

FILING FEES
\$505.00 (PLAPPEAL) Residential
\$2,031.00 (PLAPPEAL), per
Commercial, Multi-family, or
Tentative Map Appeal
TRANSCRIPTION \$500 (PLTRANS)

NOV 03 2023

CLERK DEPARTMENT

APPEAL OF PLANNING COMMISSION DECISION

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION 10/25/2023

PROJECT / APPLICATION NO:

M-23-001

ADDRESS LOCATION:

17200 LOS ROBLES WAY.

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

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.

Section 29.20.275 The notice of appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record.

1. There was an error or abuse of discretion by the Planning Commission:

_____ ; OR

2. The Planning Commission's decision is not supported by substantial evidence in the record:
Insufficient understanding of CEQA law (Section 15305) or application of government code 66412(d).

Please see attached exhibits along with appeal supplement from my Attorney, Babak Naficy.

see attached 3 pages

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

IMPORTANT:

1. Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
2. Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 4:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
3. The Town Clerk will set the hearing within 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967).
4. Once filed, the appeal will be heard by the Town Council.
5. If the basis for granting the appeal is, in whole or in part, information not presented to or considered by the Planning Commission, the matter shall be returned to the Planning Commission for review.

PRINT NAME: Alison Steel

SIGNATURE: [Signature]

DATE: 11/3/2023

ADDRESS: 304 Harding Ave

PHONE: _____

*** OFFICIAL USE ONLY ***

DATE OF PUBLIC HEARING: _____
Pending Planning Department Confirmation

DATE TO SEND PUBLICATION: _____ DATE OF PUBLICATION: _____

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DATE OF PLANNING COMMISSION DECISION: October 25th, 2023

PROJECT / APPLICATION NO: M-23-001

ADDRESS LOCATION: 17200 Los Robles Way

Town shows culpability in rewriting original findings (exhibit B) and blocking request from residents for Lot Merger by hiding behind semantics on how Town's lot merger ordinance was written, which prior Town Attorney eventually admitted to Town Council meeting (back in 2021) could be applied by following GC66451.11 (exhibit E).

Exhibit A: Town of Woodside ruling that CEQA applies to LLAs with average slopes >20%.

Exhibit B: Original appeal to Town Council showing Section 15305 only applicable for Minor Lot Line Adjustment, and for land with average slopes less than 20%. This is major adjustment where one parcel is increasing more than 100% in size, and has average slopes >20%. It has potential for significant environment impact which has not been carefully analyzed through this ministerial review process.

Exhibit C: Email from prior Town Attorney for reason why CoC never appealed to PC. The original 17200 Los Robles way subdivision map was drawn with just 2 buildable parcels in 1927. Only because a small sliver of land above a ravine was carved out from a separate lot also owned by Tom Haire in 1947, before the subdivision maps act applied, was a certificate of compliance able to be granted for the steep, unbuildable and landlocked Parcel 2. This parcel was never created to form a new buildable site on the Los Robles property, merely it made sense to own the land above the ravine not accessible to the parcel below.

Exhibit D: Original DRC and Planning Commission findings. While the prior Town Attorney repeatedly referenced 66412(d) to block applicant from a fair appeal with both the planning commission and Town Council such that they were not allowed to review the application relative to our prior lot merger ordinance 29.10.070, this government code was not referenced in any of the findings. Only after a legal challenge were the findings rewritten.

Exhibit E: State of California Government Code 66451.11

Exhibit F: Deed of Trust showing land transferred into Property Management firm

Exhibit G: City of Mammoth Lakes findings for exempting a lot line adjustment with consideration to CEQA Guidelines Section 15305.

A handwritten signature in black ink, appearing to be "Alvin" followed by a stylized flourish.

STEER APPEAL SUPPLEMENT

The following is a supplement to Alison Steer's ("Appellant" or "Ms. Steer") appeal of the Los Gatos Planning Commission's October 25, 2023, denial of her appeal of the Development Review Committee's approval of a lot line adjustment ("LLA") at 17200 Los Robles Way, Los Gatos (application M 23-001).

A. The Town's approval of this LLA is not a ministerial act.

Approving the LLA challenged by Ms. Steer's appeal is not a ministerial act. This is evidenced in part by the fact that the Town and Planning Staff both previously concluded that an essentially identical LLA was a discretionary decision, but subject to a specific CEQA exemption. Without any explanation, the Planning Commission has now reached the opposite conclusion based on the same facts. What changed?

As explained in Ms. Steer's October 25, 2023 rebuttal to the Planning Commission, reaching a different conclusion based on the same facts is arbitrary and capricious.

Staff claims the case of Sierra Club v. Napa County Board of Supervisors (2012) 205 Cal.App.4th 162 ("Sierra Club v. Napa") stands for the proposition that all minor (between less than adjoining parcels) lot line adjustments pursuant to Government Code section 66412, subdivision (d) are per se ministerial. This is not a new case; it is from 2012. It was already established law and known to the Staff and the Town Attorney when the prior LLA was deemed to be discretionary, so why did the Town's interpretation of the same case change? Furthermore, Sierra Club v. Napa only looked at Napa County's regulation for approving lot line adjustments. The court was not asked to rule on Government Code section 66412 or decide whether CEQA Guideline section 15305 is no longer valid.

B. The approval of the LLA is not ministerial because it required the exercise of judgment and imposition of conditions.

For example, one of the proposed findings requires the Town to decide if the project conforms with the policy of "limiting the intensity of new development to a level that is consistent with surrounding development and with the town at large." This requires the exercise of discretion; it is not just a matter of checking a box.

In addition to exercising judgment regarding findings, implementing the Town's lot line regulation allows the Town to impose conditions or mitigations to ensure the LLA complies with all applicable General Plan policies and other regulations. Here, the Planning Commission, on recommendation of the Staff, approved a condition that requires an offer of dedication for a cul de sac to ensure the resulting lots comply with the minimum frontage requirement.

C. The Planning Commission's conditions of approval for the LLA implicitly created a new street without adequate environmental review as required by law.

The Town code requires lot frontage on "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." In other words, frontage must be abutting a street. "Street" is defined by the Town's municipal code section 29.10.020 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, a compliant lot must abut and have frontage on a street that provides the principle means of access to that lot. Here, the proposed finding is as follows: "[t]he 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."

According to Staff, "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, ... 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."

In other words, to make a finding that resulting lots 2 and 3 comply with the frontage requirements, the Planning Commission implicitly found that the cul de sac, as depicted on the maps, is a "street" that will provide the primary access to lots 2 and 3. This means that in order to ensure the LLA is consistent with Town regulation regarding frontage, the Town essentially approved a new street without any environmental regulation or review.

Town's approval of the cul de sac violates CEQA because the Town has made no effort to analyze the environmental impacts associated with the cul de sac, including for example, how many trees would have to be cut to make room for the cul de sac, or how much grading, or how the new street would impact the site's hydrology, storm drainage, traffic, etc.

**TOWN OF WOODSIDE
ARCHITECTURAL AND SITE REVIEW BOARD**

Meeting Date: November 4, 2019
Prepared by: Sage Schaan, AICP CEP, Principal Planner
Reviewed by: Jackie Young, AICP CEP, Planning Director

Agenda Item: 2

TITLE: ASRB2019-0011: Presentation and consideration of a proposal, requiring Conceptual Design Review, to construct a remodel/addition (up to a complete demolition/rebuild) to an existing single-family residence, new swimming pool, and other site improvements. The lower level addition would include an Accessory Dwelling Unit.

The proposed project will also include a Lot Line Adjustment or Lot Merger between two or three of the parcels located at 145 Old La Honda Road and a Variance to setback requirements, which will be proposed and evaluated as part of a Formal Design Review Application at a future publicly noticed hearing.

Property Information

Address: 145 Old La Honda Road

APN: 075-283-070 - Parcel 1: Existing and Proposed Project Site
075-282-120 - Parcel 2: Existing Vacant Lot
075-283-080 - Parcel 3: Formally portion of Home Road

Property Owner: Matthew Van Der Staay

Zoning District: SCP-7.5 (Special Conservation Planning – 7.5 acre minimum)

General Plan Designation: R-ESA (Residential – Environmentally Sensitive Area)

Lot Area: 075-283-070 - Parcel 1: 1.67 acres (72,745.2 square feet)
075-282-120 - Parcel 2: 0.45 acre (19,602 square feet)
075-283-080 - Parcel 3: 0.47 acre (20,473.2 square feet)
Total Area - Parcels 1-3: 2.59 acres (112,820.4 square feet)

EXECUTIVE SUMMARY

The applicant proposes to redesign, significantly reconstruct, and add onto an existing single-family residence, construct a new swimming pool, and other site improvements. The lower level addition would include an Accessory Dwelling Unit (ADU).

The proposed project will also include a Lot Line Adjustment (LLA) or Lot Merger (Merger) between two or three of the parcels located at 145 Old La Honda Road and a Variance to setback requirements, which will be proposed and evaluated as part of a Formal Design Review Application at a future publicly noticed hearing.

The project is being presented and considered as a Conceptual Design Review pursuant to Municipal Code Section 153.913(A). The purpose of this review is to secure early evaluation by the Architectural and Site Review Board (ASRB) related to the design, site planning, and proposed

site work prior to applying for a Formal Design Review or submitting applications for any other entitlements/permits which may be necessary.

Pursuant to the Conceptual Design Review submittal requirements in Appendix 2 of the Residential Design Guidelines (RDG) and Municipal Code Section 153.913(A), the applicant has submitted an overall site plan and exterior elevations showing the proposed building style, massing, and location on the site (**Attachment 6**).

PROPERTY DESCRIPTION

The existing property at 145 Old La Honda Road is 1.67 acres (72,745.2 square feet). The property owners also own two adjacent parcels that are undeveloped. The property listed as Existing Parcel 2 on Sheet A1.5 (**Attachment 6**), is Lot 35 from the Woodside Country Club Properties Subdivision No. 1, recorded in in 1926. Existing Parcel 3 is formerly a portion of Home Road, which is a private road. The previous property owners completed a Quiet Title Action gaining ownership of that portion of Home Road. All three Parcels are located on the east side of Old La Honda Road, approximately 700 feet west of Portola Road. The site slopes from an elevation of approximately 530 feet at the southwestern corner of the property, down to approximately 420 feet at the northeastern corner. The property is characterized by steep slopes in some areas and includes mature oak, madrone, buckeye, redwood, and bay trees on an eastern facing slope (**Attachment 6**, Sheets SU1 and SU2). The property has an existing three-story residence, with driveway access from Old La Honda Road.

The property is located west of Portola Road, and is therefore located within the area designated as the Western Hills, an Environmentally Sensitive Area (GP Map LU3). The eastern edge of the property is located within the Alquist Priolo Study Zone. The property is located approximately 0.27 miles from the fault setback of an active trace of the San Andreas Fault, and approximately 0.32 miles from the San Andreas Fault. The project site is within Hazard Zone "S", which encompasses mapped landslide deposits and may also include potentially unstable adjoining slopes (GP Map NH1). The property is also located within the Very High Severity Fire Hazard Zone (GP Map NH4). A drainage ditch, which is not a Town-designated Stream Corridor, crosses the southernmost portion of the site and extends towards the east, roughly following the property line (**Attachment 6**, Sheet SU2).

Easements

The Topographic Survey (**Attachment 6**, Sheets SU1 and SU2) identifies the following easements at the project site:

3

- A 5-foot public utilities easement along south boundary of proposed Parcel 1; and,
- A 5-foot public utility easement and waterline easement on the north end of the property (the exact location and extent of said easement is not disclosed of record): "Grant of Water rights and easement to use, maintain, operate, repair, replace and enlarge, improve and remove all water tanks, water reservoirs, pipelines, tunnels and water conduits with right of ingress and egress." (Affects Parcels 1 and 2) (**Attachment 5**).

Any future application for an LLA or Merger shall include evidence that is acceptable to the Town Attorney and Town Engineer that the Existing Parcel 3 (Home Road Parcel) no longer retains any interests, such as access or utilities, by any entity other than the property owners. If Existing Parcel

3 is encumbered by any access easements or a public utility or drainage easements, it would have an impact on the overall proposed Lot Areas as defined by Municipal Code Section 153.005, and/or setback requirements.

PROJECT DISCUSSION

Based on the submittal date, this project is subject to all current General Plan Policies, Municipal Code requirements, and the Residential Design Guidelines. The table in WMC Section 153.912 (Table Q) indicates that the project requires both Conceptual and Formal Design Review by the Architectural and Site Review Board.

Site Plan and Uses

The applicant proposes to redesign, significantly reconstruct, and add onto an existing single-family residence, and construct a new swimming pool, and other site improvements. The lower level addition would include an Accessory Dwelling Unit (ADU). Below is an excerpt from the applicant's narrative in **Attachments 3**, explaining the project goals of the property owners.

"Our clients would like to renovate the existing residence, update its appearance, correct some of the floor plan flaws, provide more areas for entertaining, create additional family space, and build a swimming pool and pool house for their four small children and friends to enjoy."

Lot Configuration

The applicant included a proposed LLA proposal with the original submittal that would have combined most of Parcels 2 and 3 with Parcel 1 while creating a new lot on the north side of Parcel 1. Staff expressed concerns with this proposal as the northern lot would then have a nonconforming building envelope, i.e., the building envelope would be dominated by slopes >35%, thereby requiring a Variance(s) to be developed. This does not comply with State law. Staff suggested instead that a Merger between two or three of the parcels would be compliant with State law and allow for the proposed home remodel/addition. This would, however, eliminate the possibility of creating the lot on the northern boundary as originally proposed.

The applicant returned with a proposal that would not reconfigure any of the lot lines, but would have required the new swimming pool to be immediately adjacent to a property line which is not permitted by the Municipal Code (i.e., no cuts of slopes are permitted within 10 feet of a property line).

The current proposal would reconfigure the property lines between the three parcels to accommodate the proposed swimming pool, by taking portions of Parcel 3 (Home Road Parcel) and adding them to both Parcels 1 and 2.

Staff met with the applicant and property owner to discuss the difference between processing the current proposed LLA and a Lot Merger. A Lot Merger is simpler as a Merger is exempt from the California Environmental Quality Act (CEQA). The proposed LLA does require CEQA review, as LLAs for properties that have an average slope greater than 20% are not exempt from CEQA. In the previous submittal, the project civil engineer determined the gross lot average slope to be 36.7%, therefore any LLA between the three Parcels will be subject to CEQA review.

The applicant has indicated that the owners would like to obtain Conceptual Design Review comments and recommendations from the ASRB on the project design with the current LLA

proposal, and will decide whether to pursue the proposed LLA or a Merger with Parcel 1 and Parcel 3, leaving Parcel 2 as a remaining lot prior to Formal Design Review.

Main Residence and Pool House/ADU

The Sheet A1.5 (**Attachment 6**) shows the proposed main residence and attached ADU centrally located within the Proposed Parcel 1. The main residence would consist of a three-story residence with an attached 1,500 square foot ADU on the lowest level (forth story), adjacent to the new proposed pool and pool patio. The ADU roof would function as the outdoor play area, lawn, and patio for the level above (**Attachment 6**, Sheets A2.1 and A2.2). Although the building would be four stories on the downslope side, it would step back into the hillside and most of the ADU level would be built into the hillside creating a daylight basement. The overall structure would not increase the top ridge height from what exists, and the building would remain below the driving surface of Old La Honda Road.

Excerpts below from the applicant's narrative in **Attachment 3** explain the reasoning for the site placement of the different project components.

"MASON Architects studied the optimum location of the pool house and swimming pool. Owing to the overlapping setbacks on the long narrow parcel and our client's desire to preserve the lower lot, a decision has to be made to apply for a lot line adjustment. This will allow the swimming pool and pool house to be sited out of the setbacks and not be visible from Old La Honda Road or neighboring properties."

"Owing to the steep site and heavy tree coverage, creating a sunny location for the swimming pool, requires it to be located on the downslope side of the house and significantly below the house. This creates a logistics problem for the family in terms of child supervision and entering as the kitchen is located on the middle level of the house. The client therefore desires a pool house entertainment space on the same level as the pool for safety and convenience reasons."

"As the grade differential will also require significant retaining walls to create a swimming pool, our decision was to locate the pool house against these retaining walls, thereby hiding them and allowing the rest of the site to remain in a natural state."

Driveway and Parking

The Site Plan (**Attachment 6**, Sheet A1.0) depicts the driveway connection with Old La Honda Road and a driveway that extends down towards the southeast, connecting to the existing garage. Existing retaining walls are located within the public right-of-way, and extend down on both sides of the driveway, connecting with the stairs to the main entry and two-car garage. The driveway provides space for at least three additional vehicles along the western side and at the garage apron.

The Site Plan shows an existing driveway from Home Road that accesses Existing Parcel 3 (Home Road Parcel), including a small driveway turnaround that encroaches onto the northern side of Parcel 1. If the lot lines are reconfigured and a second driveway is then located on Proposed Parcel 1, Planning Commission review of a Second Driveway Exception will be required.

Setbacks

Required setbacks within the SCP-7.5 zoning district are 50' on all sides, creating overlapping setbacks and no buildable area in some portions of the lot, including the location of the existing

110 E. Main St., Los Gatos CA 95030

FILING FEES

\$438.00 (PLAPPEAL) Residential \$1,763.00 (PLAPPEAL), per Commercial, Multi-family, or Tentative Map Appeal

TRANSCRIPTION \$500 (PLTRANS)

Town of Los Gatos**Office of the Town Clerk****APPEAL OF PLANNING COMMISSION DECISION**

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION ____

Sept 8th 2021 _____

PROJECT / APPLICATION NO: __M-20-012_____ ADDRESS 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 Council any decision of the Planning Commission.

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.

Section 29.20.275 The notice of appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record.

1. There was an error or abuse of discretion by the Planning Commission:

 _____; OR

2. The Planning Commission's decision is not supported by substantial evidence in the record:

- i) Town ordinance §29.10.70 (exhibit 1) states that "Any parcels under the same or substantially the same ownership that do not meet the criteria listed above **shall** be considered merged. In addition, no parcel **shall** be modified through a lot line adjustment procedure in order to meet the criteria listed above."

- ii) Subdivision Maps Act § 66451.11 (exhibit 2) specifies that "a local agency **may**, by ordinance which conforms to and implements the procedures prescribed by this article, provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards..."

- ii) Why, when the town ordinance states **SHALL** and the SMA states **MAY** is the Town not following its own ordinance for Lot Merger?

Previously submitted quit claim deeds (exhibit 19) along with exhibits 14 and 15 prove incontestably that APN 532-36-077 has no legal access which is adequate for vehicular and safety equipment access and maneuverability. Exhibit 18, 2005 Title Deed for 17200 Los Robles Way acknowledges the quit claim to Harding Ave ROW (see parcel 4 description). All the conditions have been in place since 1978 that this merge technically should have happened per the Town Ordinance, it just hasn't been procedurally implemented, given this information was not disclosed to the DRC at the time of Lot Line application. The fact that the Town has not done this should not be a reason to permit the use of the LLA procedure. Other towns and counties (Exhibit 11) have similar lot merger ordinances that follow the Subdivision Map Act, and lot line

adjustment procedures which exclude non-developable parcels from being made developable. If a lot is deemed merged, then SMA §66412(d) is irrelevant. Per [§ 29.20.745](#) (exhibit 3) it states that the Development Review Committee “Under the provisions of [§29.10.070](#) of this chapter and section 66424.2 of the Subdivision Map Act, determine whether lots have merged.” We understand that the Community Development Director would make the initial determination to start the lot merger process, with the DRC being the deciding body. We expect this would also happen per the direction of the Planning commission or Town Council.

We have an example of City of Berkeley merging parcels (exhibit 16) due to both parcels not meeting the requirement for 5,000 square ft in area :

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2013-10-16_Item%2010_Appeal%20of%20Merger-Combined.pdf

In addition, we have exhibit 12, Big Sur lot line adjustment application, that was denied due to creation of new developable lots based on the Big Sur LUP Policy, which also specified slopes >30% as non-developable.

<https://documents.coastal.ca.gov/reports/2009/9/W19a-9-2009.pdf>

There does not appear to be any rulings that support denials of Lot Line Adjustment applications, due to the language specified in SMA §66412(d) (exhibit 13). This is most likely attributed to towns, cities and counties implementing their Lot Merger ordinances on parcels that do not meet the requirements described in SMA §66451.11. SMA §66451.11 clearly describes a parcel of land, that based on the criteria provided, would be unbuildable/undevelopable.

Town Ordinance [§29.10.070](#) states that the lot line adjustment procedure cannot be used for parcels that lack legal access or parcels that do not meet slope stability standards. APN 532-36-077 has slopes >30% and is unbuildable. Parcel is landlocked due to quit claim deeds signed in 1978 for Harding ROW. Parcel non-conforming to current zoning requirements, is land-locked and non-buildable with regard to LRDA and slopes >30%. [Hillside Development and Standards Guidelines](#) also apply to R-1 zones with slope stability issues. [Town of Los Gatos Lot Line Procedure](#) (exhibit 5) requires that lot frontage remains conforming (APN 532-36-077 has no frontage and that “The existing buildings meet the requirement of the Uniform Building code for fire separation or fire wall construction”. Existing building on APN 532-36-076 is derelict. Please refer to highlighted sections in attached [Sierra Club vs Napa County ruling](#) (exhibit 17) on sequential lot line adjustments which explains that the local ordinances for lot line adjustment ensure land speculators and developers cannot exploit loopholes in the SMA to turn non-buildable parcels into buildable lots, and this is supported in the other Town Ordinances for Lot Line adjustments (exhibit 11). The Los Gatos Town Ordinance [§29.10.070](#) provides direction that Lot Line Adjustment procedures cannot be used for land-locked parcels or lots with slope stability issues.

If the Town believes the broad language in SMA 66412(d) preempts the Town Ordinance Sec 29.10.070, how is it that other towns and counties will not allow a non-buildable parcel to be made buildable (exhibit 11)? It's because of SMA §66451.11 Why does the Town not follow the guidance provided by Subdivision Maps Act §66541.10 and §66541.11, along with §66541.13 and §66541.14? If the Town allows the developer to skirt the lot merger ordinance, they are setting a precedent for illegal use of the LLA procedure to establish a buildable parcel where none existed, and increase density without formal review of the development.

Per Town Attorney's Office at the Planning Commission Appeal

“California Civil Code Section 1093 requires an, “express written statement of the grantor,” of their intent to alter or affect the separate and distinct nature of the parcels described therein. Therefore, the legal merger of two

parcels occurs only through the express written statement of the grantor (ibid.) or through a local agency's compliance with the merger procedures contained in Sections 66451.10 and 66451.11 of the SMA, including the due process requirements contained therein"

We are asking for the Town to follow this requirement for Lot Merger of APNs 532-36-076 and 532-36-077 by notifying the owner of the merger proposal pursuant to, SMA §66451.13, and afford a hearing pursuant to SMA §66451.14.

We also request that the remaining two buildable parcels, APN 532-36-075 and merged APN 532-36-076/77 maintain access from Los Robles Way, to avoid unnecessary scarring and destabilization of the hillside through grading and removal of trees, and to preserve the natural scenic character of the Town. In addition, this would assure the buildable parcels share a driveway to minimize impervious surface. This hillside causes flooding issues to residents on Worcester Lane, and visible landslide concerns to 246 Harding Ave.

We'd also like to appeal the Required Findings made by the DRC.

Required Findings (exhibit 10) states that the project is not subject to the California Environmental Quality Act (CEQA). 17200 Los Robles Way lot line adjustment application is not categorically exempt from CEQA. CEQA Class 5, "Minor Alterations in Land Use Limitations," exemption per [Section 15305](#) of the CEQA Guidelines excludes slopes >20% and lot line adjustments that result in changes to land use density. Exhibit 6 and exhibit 7 clearly state these requirements, and exhibit 8 shows that the City of Santa Barbara includes this in their Environmental Review. Per Exhibit 9, 17200 Los Robles Way has 26% average slope. We would request compliance to CEQA should a lot line adjustment on 17200 Los Robles Way be approved.

Section 15305 - Minor Alterations in Land Use Limitations

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

- (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- (b) Issuance of minor encroachment permits;
- (c) Reversion to acreage in accordance with the Subdivision Map Act.

Cal. Code Regs. Tit. 14, § 15305

Exhibit 10 Findings by DRC in conflict **"No development proposed"**, yet DRC/Planning Commission makes the affirmative findings that the site is physically suitable for **proposed density** of development and the **type of development**, and **proposed improvement not likely to cause substantial environmental damage nor injure wildlife or their habitat**.

A coyote den exists on the property and deer and wildlife frequent the property. Planning commission did not visit the land nor did they review any plans for the development as the developer has not shared the development plans with the town. How can the Town approve the suitability of the development without knowing what will be built, or whether it is in conformance to the surrounding established neighborhood? We are appealing the decision of the DRC to approve suitability of development before they have reviewed the proposed development and parcel maps.

We would very much like to meet with the Town Council members individually at the proposed site at Worcester Lane to hear our concerns.

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

IMPORTANT:

1. Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
2. Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 5:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
3. The Town Clerk will set the hearing within 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967).
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5. If the basis for granting the appeal is, in whole or in part, information not presented to or considered by the Planning Commission, the matter shall be returned to the Planning Commission for review.

PRINT NAME: Alison and David Steer

SIGNATURE: _____



DATE: Sept 19th 2021

ADDRESS: 304 Harding Ave, Los Gatos, CA 95030

PHONE: _____

***** OFFICIAL USE ONLY *****

DATE OF PUBLIC HEARING: _____

Pending Planning Department Confirmation

CONFIRMATION LETTER SENT: Date:
TO APPLICANT & APPELLANT BY:

DATE TO SEND PUBLICATION: _____

DATE OF PUBLICATION:



Alison Steer <alison.steer@gmail.com>

Maps Act section 66499.35

Robert Schultz <RSchultz@losgatosca.gov>

Sat, May 29, 2021 at 11:54 AM

To: Alison Steer [REDACTED], Ryan Safty <RSafty@losgatosca.gov>

Cc: Sally Zamowitz <SZamowitz@losgatosca.gov>, Joel Paulson <jpaulson@losgatosca.gov>

Hello Alison,

Based upon the Town Surveyor's analysis, and then my thorough review of the Subdivision Map Act, the Town's Subdivision Ordinances and the grant deeds, the Town has concluded that APN 532-36-075 and APN 532-36-077 are legally created parcels and the Town has no discretion but to issue Certificate of Compliances.

The Subdivision Map Act ("SMA") in its current form requires every landowner who wishes to divide a single parcel of land into smaller parcels to obtain the approval of the local government before doing so. (See Witt Horne Ranch, Inc. v. County of Sonoma (2008) 1.65 Ca1.App.4th 543, 551.) Subdivisions are ordinarily lawfully accomplished only by obtaining local approval and through recordation of a tentative and final map when five or more parcels are involved, or a parcel map when four or fewer parcels are involved. (See Abernathy Valley, Inc. v. County of Solano (2009) 173 Ca1.App.4th 42 48.) The SMA prohibits the sale, lease, financing, or improvement of any parcel of land for which a final map or parcel map is required under the Act unless a final map or parcel map has been recorded. (See Gov. Code, § 66499.30(a)-(c).)

However, the SMA also contains a grandfather provision that exempts from the Act's parcel map and final map requirements any subdivision that complied with or was not subject to any law, including a local ordinance, regulating the design and improvements of subdivisions in effect at the time the subdivision was established. (See Gov. Code, § 66499.30(d).) This grandfather provision has been unchanged since 1943. (Abernathy Valley, supra, 173 Ca1.App.4th at p. 48). A parcel is deemed to be a parcel legally created under the SMA if it was created under the SMA or local subdivision ordinances, was created under a prior law regulating the division of land or a local ordinance enacted under the law, or was not subject to any of these provisions at the time of creation. (Gov. Code, § 66451.10.)

The Town is obligated to issue a certificate of compliance for APN 532-36-075 because this parcel was created and approved as part of the Los Robles Subdivision in 1927. A request for a certificate of compliance cannot be denied based on theories of merger because merger does not occur simply because of joint ownership (see Gov. Code, § 66451.10(a)) or because the parcels have been transferred by way of a single transfer document, even when the documents are described through a

consolidated legal description. (See Civ. Code, § 1093) Instead, legal merger of two parcels occurs only through the express written statement of the grantor or through a local agency's compliance with the merger procedures contained in sections 66451.10 and 66451.11 of the Map Act, including the due process requirements contained therein. At no point has APN 532-36-075 been merged with the adjacent property.

The Town is also obligated to issue a certificate of compliance for APN 532-36-077 because the SMA contains a conclusive presumption that the Subject Property was lawfully created. In particular, any parcel created before March 4, 1972 is conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created and if, at the time of the parcel's creation, no local ordinance was in effect regulating the division of land creating fewer than five parcels. (See Gov. Code, § 66412.6(a).) It is undisputed that APN 532-36-077 was created in 1947 by Haire and conveyed to Thompson in 1953.

At the time of the conveyance, neither, the SMA nor a local ordinance in the Town of Los Gatos regulated the subdivision of fewer than five parcels. Town Ordinance No. 288, (1948) does not apply to the 1953 Grant Deed conveyance because the Ordinance only applies to subdivisions of five or more parcels. In addition, while Ordinance No. 276 (1946), the Zoning Plan of the Town of Los Gatos, would prohibit the construction on the Subject Property in its current form, the Ordinance is not an ordinance that regulates the division of land creating fewer than five parcels. Ordinance No. 276 is a traditional zoning ordinance that lays out permitted uses in various zoning districts, and identifies the minimum parcels sizes necessary for particular types of structures; but it did not govern subdivisions or the creation of new parcels in any fashion. I have therefore concluded that in 1950, the Town had no local ordinance regulating divisions of land creating fewer than five parcels. Finally, as discussed above, a request for a certificate of compliance cannot be denied based on theories of merger.

Anyone has the absolute right to appeal the DRC decision to the Planning Commission but if there is an appeal, I will adamantly inform the Planning Commission that they must issue the Certificate of Compliance and if they were to uphold the appeal and deny the Certificate of Compliance, the Town will be subject to legal action and damages from the property owner.

I hope this brief analysis helps you understand the Town's hands are tied by state law.



Robert Schultz • Town Attorney

Town Attorney's Office • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6818 • rschultz@losgatosca.gov

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

PLANNING COMMISSION – September 8, 2021
REQUIRED FINDINGS FOR:

17200 Los Robles Way
Subdivision Application M-20-012

Consider an Appeal of a Development Review Committee Decision Approving a Lot Line Adjustment Between Three Adjacent Lots on Properties Zoned R-1:20. APNs 532-36-075, -076, and -077. PROPERTY OWNERS: Daren Goodsell, Trustee and Mark Von Kaenel. APPLICANT: Tony Jean. APPELLANTS: Alison and David Steer, Terry and Bob Rinehart, Nancy and Jim Neipp, Gary and Michelle Gysin, and Gianfranco and Eileen De Feo. PROJECT PLANNER: Ryan Safty.

FINDINGS

Required findings for CEQA:

- The project is not subject to the California Environmental Quality Act pursuant to the adopted Guidelines for the Implementation of CEQA, Section 15061(b)(3): A project is exempt from CEQA when the activity is covered by the common sense exemption that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA. The project proposes to modify lot lines between three legal, adjacent parcels. No development is proposed at this time.

Required findings to deny a Subdivision application:

- As required by Section 66474 of the State Subdivision Map Act the map shall be denied if any of the following findings are made: **None of the findings could be made to deny the application.**

Instead, the Planning Commission makes the following affirmative findings:

- a. That the proposed map is consistent with all elements of the General Plan.
- b. That the design and improvement of the proposed subdivision is consistent with all elements of the General Plan.
- c. That the site is physically suitable for the type of development.
- d. That the site is physically suitable for the proposed density of development.
- e. That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision and type of improvements is not likely to cause serious public health problems.

EXHIBIT 2

- g. That the design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.



State of California

GOVERNMENT CODE

Section 66451.11

66451.11. A local agency may, by ordinance which conforms to and implements the procedures prescribed by this article, provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance of the local agency applicable to the parcels or units of land and if all of the following requirements are satisfied:

(a) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

(b) With respect to any affected parcel, one or more of the following conditions exists:

(1) Comprises less than 5,000 square feet in area at the time of the determination of merger.

(2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

(3) Does not meet current standards for sewage disposal and domestic water supply.

(4) Does not meet slope stability standards.

(5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

(6) Its development would create health or safety hazards.

(7) Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

The ordinance may establish the standards specified in paragraphs (3) to (7), inclusive, which shall be applicable to parcels to be merged.

This subdivision shall not apply if one of the following conditions exist:

(A) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

(B) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51104, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.

(C) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource

extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.

(D) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(E) Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based.

For purposes of paragraphs (C) and (D) of this subdivision, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.

(c) The owner of the affected parcels has been notified of the merger proposal pursuant to Section 66451.13, and is afforded the opportunity for a hearing pursuant to Section 66451.14.

For purposes of this section, when determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

(Amended by Stats. 1995, Ch. 162, Sec. 1. Effective January 1, 1996.)

****This document was electronically submitted to Santa Clara County for recording****

24987040

Regina Alcomendras
Santa Clara County - Clerk-Recorder
06/07/2021 01:13 PM

Titles: 2 Pages: 9
Fees: \$74.00
Tax: \$0.00
Total: \$74.00

RECORDING REQUESTED BY:
Chicago Title Company
Order No.: FWPS-3021200659

When Recorded Mail Document To:
KAR Management, Inc
Attn: Ken Robinson
3190 S. Bascom Ave #200
San Jose, CA 95124

APN/Parcel ID(s): 532-36-076
532-36-077

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Exempt from fee per GC 27388.1(a)(2); This document is a transfer that is subject to
Documentary Transfer Tax.

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST, made June 3, 2021, between

Mark von Kaenel, herein called TRUSTOR, whose address is

19680 Old Santa Cruz Hwy, Los Gatos, CA 95033

Chicago Title Company, a California corporation, herein called TRUSTEE, and

KAR Management, Inc, herein called BENEFICIARY,

WITNESSETH: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the County of Santa Clara, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph ten (10) of the provisions incorporated herein by reference to collect and apply such rents, issues and profits.

For the Purpose of Securing:

1. Performance of each agreement of Trustor incorporated by reference or contained herein.
2. Payment of the indebtedness evidenced by one Promissory Note of even date herewith, and any extension or renewal thereof, in the principal sum of Two Million Three Hundred Thousand And No/100 Dollars (\$2,300,000.00) executed by Trustor in favor of Beneficiary or order.
3. Payment of such further sums as the then record owner of said property hereafter may borrow from Beneficiary, when evidenced by another note (or notes) reciting it is so secured.

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS (continued)

APN/Parcel ID(s): 532-36-076
532-36-077

To Protect the Security of this Deed of Trust, Trustor Agrees: By the execution and delivery of this Deed of Trust and the note secured hereby, that provisions one (1) to fourteen (14), inclusive, of the fictitious deed of trust recorded in Santa Barbara County and Sonoma County October 18, 1961, and in all other counties October 23, 1961, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, viz:

| COUNTY | BOOK | PAGE | COUNTY | BOOK | PAGE | COUNTY | BOOK | PAGE | COUNTY | BOOK | PAGE |
|--------------|------|------|-------------|-------|------|-----------------|---------------------------------|------|------------|------|------|
| Alameda | 435 | 684 | Kings | 782 | 833 | Placer | 895 | 301 | Sierra | 29 | 335 |
| Alpine | 1 | 250 | Lake | 362 | 39 | Plumas | 151 | 5 | Siskiyou | 488 | 181 |
| Amador | 104 | 348 | Lassen | 171 | 471 | Riverside | 3005 | 523 | Solano | 1105 | 182 |
| Butte | 1145 | 1 | Los Angeles | T2055 | 899 | Sacramento | 4331 | 62 | Sonoma | 1851 | 689 |
| Calaveras | 145 | 152 | Madera | 810 | 170 | San Benito | 271 | 383 | Stanislaus | 1715 | 458 |
| Colusa | 296 | 617 | Marin | 1508 | 339 | San Bernardino | 5587 | 61 | Sutter | 572 | 297 |
| Contra Costa | 3978 | 47 | Mariposa | 77 | 292 | San Francisco | A332 | 905 | Tehama | 401 | 289 |
| Del Norte | 78 | 414 | Mendocino | 579 | 530 | San Joaquin | 2470 | 311 | Trinity | 93 | 368 |
| El Dorado | 588 | 456 | Merced | 1547 | 538 | San Luis Obispo | 1151 | 12 | Tulare | 2294 | 275 |
| Fresno | 4526 | 572 | Modoc | 184 | 851 | San Mateo | 4078 | 420 | Tuolumne | 135 | 47 |
| Glenn | 422 | 184 | Mono | 52 | 429 | Santa Barbara | 1878 | 880 | Ventura | 2062 | 386 |
| Humboldt | 657 | 527 | Monterey | 2194 | 538 | Santa Clara | 5336 | 341 | Yolo | 653 | 245 |
| Imperial | 1091 | 501 | Napa | 639 | 86 | Santa Cruz | 1431 | 494 | Yuba | 334 | 486 |
| Inyo | 147 | 588 | Nevada | 305 | 320 | Shasta | 684 | 528 | | | |
| Kern | 3427 | 60 | Orange | 5889 | 611 | San Diego | Series 2 Book 1961, Page 183887 | | | | |

which provisions, identical in all counties, (printed on the attached unrecorded pages) are hereby adopted and incorporated herein and made a part hereof as fully as though set forth herein at length; that Trustor will observe and perform said provisions; and that the references to property, obligations and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust.

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to him at his address hereinbefore set forth.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.


Mark von Kaenel

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS (continued)

APN/Parcel ID(s): 532-36-076
532-36-077

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

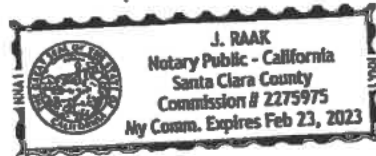
State of CA
County of Santa Clara

On 6-3-21 before me, J. Raak, Notary Public (here insert name and title of the officer), personally appeared Mark von Kaenel, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]



APN/Parcel ID(s): 532-36-076
532-36-077

DO NOT RECORD

The following is a copy of provisions one (1) to fourteen (14), inclusive, of the fictitious deed of trust, recorded in each county in California, as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if set forth at length therein.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

1. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.
2. To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.
4. To pay: at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.
Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.
5. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.
6. That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
7. That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.
8. That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

APN/Parcel ID(s): 532-36-076
532-36-077

DO NOT RECORD

9. That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such full reconveyance, Trustee may destroy said note and this Deed (unless directed in such request to retain them).
10. That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such, rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
11. That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash of lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the proceeding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

12. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and pages where this Deed is recorded and the name and address of the new Trustee.
13. That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.
14. That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

EXHIBIT "A" Legal Description

For APN/Parcel ID(s): 532-36-076 and 532-36-077

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE TOWN OF LOS GATOS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

PORTION OF LOT 16, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF LOS ROBLES SUBDIVISION", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON AUGUST 12, 1929 IN BOOK X OF MAPS, AT PAGES 48 AND 49, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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 HEREINABOVE REFERRED TO; THENCE RUNNING ALONG THE DIVIDING LINE BETWEEN SAID LOTS 15 AND 16, SOUTH 62° 05' EAST, 276.3 FEET TO THE EASTERLY COMMON CORNER OF SAID LOTS 15 AND 16; THENCE RUNNING ALONG THE SOUTHEASTERLY LINE OF SAID LOT 16, NORTH 34° 30' EAST, 207.4 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 16; THENCE ALONG THE NORTHEASTERLY LINE OF SAID LOT 16, NORTH 61° 29' WEST 360.60 FEET TO TILE MOST EASTERLY CORNER OF LOT 12; THENCE RUNNING SOUTH 34° 30' WEST, AND ALONG THE NORTHWESTERLY LINE OF SAID LOT 16, 207.4 FEET MORE OR LESS, TO A POINT FROM WHICH THE POINT OF BEGINNING OF THIS DESCRIPTION BEARS SOUTH 62° 05' EAST, THENCE RUNNING SOUTH 62° 05' EAST, 84.03 FEET MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL TWO:

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 SOUTH 62° EAST 174.80 FEET FROM THE WESTERLY CORNER OF SAID 24.98 ACRE TRACT OF LAND, SAID POINT OF BEGINNING ALSO BEING THE MOST WESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED BY TOM C. HAIRE, ET UX, TO JOSEPH W. OSTLE, ET UX, BY DEED DATED NOVEMBER 4, 1947, AND RECORDED NOVEMBER 5, 1947 IN BOOK 1524 OF OFFICIAL RECORDS, AT PAGE 548; THENCE RUNNING ALONG SAID SOUTHWESTERLY BOUNDARY LINE OF THE 24.95 ACRE PARCEL OF LAND SOUTH 62° EAST 265.30 FEET TO THE POINT OF INTERSECTION THEREOF WITH THE CENTER LINE OF A TWENTY FOOT RIGHT OF WAY; THENCE ALONG SAID CENTER LINE NORTH 0° 33' EAST 56.34 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL OF LAND SO CONVEYED TO OSTLE, THENCE NORTH 62° WEST, 184 FEET THENCE ALONG A SOUTHEASTERLY LINE OF SAID PARCEL SO CONVEYED TO OSTLE SOUTH 75° 51' WEST, 74.51 FEET TO THE POINT OF BEGINNING, AND BEING A PART OF THE SAID 24.98 ACRE TRACT IN THE RANCHO RINCONADA DE LOS GATOS, AND ALSO BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESIGNATED AS PARCEL 3 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, CALIFORNIA", 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.

PARCEL THREE:

TOGETHER WITH A NON-EXCLUSIVE RIGHT OF WAY FOR INGRESS AND EGRESS OVER A STRIP OF LAND 20 FEET IN WIDTH, THE CENTER LINE OF WHICH IS THE EASTERLY LINE OF PARCEL 3 HEREINABOVE DESCRIBED AND THE EASTERLY LINE OF THE CERTAIN PARCEL OF LAND CONVEYED BY TOM C. HAIRE, ET UX, TO JOSEPH W. OSTLE, ET UX, BY DEED DATED NOVEMBER 4, 1947 AND RECORDED NOVEMBER 5, 1947 IN BOOK 1524 OF OFFICIAL RECORDS, AT PAGE 548 AND SAID CENTER LINE BEING MORE FULLY DESCRIBED AS BEGINNING AT THE MOST SOUTHERLY CORNER OF PARCEL 3 HEREINABOVE DESCRIBED, AND RUNNING THENCE NORTH 0° 33' EAST, 124.61 FEET, NORTH 2° 14' WEST 50.04 FEET AND NORTH 11° 52' WEST, 100.52 FEET TO THE SOUTHERLY LINE OF THE PROPOSED EASTERLY EXTENSION OF HARDING AVENUE, SAID

EXHIBIT "A"
Legal Description

POINT, ALSO BEING THE NORTHEASTERLY CORNER OF SAID PARCEL OF LAND SO CONVEYED TO OSTLE.

EXCEPTING FROM PARCEL THREE THAT PORTION THEREOF LYING WITHIN THE DEED RECORDED JUNE 5, 1978 IN BOOK D717 OF OFFICIAL RECORDS, PAGE 171.

This is to certify that this is a
true copy of the document
on file in this office.

ATTEST:

Regina Aleonias

CLERK-RECORDER
Santa Clara, CA
08/16/2023

Lot Line Adjustment 21-005 NOE

Summary

| | |
|-----------------------------|--|
| SCH Number | 2021110142 |
| Public Agency | City of Mammoth Lakes |
| Document Title | Lot Line Adjustment 21-005 NOE |
| Document Type | NOE - Notice of Exemption |
| Received | 11/9/2021 |
| Posted | 11/9/2021 |
| Document Description | The project consists of a lot line adjustment to adjust the property line between two adjacent parcels in the Residential Single Family Zoning District. The project applicants are Mattie and Jack Oehmke, authorized signatories for the Oehmke Family Trust for 530 and 520 Ranch Road. |

Contact Information

| | |
|----------------------|--|
| Name | gina montecallos |
| Agency Name | Town Of Mammoth Lakes |
| Contact Types | Lead/Public Agency |
| Address | PO Box 1609 Mammoth Lakes, CA 93546 |
| Phone | (760) 965-3641 |
| Email | gmontecallos@townofmammothlakes.ca.gov |

Location

| | |
|----------------------|-------------------------------|
| Cities | Mammoth Lakes |
| Counties | Mono |
| Regions | Citywide, Northern California |
| Cross Streets | Ranch Road |
| Zip | 93546 |

Notice of Exemption

| | |
|-----------------------|---|
| Exempt Status | Categorical Exemption |
| Type, Section or Code | 15303(a) |
| Reasons for Exemption | <p>The project has been determined to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations). CEQA Guidelines Section 15305 applies to projects that consist of minor alterations in land use limitations in areas with an average slope of less than 20% and do not result in any changes in land use or density, which the State has determined to be a class of projects that will not have a significant effect on the environment. Examples include, but are not limited to, minor lot line adjustments that do not result in the creation of any new parcels. The proposed project involves adjusting the shared lot line between 530 Ranch Road and 520 Ranch Road thereby adding 1,694 square feet of land with an average slope of less than 20% to the 530 Ranch Road parcel. No new parcels will be created by this lot line adjustment and the land use and density of the subject parcels will not change. Therefore, the proposed project is consistent with the exemption class description specified above. Furthermore, the Town considered the exceptions set forth in CEQA Guidelines Section 15300.2, which would preclude a project from using a categorical exemption, and determined that none of the exceptions are applicable to this project.</p> |
| County Clerk | Mono |

Attachments

| | |
|---------------------|---|
| Notice of Exemption | LLA21-005_Note of Exemption PDF 153 K |
|---------------------|---|

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