



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/07/2021

ITEM NO: 13

DATE: December 2, 2021
TO: Town Council
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Planning Commission Decision Approving a Lot Line Adjustment Between Three Adjacent Lots on Properties Zoned R-1:20. Located at 17200 Los Robles Way. Subdivision Application M-20-012. APNS 532-36-075, -076, -077. Property Owners: Daran Goodsell, Trustree and Mark Von Kaenel. Applicant: Tony Jeans. Appellant: Alison and David Steer.

RECOMMENDATION:

Deny an appeal of a Planning Commission decision approving a Lot Line Adjustment application (M-20-012) between three adjacent lots on properties zoned R-1:20, located at 17200 Los Robles Way.

BACKGROUND:

On November 2, 2021, the Town Council opened the public hearing, listened to public testimony, and discussed the project. Following Town Council discussion, the Town Council continued the matter to the December 7, 2021 meeting with the following direction:

- Include clarified project plans that show conceptual access and potential building locations;
- Include information on compliance with the General Plan, Zoning Ordinance, and Building Code; and
- Include information on potential landslide, flooding, and fire hazards associated with the property and surrounding areas.

PREPARED BY: Ryan Safty
Associate Planner

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

BACKGROUND (continued):

An analysis of this direction, including the applicant's responses (Attachments 16 and 18), is detailed in the Discussion section below. The applicant has also provided a historical summary of the property and proposed lot line adjustment application (Attachment 17).

DISCUSSION:

A. Clarified Project Plans

The applicant has provided clarified project plans (Attachment 18, Slide 1) showing the proposed lot-line configuration and conceptual locations of future development. The plans are color-coded, showing the conceptual driveway locations in blue, conceptual house locations in purple, conceptual yard areas in light pink, and conceptual roadway improvements in dark pink. The Least Restrictive Development Area (LRDA) is shown with a dashed line, and all conceptual development areas shown are within the LRDA. The plan also specifies how many potential tree removals would be associated with the conceptual improvement and development locations, showing that over 90 percent of the existing trees on-site could be retained with the conceptual development locations.

B. General Plan, Zoning Ordinance, and Building Code Compliance

The applicant's response packet (Attachment 18) provides a summary of compliance with the General Plan, Zoning Ordinance, and Building Code.

General Plan Compliance:

The subject parcels have a General Plan designation of Low Density Residential, which allows 0-5 dwelling units per acre. The three parcels at 17200 Los Robles Way are 3.1 acres combined, which would allow a density of up to 15 dwelling units. The applicant is proposing to take three existing, legal parcels and modify the lot-lines. Density is not increasing as this is not a subdivision application.

Attachment 18 provides responses illustrating how the proposed lot-line adjustment, as well as the future conceptual development, complies with the applicable goals and policies of the General Plan. The appellant provided additional information following the November 2, 2021 Town Council hearing (Attachment 15), citing four policies in the General Plan that conflict with the proposal. Each of the four policies, including staff's analysis and a summary of the applicant's responses (Attachment 16), are provided below:

DISCUSSION (continued):

- **Land Use Element – Policy LU-1.3:** *To preserve existing trees, natural vegetation, natural topography, riparian corridors and wildlife habitats, and promote high quality, well-designed, environmentally sensitive, and diverse landscaping in new and existing developments.*

The subject application is for a lot-line adjustment between three existing, legal parcels. No construction, grading, or tree removals are proposed with this application. As noted by the applicant in Attachments 16 and 18, the conceptual development plans show that 153 of the 165 existing trees on the property can be preserved. Additionally, the applicant has conceptually shown that the proposed access and driveway locations could be constructed to comply with the Hillside Development Standards and Guidelines, and the conceptual building footprints could be located within the LRDA.

- **Safety Element – Policy SAF-1.1:** *Require reliable evaluations of the existing geologic conditions of site proposed for development where conditions indicate the possibility of weak supporting soils or geologic structures.*
- **Safety Element – Policy SAF-1.2:** *Restrict new development and redevelopment based on the levels of acceptable risk and potential severity of geologic hazards.*
- **Safety Element – Policy SAF-1.3:** *Preserve as open space property that is unbuildable due to geologic conditions.*

The subject application is for a lot-line adjustment between three existing, legal parcels. No development is proposed with this application. As noted by the applicant on slides 6-8 of Attachment 18, the subject property is not in a Liquefaction Zone pursuant to Figure SAF-2 of the Los Gatos General Plan. Per Figure SAF-2, the western corner of the property is within a Landslide Zone. At time of Architecture and Site application for the future development activities, the applicant will be required to provide geologic and geotechnical studies for the property, which are then reviewed by staff and the Town's consultants to determine any required conditions to address possible hazards. These reviews and identification of potential conditions do not occur during the lot line adjustment process.

Zoning Ordinance Compliance:

The applicant has provided a breakdown of compliance with applicable Zoning Ordinance requirements associated with the proposed lot-line adjustment (Attachment 18, Slide 2). There are four existing non-conformities associated with the three parcels: the existing residence on Parcel 1 does not meet the required 15-foot side yard setback, Parcel 1 does

DISCUSSION (continued):

not meet the minimum frontage requirement of 100 feet for lots not fronting on a cul-de-sac bulb, Parcel 2 does not meet the minimum lot size of 20,000 square feet, and Parcel 2 does not meet the minimum frontage requirement of 100 feet for lots not fronting on a cul-de-sac bulb. The proposed lot-line adjustment would remedy all existing non-conformities, except the Parcel 1 frontage on Los Robles Way which will continue to be non-conforming.

Building Code Compliance:

The applicant has provided a summary of compliance with the Building Code in Attachment 18. The California Building Code contains building standards to protect against seismic, fire, flooding, and other hazards based on recent disasters experienced from all parts of California. Although compliance with the Building Code is not applicable for a lot-line adjustment application, the future Architecture and Site applications and future building permits for development will need to comply with the Building Code.

C. Potential Hazards

The applicant's response packet (Attachment 18) provides additional information related to geologic hazards, flooding hazards, and fire hazards.

The JCP report that was referenced during the November 2, 2021 Town Council hearing has been provided (Attachment 18, Slide 6) with the location of the subject property highlighted. Per the JCP report, the property is located within the Very High Fire Hazard Severity Zone and partially within the Landslide Seismic Hazard Zone, but is not within the Special Flood Hazard Area, Area of Potential Flooding and Dam Failure, Substantial Forest Fire Risk Wildland Area, Earthquake Fault Zone, or the Liquefaction Seismic Hazard Zone.

In addition to the JCP report, the applicant has included information from the General Plan related to Seismic Hazards (Attachment 18, Slides 7 and 8), Wildland Urban Interface Fire Area (Attachment 18, Slides 9 and 10), and FEMA Flood Zones (Attachment 18, Slides 11 and 12).

The Seismic Hazards map, Figure SAF-2 of the General Plan, shows that the property is not within the Liquefaction Zone. However, the western corner of the property (portions of existing Parcels 1 and 3) is within an area of potential seismic susceptibility (Landslide Zone). The applicant will be required to provide geologic and geotechnical reports at time of Architecture and Site applications for the proposed development, which would then be peer reviewed by the Town's consultants and evaluated by Town staff to determine potential conditions for the proposed development.

DISCUSSION (continued):

The Wildland Urban Interface Fire Area map, Figure SAF-3 of the General Plan, shows that the subject property is within the State Mandated Very High Fire Hazard Area. Close to half of the Town is within this fire hazard area. As with the other Town properties located in a fire hazard area, any new development is subject to current Building and Fire Code requirements for Wildland Urban Interface compliance.

The FEMA Flood Zones map, Figure SAF-4 of the General Plan, shows that the property is not within the 100-year or 500-year flood zones. The adjacent properties to the north, south, and east are within the 500-year flood zone. Future construction activities will be subject to the required storm-water management techniques to ensure that future construction and development will not increase run-off from these properties.

PUBLIC COMMENTS:

Written notice of the November 2, 2021 Town Council hearing was sent to property owners and tenants within 300 feet of the subject property. The Town Council continued the item to a date certain. No additional notices were sent for the December 7, 2021 hearing. The appellant submitted additional information related to the appeal following the November 2, 2021 hearing, which is included as Attachment 15. The applicant has provided a written response to the additional information received from the appellant, which is included as Attachment 16.

COORDINATION:

The Community Development Department coordinated with the Town Attorney's Office in the review of the appeal.

CONCLUSION:

A. Recommendation

For the reasons stated in this report and the November 2, 2021 report, it is recommended that the Town Council uphold the decision of the Planning Commission and adopt a resolution (Attachment 6) denying the appeal and approving the application with the required findings (Attachment 6, Exhibit A), conditions of approval (Attachment 6, Exhibit B), and development plans (Attachment 1, Exhibit 13).

CONCLUSION (continued):

B. Alternatives

Alternatively, the Town Council could:

1. Adopt a resolution (Attachment 7) to grant the appeal and remand the application back to the Planning Commission with specific direction;
2. Adopt a resolution granting the appeal and denying the application (Attachment 8); or
3. Continue the application to a date certain with specific direction.

Attachments Previously Received with the November 2, 2021 Staff Report:

1. September 8, 2021 Planning Commission Staff Report, with Exhibits 1-14
2. September 8, 2021 Planning Commission Verbatim Minutes
3. Appeal of the Planning Commission Decision, received September 20, 2021
4. Applicant's Response to Appeal, received October 8, 2021
5. Additional Information from the Appellant, received October 21, 2021
6. Draft Resolution to Deny Appeal and Approve Project, with Exhibits A and B
7. Draft Resolution to Grant Appeal and Remand Project to Planning Commission
8. Draft Resolution to Grant Appeal and Deny Project
9. Public Comments received between 11:01 a.m., September 8, 2021 and 11:00 a.m., October 28, 2021
10. Applicant's Response to Public Comments received between 11:01 a.m., September 8, 2021 and 11:00 a.m., October 28, 2021

Attachments Previously Received with the November 2, 2021 Addendum Report:

11. Additional Information from the Appellant, received November 1, 2021

Attachments Previously Received with the November 2, 2021 Desk Item Report:

12. Applicant's Presentation from the September 8, 2021 Planning Commission hearing
13. Additional Information from the Appellant, received November 2, 2021
14. Appellant's Presentation for the November 2, 2021 Town Council hearing

Attachments Received with this Staff Report:

15. Additional Information from the Appellant, received November 12, 2021
16. Applicant's Response to Appellant's letter, received November 17, 2021
17. Applicant's Historical Summary of the property, received November 17, 2021
18. Applicant's Response to Town Council Questions, received November 19, 2021

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