

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

December 8th, 2023

17200 Los Robles Way, Los Gatos
Response to Appeal dated Nov 3rd, 2023

Application M 23-001

Councilmembers:

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. This is an inescapable fact that the Appellant is trying to ignore in favor of consideration of other issues that are irrelevant. Approval of such an LLA is ministerial in nature as a matter of law.

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

Appellant has argued, “The Township can exercise considerable judgment to shape the LLA,” which Appellant argues renders the approval of the LLA not ministerial because such approval “requires the exercise of judgment and imposition of conditions.” However, the LLA was designed by the Applicant, the owner and their Civil Engineer—**not** by the Town. The Town’s role in this process is simply to determine whether the LLA plans presented are consistent with State rules for LLAs, the General Plan and applicable zoning rules, which determination requires objective consideration only.

In these 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 reports submitted to the DRC and, subsequently, to the Planning Commission, 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. However, as the Appellant's attorney has focused on this point in some detail, I would like to point out that if an A&S application were to be made to develop either parcel 2 or 3, staff and SCCFD would consider whether a cul-de-sac, a hammerhead turnaround or individual driveways would be appropriate for access to the properties. At that time, safety, removal of trees and other tangible concerns would be considered in greater detail. Such considerations are not relevant nor properly considered in connection with the LLA application.

Appellant's further suggestion that slope should be taken into account at this stage is spurious, as Government Code Section 66412(d) does not permit this as a legal reason to deny an LLA.

It should also be noted that there are three (3) original existing legal parcels and there will remain three (3) parcels. The certificate of compliance for these parcels was approved by the Town prior to requesting the LLA and not challenged. 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.

While it is unclear why Appellant has included "Exhibit F" with her appeal, she nonetheless misrepresents the nature of "Exhibit F" by describing it as a "Deed of Trust showing land transferred into Property Management Firm." This is incorrect. Rather, Exhibit F simply shows that the owner's (Mark von Kaenel) 'Lender' is a Property Management Company. The Property Management Company is a beneficiary of the Deed of Trust, not the owner. The two owners of the property are: (1) the original family, who have owned the property for several decades; and (2) Mark Von Kaenel, a long-time Los Gatos Resident for whom I have designed a personal residence in the past in Los Gatos.

Thank you



Tony Jeans
(408) 354-1833