom C. Haire
Maryon E. Haire

BOOK 1524 PAGES 548

State of California,
County of Santa Clara, ss.

On this 14th day of November 1947 before me

Leeta Wicker, a Notary Public in and for said

County, personally appeared Tom C. Haire and Maryon E. Haire

known to me to be the person, B, whose name B are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Witness my hand and official Seal.

Leeta Wicker

Notary Public in and for the County of Santa Clara, State of California



487635
Grant Deed
(JOINT TENANCY)

Tom C. Haire, et al.

TO
Joseph W. Goble, et al.

INDEXED FILED
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Recorder in Vol. of Official Records
page at Santa Clara
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76 NORTH FIRST STREET
San Jose, California



Created By:SSCHILLING

Created On:2/13/2021 8:34 AM

Last Search Date:2/13/2021 8:34 AM

Search Type	Search Parameters	State/County	Status
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6293381

Local Agency Formation Commission
County Administration Building
70 West Hedding Street
San Jose, California 95110
Area Code 408
299-4321

County of Santa Clara
California

E 302nd 489E 302nd 489CERTIFICATE OF COMPLETION

I, Paul E. Sagers, the Assistant Executive Officer of the Santa Clara County Local Agency Formation Commission, issue this Certificate of Completion pursuant to Section 56450-56451/35351 of the Government Code.

I hereby certify that I have examined the resolution for a change in organization/~~reorganization~~ attached hereto and have found this document to be in compliance with the resolution adopted on December 6, 1978 by the Santa Clara County Local Agency Formation Commission approving said change in organization or reorganization.

The name of the ~~District~~/City is: Los Gatos

The entire ~~District~~/City is located in Santa Clara County.

The change of organization completed is a n annexation.
A map and description of the boundaries of the change of organization is appended hereto.

The title of this proceeding is: LOS GATOS BLVD. NO. 8

The change of organization was ordered subject to the following terms and conditions:

None

The date of adoption of the resolution ordering the change of organization/~~reorganization~~ is Feb. 20, 1979.

Dated Feb. 23, 1979

Paul E. Sagers
Assistant Executive Officer
Santa Clara County
Local Agency Formation Commission

E 302-490

RESOLUTION AND ORDER OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA ANNEXING TERRITORY
DESIGNATED AS LOS GATOS BLVD. NO. 8
TO THE ~~CITY~~/TOWN OF LOS GATOS
PURSUANT TO GOVERNMENT CODE SECTION 35150(f) OF
THE MUNICIPAL ORGANIZATION ACT OF 1977

WHEREAS, the Board of Supervisors of the County of Santa Clara has held a duly noticed public hearing pursuant to the Municipal Organization Act of 1977 on the proposed annexation of territory designated as Los Gatos Blvd. No. 8 to the ~~CITY~~/Town of Los Gatos; and

WHEREAS, the Board of Supervisors is authorized by the Santa Clara County Local Agency Formation Commission to order annexation of this territory without an election pursuant to Government Code Section 35150(f) of the Municipal Organization Act of 1977;

NOW, THEREFORE, the Board of Supervisors of the County of Santa Clara does hereby resolve, determine and order as follows:

1. The territory described in Exhibit A is annexed to the ~~CITY~~/Town of Los Gatos. A map of this territory, marked Exhibit B, is attached.
2. The Clerk of the Board of Supervisors is directed to make the filings necessary to complete the annexation pursuant to Government Code Section 35350.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on FEB 20 1979, by the following vote:

AYES: Supervisors CORTES, MACGREGGALL, STEINBERG, DIRIDON, WILSON
NOES: Supervisors NONE
ABSENT: Supervisors

Donald M. Rains
Chairperson, Board of Supervisors

ATTEST: DONALD M. RAINS, Clerk
Board of Supervisors

Donald M. Rains

EXHIBIT "A"

E 302~~MS~~ 451

TOWN OF LOS GATOS
LOS GATOS BOULEVARD #6 ANNEXATION

All that real property situate in the County of Santa Clara, State of California, described as follows:

Beginning at the Southernmost corner of Ferris Avenue No. 3 annexation to the Town of Los Gatos, said corner being on the centerline of Kennedy Road; thence along the Northeasterly line of said annexation, the following courses and distances: Northeasterly 432 feet more or less; thence Northwesterly 188 feet more or less to the intersection thereof with the Westerly line of last said annexation, the last said line also being the centerline of San Jose Avenue; thence along last said line Northeasterly 164 feet more or less to the intersection thereof with the Southerly line of Northeast No. 9 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Northwesterly 320 feet more or less; thence Northeasterly 228 feet more or less, thence Northwesterly 101 feet more or less; thence Northeasterly 140 feet more or less to the intersection thereof with a Southeasterly line of last said annexation, the last said line also being a Westerly line of Roberts Road No. 1 annexation to the Town of Los Gatos; thence along last said line Northwesterly 400 feet more or less to the intersection thereof with the Easterly line of Pine Avenue No. 1 annexation to the Town of Los Gatos; thence along the boundary of last said annexation the following courses and distances:

South 33°28' West 503.79 feet; thence
North 56°31' West 100 feet more or less; thence
North 33°28' East 488.92 feet; to the intersection
thereof with said Westerly line of Roberts Road No. 1 annexation;
thence along last said line Northwesterly 210 feet more or less
to the Northwesterly corner of Pine Vista No. 1 annexation to the
Town of Los Gatos; thence along the perimeter of last said
annexation the following courses and distances:
Southwest 459.56 feet; thence
Northwesterly 275.02 feet; thence
Southwesterly 67 feet more or less; thence
Southeasterly 23 feet more or less; thence
Southerly 129 feet more or less; thence
Southeasterly 299 feet more or less; thence
Southwesterly 123 feet more or less to the
intersection with the Original Town of Los Gatos Boundary; thence
along the Original Town of Los Gatos Boundary Southeasterly 410
feet more or less to the intersection with the westerly line of
Los Gatos Boulevard No. 4 annexation to the Town of Los Gatos;

E 302-492

thence along last said annexation boundary the following courses and distances:

North 33°30' East 122.75 feet; thence

South 56°25' East 435.00 feet; thence

South 33°30' West 122.75 feet to the intersection thereof with said original Town of Los Gatos boundary; thence along last said boundary the following two courses and distances:

Southeast 60 feet more or less; thence

South 230 feet more or less to the Northerly corner

of the Fillmer Avenue No. 1 annexation; thence along the boundary of the last said annexation Southeast, Southwest, and Northwest 503 feet to the intersection thereof with said original boundary of the Town of Los Gatos; thence along said boundary South 260 feet more or less to the Northerly corner of Harding Avenue No. 1 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Southeast and Southwest 341 feet more or less to the intersection with the original boundary of the Town of Los Gatos; thence along said boundary Southerly 170 feet more or less to the Northerly corner of Yosemite Way No. 1 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Southeast, Southwest and Northwest 365 feet more or less to the intersection thereof with said original boundary of the Town of Los Gatos; thence South along last said boundary 165 feet more or less to the intersection thereof with the Easterly boundary of Los Robles Way No. 1 annexation to the Town of Los Gatos; thence along the perimeter of last said annexation generally Northeast, Southwest, Northeast and Southwest 1290 feet more or less to the intersection thereof with said original boundary of the Town of Los Gatos; thence along last said line South 645 feet more or less to the Northwest corner of Kennedy Road No. 1 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Northeast, Southeast, Northeast and Northwest 1470 feet more or less to the Southerly corner of Harding Avenue No. 2 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Northwest, Southwest and Northeast 490 feet more or less to the South side of Harding Avenue, last said line also being the boundary of Kennedy Road No. 1 annexation; thence along the boundary of last said annexation the following two courses and distances:

Northwesterly 170 feet more or less; thence

Northeasterly 500 feet more or less to the Southwest line of Kennedy Road No. 4 annexation to the Town of Los Gatos; thence along last said line Northwest 110 feet more or less to the Easterly corner of Gem Avenue No. 2 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Southwest, Northwest, Southwest, Northwest and Northeast 615 feet more or less to the intersection thereof with said boundary of Kennedy Road No. 4 annexation; thence along last said line Northwest 220 feet more or less to the Southwesterly corner of last said annexation;

E 302-493

thence along the Northwestern line of last said annexation northeasterly 180 feet more or less to the intersection thereof with the Southwest line of Ferris Avenue No. 2 annexation to the Town of Los Gatos, said line also being the centerline of Kennedy Road; thence along last said line and along said Southwest line of last said annexation Northwest 110 feet more or less to the Southeasterly corner of Ferris Avenue No. 3 annexation to the Town of Los Gatos; thence continuing along last said centerline and along the Southerly line of last said annexation Northwest 210 feet more or less to the point of beginning.

Containing 38.7 acres more or less.

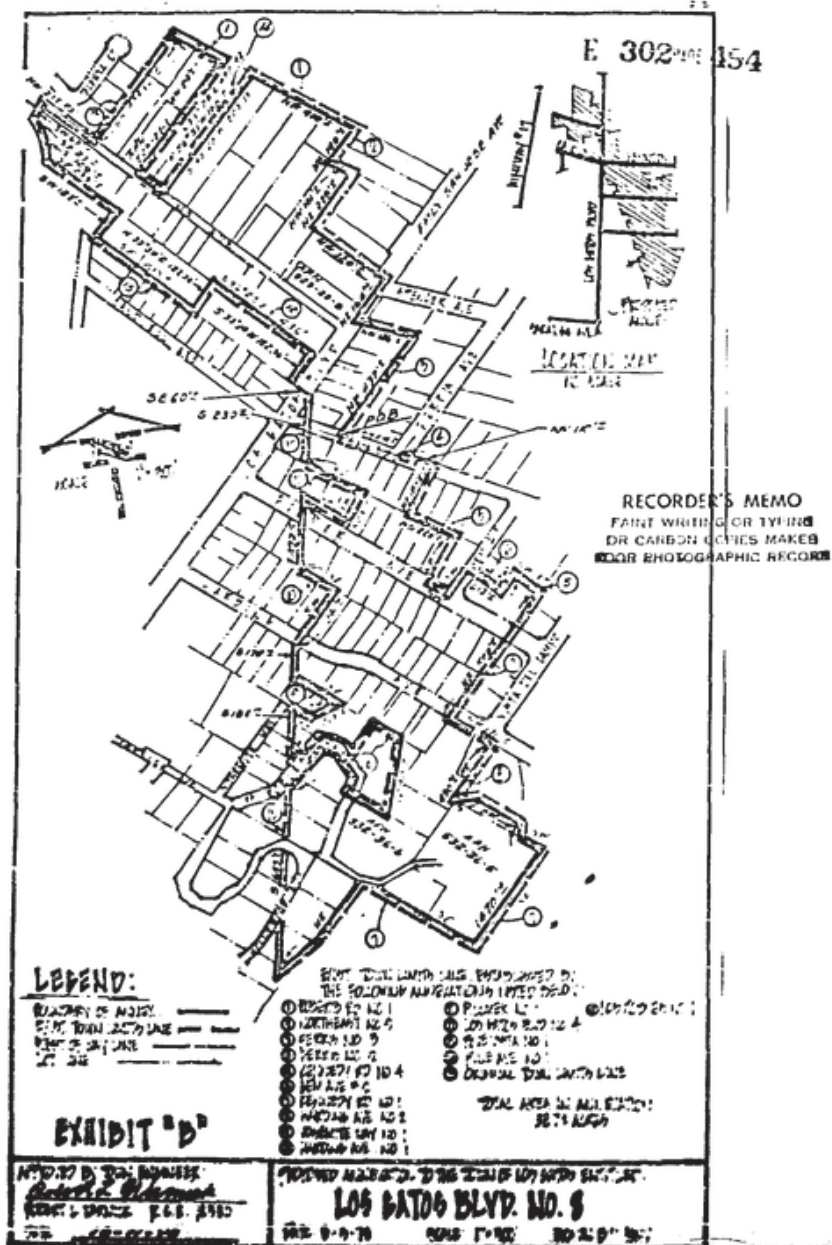
The foregoing instrument is a
true and correct copy of the original
ATTEST: DONALD M. RAINS
Clerk of the Board

By Anna J. Rogers DEPUTY CLERK
FEB 23 1979

THE FOREGOING INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ATTEST: DONALD M. RAINS
CLERK, BOARD OF SUPERVISORS

By Anna J. Rogers
Deputy Clerk

DATE: 12-8-78



From: [REDACTED]
To: Ryan Safty
Cc: Jennifer Armer; Gabrielle Whelan
Subject: Re: Frontage from Los Robles Way
Date: Monday, August 14, 2023 5:45:23 PM
Attachments: image001.png
Property Records - 17200 Los Robles Way.pdf

[EXTERNAL SENDER]

Hello Ryan,

Regardless of the language lot merger ordinance, the DRC assignment of duties say they SHALL determine when lots have merged, and there has been no evidence of this review by the DRC, and the random application of the ordinance seems egregious at best.

In any case, my lawyer has provided the arguments why this cannot be a ministerial review. As a data point, even the interpretation of the law is correct by the Town of Woodside in this ruling:

https://www.woodsidetown.org/sites/default/files/fileattachments/architectural_and_site_review_board_asrb/meeting/23951/agenda_item_no_2_145_old_la_honda_road.pdf

I will see you all at the meeting tomorrow,

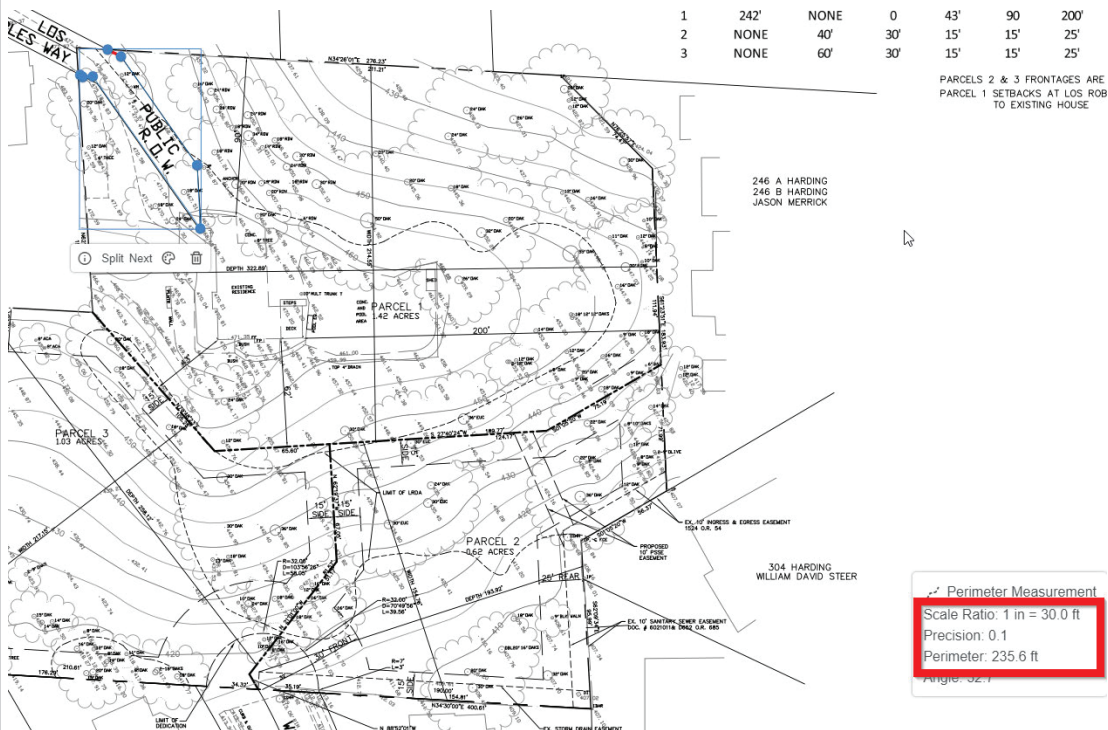
Sincerely,
[REDACTED]

On Mon, Aug 14, 2023 at 5:17 PM Ryan Safty <RSafty@losgatosca.gov> wrote:

Hi [REDACTED]

Thank you for your email. I'm doing my best to respond to all your questions before I leave today, so I apologize if I missed anything in response to your 4:51pm email.

The area of Los Robles Way was never vacated, and it was determined by Parks and Public Works that this area is a public right-of-way that extends into the property, thus providing frontage along each edge of the roadway that crosses the property (see below).



The Report to the DRC contained a detailed explanation to why CEQA is not triggered with this application.

As you noted, the Town's Lot Merger Ordinance was modified in early 2023. The most substantial change is that the "shall" statement was replaced with "may". The Town "may" choose to initiate a lot merger, but is not, by Code, required to.

I have copied the Planning Manager and Town Attorney to this email in case you have follow up questions.

Respectfully,

Ryan Safty • Associate Planner

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6802 • rsafty@losgatosca.gov

www.losgatosca.gov • <https://www.facebook.com/losgatosca>

COMMUNITY DEVELOPMENT HOURS:

Counter Hours: 8:00 AM – 1:00 PM, Monday – Friday/

Phone Hours: 8:00 AM – 5:00 PM, Monday – Friday

All permit submittals are to be done online via our Citizen's Portal platform. All other services can be completed at the counter. For more information on permit submittal, resubmittal, and issuance, please visit the [Building](#) and [Planning](#) webpages.

CONFIDENTIALITY DISCLAIMER

This e-mail is intended only for the use of the individual(s) named in this e-mail. If you receive this e-mail and are not a named recipient, any use, dissemination, distribution or copying of the e-mail is strictly prohibited. If you have received this communication in error, please immediately notify us at the above e-mail address.

 Think Green, please consider the environment before printing this e-mail.

From: [REDACTED]
Sent: Monday, August 14, 2023 4:51 PM
To: Ryan Safty <RSafty@losgatosca.gov>
Subject: Frontage from Los Robles Way

[EXTERNAL SENDER]

Dear Mr Safty,

I'm reading the staff report and would like to understand more about page 9. The frontage specified for Parcel 3 is 200ft while parcel 1 only has 42ft of frontage.

When the lots are reconfigured, the staff report claims that the frontage will achieve 242ft of frontage. However by virtue of the reconfiguration, there would be no private or public easement across parcel 1, so the frontage would be at the terminus to Los Robles Way. That wouldn't be more than 20ft? Thus you are taking a conforming lot and making it non-conforming to the Town's zoning laws?

I will be raising this in person at tomorrow's meeting, along with the objection to this being a ministerial approval, as the land is still not exempt from CEQA review.

Also, since this is a new application in front of the DRC, I want to remind the committee as part of their assignment of duties they SHALL determine when lots have merged. The new lot merger ordinance lays out the criteria for review to determine whether lots have merged but no report has been provided to show that this property meets all 8 criteria.

As you mentioned a couple of years ago when we spoke, there are many non-conforming lots in the town and there would be no way to know about them until an application like this LLA came in. The DRC [assignment of duties](#) says that the DRC SHALL determine when lots have merged. This appears to be a neglect of their duties. If the lot merger ordinance exists. is it only randomly applied where convenient and not to protect the Town's constituents?

Per the new lot merger ordinance this land is owned contiguously, has no adequate turnaround for vehicular and safety equipment, nor could one ever be built on parcel 2, and has soil stability issues. The hillside behind the Merrick's property at 246 Harding Ave can attest to this.

https://library.municode.com/ca/los_gatos/codes/code_of_ordinances?nodeId=CO_CH24SURE_ARTIINGE_S24.10.080TOITPAME

Sincerely,

[REDACTED]

[REDACTED]

BOOK 1524 PAGE 546

No Revenue Stamps Required

Grant Deed

L. N. BALL and GRACE BALL, his wife,

the first parties, hereby Grant to

TOM C. HAIRE

the second party, all that real property situated in the

County of Santa Clara, State of California, described as follows:

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Reserving therefrom a right of way for ingress and egress over the Easterly 10 feet of said lands, said Easterly 10 feet being a strip of land 10 feet wide adjacent to and Westerly of the Easterly line of said lands.

Together with a right of way for ingress and egress over a strip of land 10 feet wide adjacent to and Easterly of the Easterly line of the parcel of land hereinabove described said strip extending from the Southeasterly prolongation of the Northeasterly line of said lands hereinabove described to the Southwesterly line of said 24.98 acre tract.

In Witness Whereof, the said first parties have executed this conveyance this

4th day of November, 1947

L. N. Ball.
Grace Ball

State of California,
County of Santa Clara } ss.

On this 4th day of November, 1947, before me

Lesta Wicker, a Notary Public in and for said

County, personally appeared L. N. Ball and Grace Ball

known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same.

Witness my hand and official Seal.



Lesta Wicker

Notary Public in and for the County of Santa Clara, State of California.

487634

Grant Deed

INDIVIDUAL

L. N. Ball, et ux

— TO —

Tom C. Haire

Dated November 4, 1947

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BOOK 1524 PAGE 546

Grant Deed

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4th day of November 1947

Tom C. Haire
Maryon E. Haire

BOOK 1524 PAGES 548

State of California,
County of Santa Clara, ss.

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Leeta Wicker, a Notary Public in and for said

County, personally appeared Tom C. Haire and Maryon E. Haire

known to me to be the person, whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Witness my hand and official Seal.

Leeta Wicker

Notary Public in and for the County of Santa Clara, State of California



487635
Grant Deed
(JOINT TENANCY)

Tom C. Haire, et al.

TO
Joseph W. Goble, et al.

INDEXED FILED
GRANTOR GRANTEE
GRATILE GRANTEE
SPECIAL
Filed for record at the Request of
San Jose Abstract & Title Insurance Co.
NOV 5 1947 at 10:29 a.m.
Recorder in Vol. of Official Records
page at Santa Clara
County Records.

San Jose Abstract & Title Insurance Co.

San Jose Abstract & Title Insurance Co.
76 NORTH FIRST STREET
San Jose, California

Created By:SSCHILLING

Created On:2/13/2021 8:34 AM

Last Search Date:2/13/2021 8:34 AM

Search Type	Search Parameters	State/County	Status
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6293381

County of Santa Clara
California

Local Agency Formation Commission
County Administration Building
70 West Hedding Street
San Jose, California 95110
Area Code 408
299-4321

E 302nd 489E 302nd 489

CERTIFICATE OF COMPLETION

I, Paul E. Sagers, the Assistant Executive Officer of the Santa Clara County Local Agency Formation Commission, issue this Certificate of Completion pursuant to Section 56450-56451/35351 of the Government Code.

I hereby certify that I have examined the resolution for a change in organization/~~reorganization~~ attached hereto and have found this document to be in compliance with the resolution adopted on December 6, 1979 by the Santa Clara County Local Agency Formation Commission approving said change in organization or reorganization.

The name of the ~~District~~/City is: Los Gatos

The entire ~~District~~/City is located in Santa Clara County.

The change of organization completed is a n annexation.
A map and description of the boundaries of the change of organization is appended hereto.

The title of this proceeding is: LOS GATOS BLVD. NO. 8

The change of organization was ordered subject to the following terms and conditions:

None

The date of adoption of the resolution ordering the change of organization/~~reorganization~~ is Feb. 20, 1979.

Dated Feb. 23, 1979

Paul E. Sagers
Assistant Executive Officer
Santa Clara County
Local Agency Formation Commission

E 302-490

RESOLUTION AND ORDER OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA ANNEXING TERRITORY
DESIGNATED AS LOS GATOS BLVD. NO. 8
TO THE ~~CITY~~/TOWN OF LOS GATOS
PURSUANT TO GOVERNMENT CODE SECTION 35150(f) OF
THE MUNICIPAL ORGANIZATION ACT OF 1977

WHEREAS, the Board of Supervisors of the County of Santa Clara has held a duly noticed public hearing pursuant to the Municipal Organization Act of 1977 on the proposed annexation of territory designated as Los Gatos Blvd. No. 8 to the ~~CITY~~/Town of Los Gatos; and

WHEREAS, the Board of Supervisors is authorized by the Santa Clara County Local Agency Formation Commission to order annexation of this territory without an election pursuant to Government Code Section 35150(f) of the Municipal Organization Act of 1977;

NOW, THEREFORE, the Board of Supervisors of the County of Santa Clara does hereby resolve, determine and order as follows:

1. The territory described in Exhibit A is annexed to the ~~CITY~~/Town of Los Gatos. A map of this territory, marked Exhibit B, is attached.
2. The Clerk of the Board of Supervisors is directed to make the filings necessary to complete the annexation pursuant to Government Code Section 35350.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on FEB 20 1979, by the following vote:

AYES: Supervisors CORTESI, MACGREGGALL, STEINBERG, DIRIDON, WILSON
NOES: Supervisors NONE
ABSENT: Supervisors

Donald M. Rains
Chairperson, Board of Supervisors

ATTEST: DONALD M. RAINS, Clerk
Board of Supervisors

Donald M. Rains

EXHIBIT "A"

E 302~~MS~~ 451

TOWN OF LOS GATOS
LOS GATOS BOULEVARD #6 ANNEXATION

All that real property situate in the County of Santa Clara, State of California, described as follows:

Beginning at the Southernmost corner of Ferris Avenue No. 3 annexation to the Town of Los Gatos, said corner being on the centerline of Kennedy Road; thence along the Northeasterly line of said annexation, the following courses and distances: Northeasterly 432 feet more or less; thence Northwesterly 188 feet more or less to the intersection thereof with the Westerly line of last said annexation, the last said line also being the centerline of San Jose Avenue; thence along last said line Northeasterly 164 feet more or less to the intersection thereof with the Southerly line of Northeast No. 9 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Northwesterly 320 feet more or less; thence Northeasterly 228 feet more or less, thence Northwesterly 101 feet more or less; thence Northeasterly 140 feet more or less to the intersection thereof with a Southeasterly line of last said annexation, the last said line also being a Westerly line of Roberts Road No. 1 annexation to the Town of Los Gatos; thence along last said line Northwesterly 400 feet more or less to the intersection thereof with the Easterly line of Pine Avenue No. 1 annexation to the Town of Los Gatos; thence along the boundary of last said annexation the following courses and distances:

South 33°28' West 503.79 feet; thence
North 56°31' West 100 feet more or less; thence
North 33°28' East 488.92 feet; to the intersection
thereof with said Westerly line of Roberts Road No. 1 annexation;
thence along last said line Northwesterly 210 feet more or less
to the Northeasterly corner of Pine Vista No. 1 annexation to the
Town of Los Gatos; thence along the perimeter of last said
annexation the following courses and distances:
Southwest 459.56 feet; thence
Northwesterly 275.02 feet; thence
Southwesterly 67 feet more or less; thence
Southeasterly 23 feet more or less; thence
Southerly 129 feet more or less; thence
Southeasterly 299 feet more or less; thence
Southwesterly 123 feet more or less to the
intersection with the Original Town of Los Gatos Boundary; thence
along the Original Town of Los Gatos Boundary Southeasterly 410
feet more or less to the intersection with the westerly line of
Los Gatos Boulevard No. 4 annexation to the Town of Los Gatos;

E 302-492

thence along last said annexation boundary the following courses and distances:

North 33°30' East 122.75 feet; thence

South 56°25' East 435.00 feet; thence

South 33°30' West 122.75 feet to the intersection thereof with said original Town of Los Gatos boundary; thence along last said boundary the following two courses and distances:

Southeast 60 feet more or less; thence

South 230 feet more or less to the Northerly corner

of the Fillmer Avenue No. 1 annexation; thence along the boundary of the last said annexation Southeast, Southwest, and Northwest 503 feet to the intersection thereof with said original boundary of the Town of Los Gatos; thence along said boundary South 260

feet more or less to the Northerly corner of Harding Avenue No. 1 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Southeast and Southwest 341 feet more or

less to the intersection with the original boundary of the Town of Los Gatos; thence along said boundary Southerly 170 feet more or less to the Northerly corner of Yosemite Way No. 1 annexation

to the Town of Los Gatos; thence along the boundary of last said annexation Southeast, Southwest and Northwest 365 feet more or less to the intersection thereof with said original boundary of the Town of Los Gatos; thence South along last said boundary 165

feet more or less to the intersection thereof with the Easterly boundary of Los Robles Way No. 1 annexation to the Town of Los Gatos; thence along the perimeter of last said annexation generally

Northeast, Southwest, Northeast and Southwest 1290 feet more or less to the intersection thereof with said original boundary of the Town of Los Gatos; thence along last said line South 645 feet

more or less to the Northwest corner of Kennedy Road No. 1 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Northeast, Southeast, Northeast and Northwest

1470 feet more or less to the Southerly corner of Harding Avenue No. 2 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Northwest, Southwest and Northeast 490

feet more or less to the South side of Harding Avenue, last said line also being the boundary of Kennedy Road No. 1 annexation; thence along the boundary of last said annexation the following

two courses and distances:

Northwesterly 170 feet more or less; thence

Northeasterly 500 feet more or less to the Southwest line of Kennedy Road No. 4 annexation to the Town of Los Gatos; thence along last said line Northwest 110 feet more or less to the

Easterly corner of Gem Avenue No. 2 annexation to the Town of Los Gatos; thence along the boundary of last said annexation Southwest, Northwest, Southwest, Northwest and Northeast 615 feet more or less

to the intersection thereof with said boundary of Kennedy Road No. 4 annexation; thence along last said line Northwest 220 feet more or less to the Southwesterly corner of last said annexation;

E 302-493

thence along the Northwestern line of last said annexation northeasterly 180 feet more or less to the intersection thereof with the Southwest line of Ferris Avenue No. 2 annexation to the Town of Los Gatos, said line also being the centerline of Kennedy Road; thence along last said line and along said Southwest line of last said annexation Northwest 110 feet more or less to the Southeasterly corner of Ferris Avenue No. 3 annexation to the Town of Los Gatos; thence continuing along last said centerline and along the Southerly line of last said annexation Northwest 210 feet more or less to the point of beginning.

Containing 38.7 acres more or less.

The foregoing instrument is a
true and correct copy of the original
ATTES: DONALD M. RAINS
Clerk of the Board

By Anna J. Rogers DEPUTY CLERK
FEB 23 1979

THE FOREGOING INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ATTES: DONALD M. RAINS
CLERK, BOARD OF SUPERVISORS

By Anna J. Rogers
Deputy Clerk

DATE: 12-8-78



**TOWN OF LOS GATOS
DEVELOPMENT REVIEW
COMMITTEE REPORT**

**MINUTES OF THE DEVELOPMENT REVIEW COMMITTEE MEETING
AUGUST 15, 2023**

The Development Review Committee of the Town of Los Gatos conducted a regular meeting on August 15, 2023, at 10:00 a.m.

ROLL CALL

Present: Jennifer Armer, CDD Planning; Roy Alba, CDD Building; Corvell Sparks, PPW Engineering; and Kenny Ip, SCCFD.

Absent: None.

MEETING CALLED TO ORDER AT 10:00 AM

VERBAL COMMUNICATIONS

None.

CONSENT ITEMS

1. Approval of Minutes – July 25, 2023

MOTION: **Motion by Corvell Sparks to approve the consent calendar. Seconded by Kenny Ip.**

VOTE: **Motion passed unanimously 4-0.**

PUBLIC HEARINGS

2. 17200 Los Robles Way
Lot Line Adjustment Application M-23-001

Requesting Approval of a Lot Line Adjustment Application in Accordance with California Government Code Section 66412(d) for Three Adjoining Lots on Properties Zoned R-1:20. APNs 532-36-075, -076, and -077. Ministerial Project Approval Under CEQA. Application is Only for Ministerial Approval of Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act.

Property Owners: Daren Goodsell, Trustee and Mark Von Kaenel

Applicant: Tony Jeans

Project Planner: Ryan Safty

The project planner presented the staff report.

Opened Public Comment.

Tony Jeans, Applicant

Their engineer revised the plans to address items that need to be clarified. There were 3 letters from neighbors with concerns about privacy and water drainage. These will be addressed with a future Architecture & Site Application submittal. The frontage is shown on the plans and is accurate; it extends 242 feet from Los Robles Way to Parcel 1.

Alison Steer, Neighbor

The existing parcels meet the criteria for a lot merger and so the determination should be made that they have been merged. They are not in support of the lot line adjustment. The proposed Worcester Lane access is not the principal means of access; it is Los Robles Way. The State CEQA Guidelines only exempt four or fewer lots depending on the property slope. There will be environmental and visual impact to the neighboring properties. The General Plan section of the staff report cherry picks specific items, but the General Plan doesn't allow new housing in high fire areas. There is not enough room for a fire turnaround nor the 30 feet setback requirements for the existing house. Lot 77 is too small, landlocked, and too steep and narrow for a turnaround. Parcels 76 and 77 should be merged into one parcel.

Nancy Neipp, Neighbor

They have concerns that were also raised 2 years ago in an appeal. The property is in a Seismic Landslide Hazard area. The risk is not only at the top of the hill. The 1989 Loma Prieta earthquake shifted her land into 2 sections. In addition, a neighbor's home on Worcester Loop has suffered flood damage. Adding impervious surfaces along the driveway will exacerbate this flood problem. Three new homes, with potentially 3 new Accessory Dwelling Units, should not be built in a Wildfire Hazard zone. The property should protect wildlife habitat, scenic views, open space, public space, and the privacy of neighbors. The parcel is a narrow strip on a steep lot with an average slope of over 26 percent, landlocked and sliding into a neighbor's yard. All elements of the General Plan should apply.

Tony Jeans, Applicant

There are 3 existing lots. They are not creating any additional lots. Concerns about structures will be addressed separately when parcel 1, 2, or 3 plans are submitted. Applications under Government Code 66412(d) must be administrative.

Closed Public Comment.

Committee members asked questions of staff.

Staff: Ryan Safty, Project Planner

The setbacks for existing houses are allowed to remain non-conforming. No development or physical improvements are currently proposed. When development applications are submitted, there will be a full review on environmental, seismic, fire, and flood risks.

Staff: Gabrielle Whelan, Town Attorney

The State law provides that public entities may initiate lot mergers under specified circumstances. The Town Code was recently amended to align with State law. The Town may initiate lot mergers under specified circumstances. No lot merger was initiated with this proposal. Lot line adjustments are ministerial actions, and this application is exempt from CEQA.

Committee members discussed the matter.

MOTION: **Motion by Corvell Sparks** to approve with required findings and recommended conditions of approval. **Seconded by Roy Alba.**

VOTE: **Motion passed unanimously 4-0.**

Appeal rights were recited.

OTHER BUSINESS

None.

ADJOURNMENT

The meeting adjourned 10:22 a.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the August 15, 2023 meeting as approved by the Development Review Committee.

Prepared by:

/s/ Jennifer Armer, AICP, Planning Manager

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Town of Los Gatos
110E Main St,
Los Gatos CA 95030
Attn: Planning/Engineering

June 2nd, 2023

17200 Los Robles Way, Los Gatos

Application M 23-001

This application is made as a correction to the previous LLA application M 20-012 at this address, asking the Town modify its prior approval of the LLA and to consider the LLA application under Government Code Section 66412, subsection (d).

The Property:

The Property comprises 3 legal parcels of land in the R1:20 zoning district [as Identified by the Certificate of Compliance approved by the Town on May 25th, 2021] initially referred to as APNs: 532-36/075/6/7. They are presently accessed from the end of Los Robles Way and total approximately 3 Acres. The General Plan designation is for Low Density Residential. The overall slope of the combined 3 lots is 26%. At the moment there is one very dilapidated 1800 sq ft house on the entire property with an empty swimming pool. The house is on a septic system.

On June 7th, 2021 Mark VonKaenel purchased two of the Parcels.

The Parcel Configuration:

532-36-075 is traversed by a portion of Los Robles Way with 205 ft of frontage [considering both sides] on the right-of-way. It also has 19 ft of frontage at the termination of Worcester Lane.

532-36-076 is at the terminus of Los Robles Way with 37' of frontage. It also has 42 ft of frontage at the termination of Worcester Lane.

532-36-077 has no improved street access at present, but rather is accessed across APN 532-36-076 by its owner.

The Proposed LLA Solution:

It is proposed to reconfigure the 3 parcels to make them compliant with the Town Standards for the zoning district. They would be 1½, 1 and ½ acres in size. In doing so, the plan is to access only one of the resulting parcels from Los Robles Way and the other 2 from a cul-de-sac at Worcester Lane. In addition to improving the compatibility of the 3 parcels themselves, it will bring the street frontages for the three resulting lots into compliance with the General Plan and zoning ordinance.

The Existing Residence:

The existing residence was built in 1938, before it was annexed into the Town. It is, and remains legal, non-conforming and has been removed from the historic register for pre-1941 houses.

There are no house or improvement plans being submitted with this application.

The Plans show that R1-20 Zoning and General Plan compliance can be achieved with this proposal and we request consideration of the LLA application under Government Code Section 66412, subsection (d).

Thank you



Tony Jeans [REDACTED]

Request for Minor Subdivision Approval:

We are providing:

A Cover Sheet.

A Tentative Map Supporting the LLA.

Existing and Proposed Site Plans [Conceptual].

Aerial Topography of the Site and the Neighborhood.

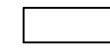
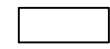


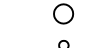



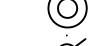



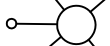
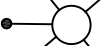
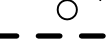

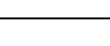
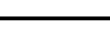
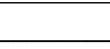
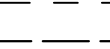

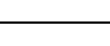
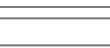
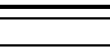

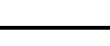

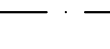
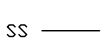
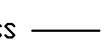

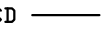

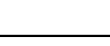
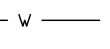
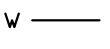

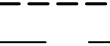












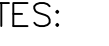





COMPLIANCE NOTE:

In this Application we have shown:

- | | |
|---|--------------|
| <input type="checkbox"/> Existing and Proposed Lot Sizes | Sheet 1 - 4 |
| <input type="checkbox"/> Existing/Proposed Frontages, Lot Widths/Depths | Sheets 3 & 4 |
| <input type="checkbox"/> Existing Building Setbacks | Sheets 3 & 4 |
| <input type="checkbox"/> Location of Existing Structures | Sheets 2 - 6 |
| <input type="checkbox"/> Average Slope of Property at 26% | Sheet 3 |
| <input type="checkbox"/> APNs as identified | Sheet 3,5,6 |
| <input type="checkbox"/> GP and Zoning Classifications | Sheet 1 |

BENCH MARK:
LGM#42, BRASS DISK IN MONUMENT BOX,
AT INTERSECTION OF VISTA DEL MONTE AND
VISTA DEL MAR, ELEVATION = 443.31'.

LEGEND

EXISTING		PROPOSED
	BUILDING	
	MONUMENT	
	CURB INLET	
	AREA DRAIN	
	POLE	
	SANITARY SEWER MANHOLE	
	STORM DRAIN MANHOLE	
	FIRE HYDRANT	
	WATER VALVE	
	STREET LIGHT	
	CLEANOUT	
	BOUNDARY	
	LOT LINE	
	CENTERLINE	
	LIMIT OF EASEMENT	
	CURB	
	CURB AND GUTTER	
	EDGE OF PAVEMENT	
	CONTOUR	
	FENCE	
	FLOW LINE	
	SANITARY SEWER	
	STORM DRAIN	
	ELECTRICAL	
	GAS	
	WATER	
	LIMIT OF LRDA	
	SETBACK LINE	

NOTES:

OWNERS:
MARK VON KAENEL
19680 OLD SANTA CRUZ HWY.
LOS GATOS, CA 95033

408-568-6602
DARAN GOODSSELL, SUCCESSOR TRUSTEE OF THE JNT TRUST
DLGOODSELL@CSUCHICO.EDU
CHICO, CA 95973
530-521-6754

ENGINEER:
WESTFALL ENGINEERS, INC.
14583 BIG BASIN WAY
SARATOGA, CA 95070
408-867-0244

UTILITIES:

WATER - SAN JOSE WATER COMPANY
SANITARY SEWER - WEST VALLEY SANITATION DISTRICT
GAS AND ELECTRIC - P.G.&E.
TELEPHONE - ATT
CABLE- COMCAST
THE SUBJECT PROPERTY IS NOT SUBJECT TO INUNDATION.
ZONE X - AREA DETERMINED TO BE OUTSIDE OF THE 0.2%
ANNUAL CHANCE FLOOD PLAN
GENERAL PLAN DESIGNATION - LOW DENSITY RESIDENTIAL
ZONING DESIGNATION R1:20



VICINITY MAP

	APN	EXISTING	PROPOSED
PARCEL 1	532-36-076	74,832 s.f.	62,172 s.f.
PARCEL 2	532-36-077	11,226 s.f.	27,073 s.f.
PARCEL 3	532-35-075	48,112 s.f.	44,925 s.f.
LOS ROBLES	R.O.W.	2,127 s.f.	2,127 s.f..

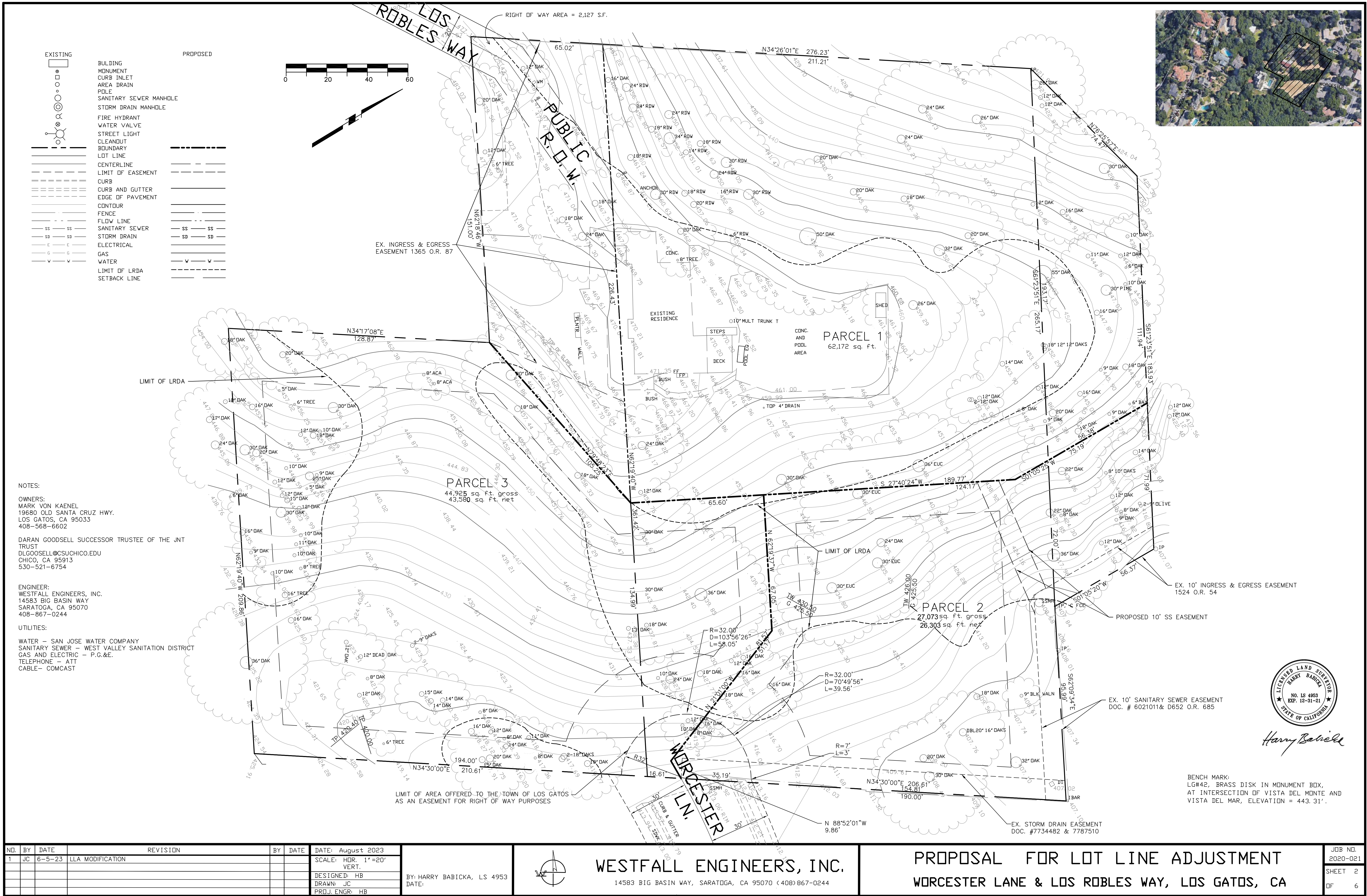
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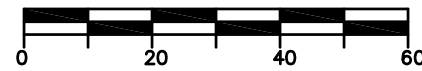
- SHEET 1 COVER SHEET
- SHEET 2 PROPOSAL FOR LOT LINE ADJUSTMENT
- SHEET 3 EXISTING SITE PLAN
- SHEET 4 PROPOSED SITE PLAN
- SHEET 5 AERIAL TOPO 1"=20'
- SHEET 6 AERIAL TOPO 1"=30'



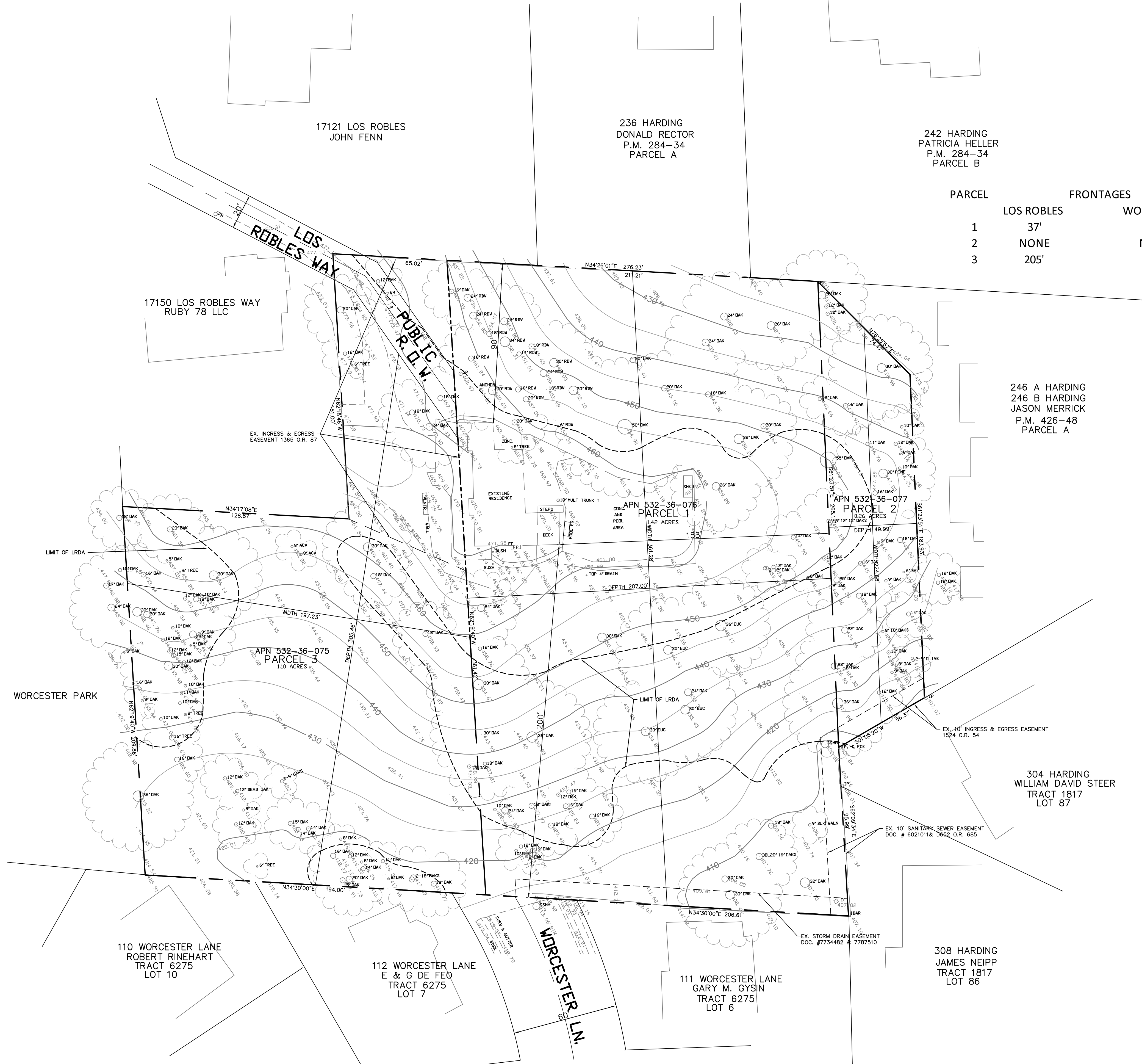
Harry Barick

NO.	BY	DATE	REVISION	BY	DATE	DATE: AUGUST 2023	BY: KAREL CYMBAL, RCE 34534 DATE:		WESTFALL ENGINEERS, INC. 14583 BIG BASIN WAY, SARATOGA, CA 95070 (408) 867-0244	COVER SHEET WORCESTER LANE & LOS ROBLES WAY, LOS GATOS	JOB NO. 2020-021
1	JC	6/1/23	LLA MODIFICATION			SCALE: HDR. N. T. S. VERT.					SHEET 1 OF 6
						DESIGNED: JC					
						CHECKED: KC					
						PROJ. ENGR: JC					





BENCH MARK:
LG#42, BRASS DISK IN MONUMENT BOX,
AT INTERSECTION OF VISTA DEL MONTE AND
VISTA DEL MAR, ELEVATION = 443.31'.



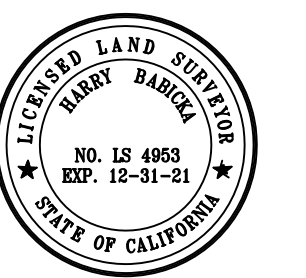
PARCEL	FRONTAGES		SETBACKS			
	LOS ROBLES	WORCESTER	FRONT	LT.SIDE	RT.SIDE	REAR
1	37'	42'	0	200	90	153'
2	NONE	NONE	--	--	--	--
3	205'	19'	--	--	--	--

AVERAGE SLOPE CALCULATIONS:
(ENTIRE PROPERTY)

CONTOUR INTERVAL (I) 5 FEET
CONTOUR LENGTH (L) 7040 FEET
AREA (A) 3.13 ACRES 134216 SQUARE FEET

AVERAGE SLOPE (S)

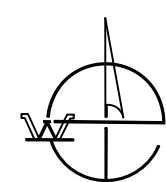
$$S=IL/A = 5' \times 7040' / 134216S.F. = 26\%$$



Harry Biele

NO.	BY	DATE	REVISION	BY	DATE	DATE: August 2023
1	JC	6/5/23	LLA MODIFICATION			SCALE: HOR. 1"=30' VERT.
						DESIGNED: JC
						CHECKED: KC
						PROJ. ENGR: JC

BY: KAREL CYMBAL, RCE 34534
DATE:



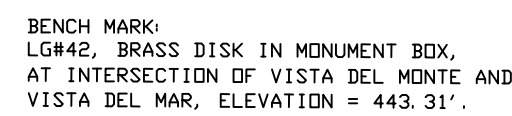
WESTFALL ENGINEERS, INC.

14583 BIG BASIN WAY, SARATOGA, CA 95070 (408) 867-0244

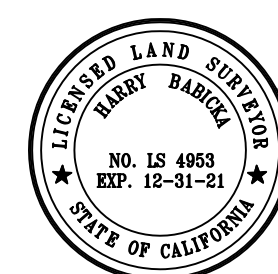
EXISTING SITE PLAN
WORCESTER LANE & LOS ROBLES WAY, LOS GATOS

JOB NO.
2020-021

SHEET
3
OF
6



PARCELS 2 & 3 FRONTAGES ARE ON CUL-DE-SAC
PARCEL 1 SETBACKS AT LOS ROBLES WAY UNCHANGED
TO EXISTING HOUSE



BY: KAREL CYMBAL, RCE 34534
DATE:



DB NO.	020-021
EET	4
	6



WORCESTER LANE
ACCESS LOCATION

532-36-076

532-36-077

532-36-075

EXISTING POOL
AND RESIDENCE

17200

LOS ROBLES WAY
ACCESS LOCATION

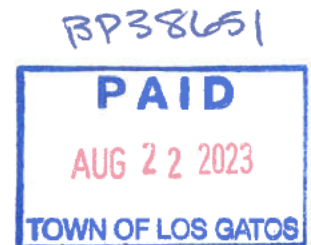
LOS ROBLES WY

SCALE: 1"=20'





TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT
110 E. Main Street
Los Gatos, CA 95030



**APPEAL OF THE DECISION OF
DEVELOPMENT REVIEW COMMITTEE**

PLEASE TYPE or PRINT NEATLY

I, the undersigned, do hereby appeal a decision of the DEVELOPMENT REVIEW COMMITTEE as follows:

DATE OF DECISION: August 15th 2023

PROJECT/APPLICATION: M-23-001 Line Adjustment

LOCATION: 17200 Los Robles Way, Los Gatos

Pursuant to the Town Code, any interested person as defined in Section 29.10.020 may appeal to the Planning Commission any decision of the Development Review Committee.

Interested person means:

1. *Residential projects.* Any person or persons or entity or entities who own property or reside within 1,000 feet of a property for which a decision has been rendered, and can demonstrate that their property will be injured by the decision.
2. *Non-residential and mixed-use projects.* Any person or persons or entity or entities who can demonstrate that their property will be injured by the decision.

LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:

Please see attached

IMPORTANT:

1. Appeal must be filed not more than ten (10) days after the decision is rendered by the Development Review Committee. If the tenth (10th) day is a Saturday, Sunday, or Town holiday, then the appeal may be filed on the workday immediately following the tenth (10th) day, usually a Friday. Appeals are due by 4:00 P.M.
2. The appeal shall be set for the first regular meeting of the Planning Commission which the business of the Planning Commission will permit, more than five (5) days after the date of the filing of the appeal. The Planning Commission may hear the matter a new and render a new decision in the matter.
3. You will be notified, in writing, of the appeal date.
4. Contact the project planner to determine what material is required to be submitted for the public hearing.

RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT

PRINT NAME: Alison Steer

SIGNATURE: Alison Steer

DATE: 8/22/2023

ADDRESS: 301 Harding Ave

PHON

OFFICE USE ONLY

DATE OF PLANNING COMMISSION HEARING: _____

COMMISSION ACTION:

1. _____
2. _____
3. _____

DATE: _____

DATE: _____

DATE: _____

PLAPPEAL \$ 255.00 Residential
PLAPPEAL \$ 1,016.00 Commercial
PLAPPEAL \$ 103.00 Tree Appeals

RECEIVED

AUG 22 2023

TOWN OF LOS GATOS
PLANNING DIVISION

APPEAL OF THE DECISION OF DEVELOPMENT REVIEW COMMITTEE

M-23-001 Line Adjustment

17200 Los Robles Way

The DRC's conclusion, at the urging of Staff, that approval of this application is a ministerial act is legally erroneous because the DRC must exercise considerable judgment to ensure the lot line adjustment (LLA) is consistent with all aspects of the Town's General Plan, Hillside Specific Plan and all applicable Hillside Development Standards and Guidelines. This approval is unlike a typical ministerial act where the responsible agency merely uses a pre-defined checklist to ensure the project is consistent with a set of well-established standards.

Moreover, Staff's position that LLA approvals are per se ministerial is clearly erroneous in light of CEQA Guideline §15305, which provides that LLA approvals are exempt from CEQA under some circumstances. If, as Staff contends and the DRC apparently accepted, LLA approvals are per se ministerial, §15305 is completely pointless and nonsensical because ministerial acts are not subject to CEQA at all, and therefore there would be no point in adopting a guideline to exempt them from CEQA.

There are several key reasons why approving this project is a discretionary act.

The fact that under §15035, LLAs between four or fewer lots with average slopes of >20% are not exempt from CEQA review is further persuasive evidence that approval of an LLA on parcels with greater than 20% slopes require exercise of discretion.

Town is required to analyze the proposed LLA's consistency with goals and policies of the General Plan including land use elements (LU 6.4) which "Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood". The Town has conducted no such analysis, and in any event, a finding that the LLA is, or is not, consistent with LU 6.4 necessarily requires an exercise of discretion.

Similarly, the Town has failed to analyze the potential impacts associated with the proposed cul-de-sac or its consistency relative to the Hillside Development Standards which also changes principal means of access to parcel 2 and 3.

It is important to note, moreover, that regardless of whether the LLA could be approved without compliance with CEQA, the Town must analyze the environmental impacts associated with the proposed access driveway to parcels 2 and 3, which is an essential part of the proposed LLA.

To the extent the LLA creates a new buildable parcel from an unbuildable parcel (and this is not just moving lines around on paper as was mentioned at the DRC meeting (minute 6:20)), the Town is required to but has thus far failed to carefully review the consistency of the newly configured parcels with the Town's General Plan. Approval of the LLA will most likely result in the siting of up to two new dwellings on parcel 2, which is more than capable of creating ecological and visual impacts to neighboring properties (General Plan CD 6.4)

The Town's General Plan 2040 website specifically states the adopted plan "does not allow new housing potential in the Very High Fire Hazard Severity Zones" which is where this land is located. Increasing density increases fire risk to the neighborhood. The Town must consider whether this proposed LLA is consistent with the Town's policy of not increasing density in Very High Fire Hazard Severity Zones.

Today Parcel 2 today is not buildable, is landlocked, does not conform to minimum parcel size, cannot be accessed by vehicular or safety equipment (there's a house/pool in the way, which according to the staff report will remain), and due to the steepness of the slope is outside of the LRDA where no turnaround could be built, nor does it meet slope stability standards, yes the Town refuses to consider this land for merger per municode Sec 29.10.080.

Alison Steer

304 Harding Ave

Town of Los Gatos
110 E Main St,
Los Gatos CA 95030
Attn: Planning Commission

October 16th, 2023

17200 Los Robles Way, Los Gatos
Response to Appeal date Aug 22nd, 2023

Application M 23-001

Commissioners:

This application was made as a correction to the previous LLA application M 20-012 at this address, asking the Town modify its prior approval of the LLA and to consider the LLA application under Government Code Section 66412, subsection (d). It was submitted and has been reviewed by staff and the DRC for compliance. During this process we made all necessary corrections requested by the Town and the plans on file reflect the final LLA configuration and details.

Pursuant to Government Code Section 66412(d), a LLA “between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created” is exempt from the Subdivision Map Act and review under CEQA. Approval of such a LLA is ministerial in nature.

In the plans, we have limited the details to the proposed lot configurations requested for the LLA, while providing sufficient information to analyze the adjusted parcels for compliance with applicable Town and state law.

The access at Worcester Lane has always been available to the property and this will not change with this LLA. The owners are offering to dedicate to the Town an appropriate easement for a cul-de-sac area at the terminus of Worcester Lane to satisfy ingress/egress to parcels 2 and 3 from this location and meet the Town’s frontage requirements. This area has been identified on the plans based on a town standard hillside cul-de-sac. According to the Town’s staff report submitted to the DRC, Town Code Section 29.40.400 does not mandate that the cul-de-sac street frontage be along a paved roadway. This application does not request approval of plans to develop the cul-de-sac easement area. Thus, the Town need not analyze potential impacts associated with the cul-de-sac area.

This application does not request the approval of any new homes nor development of the three (3) parcels. As such, it is premature to consider issues relating to development of the parcels. For instance, Appellant's reference to LU 6.4 is misplaced, as there is no proposed change of use or development of the parcels before the Town, there is no need not conduct any analysis under LU 6.4.

It should also be noted that there are three (3) original existing parcels and there will remain three (3) parcels. Consideration of the LLA application is mandatory under controlling law, whereas the Town's consideration of merger is permissive. For instance, Municipal Code section 24.10.080, which addresses parcel mergers, specifies the Town "may" initiate a merger. There is no requirement that the Town initiate such a merger. Moreover, there is no showing that the three (3) parcels would meet the requirements of a merger under section 24.10.080. As a result, there is no 'intensification of use' or 'increasing density' associated with this application, as Appellant suggests.

Additionally, the Town need not consider whether the proposed LLA is consistent with the Town's policy of not increasing density in Very High Fire Hazard Severity Zones, as there is no increase in density with this application. This application preserves the status quo (three single family residential parcels) and leaves the determination of appropriate countermeasures for Fire Hazard safety to a subsequent A&S Application, which would be reviewed by SCCFD as well as the building department.

Thank you



Tony Jeans
(408) 354-1833