



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/17/2025

ITEM NO: 1

DATE: December 12, 2025
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider a Request for Approval for the Subdivision of One Lot into Twelve Lots with a Vesting Tentative Map, Construction of a New Single-Family Residence on Each Lot, Site Work Requiring a Grading Permit, and Removal of Large Protected Trees Under Senate Bill 330 (SB 330) on Vacant Property Zoned RC. **Located at 178 Twin Oaks Drive.** APN 532-16-006. Architecture and Site Applications S-24-023 through -032 and S-24-059, Vesting Tentative Map Application M-24-013, and Mitigated Negative Declaration Application ND-25-001. An Initial Study and Mitigated Negative Declaration Have Been Prepared. Property Owner/Applicant: Larry Dodge. Project Planner: Erin Walters.

RECOMMENDATION:

Consider a request for approval for the subdivision of one lot into twelve lots with a Vesting Tentative Map, construction of a new single-family residence on each lot, site work requiring a grading permit, and removal of large protected trees under Senate Bill 330 (SB 330) on a vacant property zoned RC, located at 178 Twin Oaks Drive.

PROJECT DATA:

General Plan Designation: Agriculture
Zoning Designation: RC, Resource Conservation Zone
Applicable Plans & Standards: General Plan; Hillside Development Standards and Guidelines, and Hillside Specific Plan
Parcel Size: 17.55 acres

PREPARED BY: Erin M. Walters
Senior Planner

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

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Surrounding Area:

| | Existing Land Use | General Plan | Zoning |
|-------|--------------------|---------------------------|-------------------|
| North | Residential/School | Hillside Residential | HR-1 |
| South | Residential | Hillside Residential | HR-1 and HR-2-1/2 |
| East | Residential | Hillside Residential | HR-1 |
| West | Residential | Single-Family Residential | R-1:10 and R:1:12 |

CEQA:

In accordance with the California Environmental Quality Act (CEQA), an Initial Study and Mitigated Negative Declaration (MND), Response to Comments, and MND Errata Sheet have been prepared for this project (Exhibit 1, 13 and 14). It has been determined that this project will not have a significant impact on the environment with adoption of the MND and Mitigation Monitoring and Reporting Program (MMRP) in Exhibit 12, to mitigate potential impacts to a less than significant level.

FINDINGS:

- As required by CEQA for adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;
- As required that the project is consistent with the General Plan with the incentives and waivers requested pursuant to State Density Bonus Law and granting of the requested exceptions to the maximum allowed density pursuant to the Builder's Remedy provision of the Housing Accountability Act, CA Gov. Code § 65589.5 (d);
- As required by Section 66474 of the Subdivision Map Act with granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability Act, CA Gov. Code § 65589.5 (d);
- As required for tentative or parcel maps approved in state responsibility areas (SRA) or very high fire hazard severity zones (VH), findings are required to be made to the State Board of Forestry and Fire Protection pursuant to 14 CCR Section 1266.02;
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the incentives and waivers requested pursuant to State Density Bonus Law (CA Gov. Code § 65915) and granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability Act, CA Gov. Code § 65589.5 (d);
- The project meets the objective standards of the Town of Los Gatos Hillside Development Standards and Guidelines with the incentives and waivers requested pursuant to State Density Bonus Law (CA Gov. Code § 65915) and granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability

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Act, CA Gov. Code § 65589.5 (d);

- The project meets the objective standards of the Town of Los Gatos Hillside Specific Plan with the incentives and waivers requested pursuant to State Density Bonus Law (CA Gov. Code § 65915) and granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability Act, CA Gov. Code § 65589.5 (d);
- As required by State Density Bonus Law for granting a concession or an incentive pursuant to CA Gov. Code § 65915 (d) and for granting waivers pursuant to CA Gov. Code § 65915 (a)(2); and
- As required by the Builder's Remedy provision of the Housing Accountability Act for granting exceptions pursuant to CA Gov. Code § 65589.5 (d).

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application.

ACTION:

The application includes a Vesting Tentative Map, requiring approval by the Town Council, pursuant to Town Code Section 29.10.020. The Planning Commission will provide a recommendation to the Town Council who will render the final decision on the proposal.

BACKGROUND:

A. Project Site

The subject hillside property is approximately 17.55 acres of vacant land that takes access from Twin Oaks Drive (Exhibit 4). The hillside project site contains scattered oak woodlands, and a small portion of East Ross Creek crosses the project's farthest southwestern corner through a buried culvert. The site is surrounded by low density or hillside residential properties on all sides, with a partially shared property line with Hillbrook School to the north. The property generally sits east of Twin Oaks Drive, north of Brooke Acres Drive, and southwest of Cerro Vista Court and Cerro Vista Drive. The property has a General Plan designation of Agriculture and is zoned RC, or Resource Conservation.

The property was enrolled in a Williamson Act agricultural preserve contract established in 1975. Following the owner's April 28, 2015, notice of non-renewal, the standard 10-year non-renewal period commenced. The contract has since expired, and the property is no longer subject to an active Williamson Act contract.

The Preliminary Application under SB 330 was deemed submitted on December 19, 2023, establishing the vesting date for the application. Therefore, the applicant vested to the

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Town's development standards that were in effect on December 19, 2023. On June 13, 2024, the applicant submitted a formal application, within 180-days of the established vesting date as required by state law. Through the Town's technical review process, the application was deemed complete on February 5, 2025, within the timelines prescribed by state law.

The applicant seeks approval for the proposed residential project utilizing both the State Density Bonus Law (SDBL) (CA Gov. Code § 65915) and the Builder's Remedy provisions under the Housing Accountability Act (HAA) [CA Gov. Code § 65589.5 (d)(5)].

The application includes a Vesting Tentative Map, requiring approval by the Town Council, pursuant to Town Code Section 29.10.020. The applicant seeks a recommendation on the development proposal from the Planning Commission to the Town Council, who will render the final decision on the project.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject hillside property is approximately 17.55 acres of vacant land that takes access from Twin Oaks Drive (Exhibit 4). The site is surrounded by low-density or hillside residential single-family properties on all sides, with a partially shared property line with Hillbrook School to the north. The property generally sits east of Twin Oaks Drive, north of Brooke Acres Drive, and southwest of Cerro Vista Court and Cerro Vista Drive.

B. Project Summary

The applicant proposes to subdivide the site into twelve lots ranging from 0.10 to 5.48 acres (Sheet 2.0 of Exhibit 15). The western slope would be developed with 11 two-story single-family residences (eight market-rate and three below-market-rate units), while the eastern portion would remain undeveloped. One additional two-story residence is proposed on the northeastern slope (Lot 10). Access would be provided by a new private cul-de-sac from Twin Oaks Drive, an EVA connection to Brooke Acres Drive, and a separate driveway from Cerra Vista Court for Lot 10. Three of the 12 units (25 percent) would be designated as low-

income Below Market Price (BMP) units, exceeding the minimum affordability requirement under the Builder's Remedy provisions (Lots 1, 11 and 12).

The applicant submitted a Project Description Letter and Letter of Justification (Exhibit 5) discussing the project. Proposed development plans are included in Exhibits 15 through 27.

C. Zoning Compliance

The project site's underlying zoning is RC (Resource Conservation). However, the Housing Accountability Act provides that, if a Builder's Remedy project is proposed in a General Plan land use designation or zoning district that would not permit the density and unit type proposed by the applicant, the local agency is required to use a General Plan designation and zoning classification that would allow the density and unit count proposed by the applicant. (Gov. Code Section 65589.5(f)(6)(A).) Here, because the applicant is utilizing Builder's Remedy and not the underlying zoning, the Town has applied the Low Density Residential General Plan land use designation and R-1:10 zoning standards to the project and may only require the project to comply with the objective standards that would have applied in the Low Density Residential General Plan land use designation and R-1:10 zoning district. The R-1:10 zone supports the density proposed by the applicant and is consistent with the existing R-1:10 zoning of the properties located to the west of the subject site.

In addition to one concession requested through SDBL, the applicant requests a number of waivers to Town standards through SDBL. The requested concession and waivers are discussed below. As described above, the Builder's Remedy provision of the HAA specifically prohibits a local agency from relying on inconsistency with zoning and general plan standards as a basis for denial of a qualifying housing development project, and there is no limit on the amount of exceptions requested as a part of a Builder's Remedy project.

As noted in the Project Description and Letter of Justification (Exhibit 5), there are exceptions to Town Code requirements requested with this application, including not meeting minimum lot size, exceeding the maximum gross floor area, exceeding the maximum building height, and not meeting the minimum required setbacks. Details on the Town Code requirements, requested exceptions, and justification are provided in Exhibit 5.

APPLICABLE LAWS

A. Senate Bill 330

The Housing Crisis Act of 2019, or Senate Bill 330 (SB 330), became effective on January 1, 2020, and will remain in effect until it sunsets on January 1, 2030. SB 330 provides an expedited review process for housing development projects and offers greater certainty for applicants by allowing an optional vesting opportunity through the Preliminary Application process. Submittal of a Preliminary Application allows an applicant to provide a specific subset of information on the proposed housing development ahead of providing the full amount of information required by the Town for a housing development application. Once the Preliminary Application is "deemed submitted" and payment of the permit processing fee is made, a vesting date is established, freezing the applicable fees and development standards that apply to the project while the applicant assembles the rest of the materials

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necessary for a full application submittal. Eligible projects are exempt from discretionary review and must be consistent with objective zoning and design standards. The statute requires that a final decision be made in no more than five public hearings, including appeals. The SB 330 Preliminary Application for this project achieved a vesting date of December 19, 2023.

B. Housing Accountability Act

The HAA is codified at CA Gov. Code § 65589.5. Per Section 65589.5, a local agency can impose objective development standards so long as those standards meet the following criteria:

- 1) Are appropriate to, and consistent with, meeting the local agency's share of its Regional Housing Needs Allocation;
- 2) Are applied to facilitate and accommodate development at the density permitted on the site and proposed by the applicant;
- 3) Meet the definition of "objective" in that they involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant and the public official.

In addition, no objective standard can be applied if it will render the project "infeasible" (unless the project will have a specific adverse impact on public health or safety and there is no feasible method to mitigate or avoid the impact.) The statute defines "feasible" as capable of being accomplished successfully within a reasonable period, considering economic, environmental, social, and technological factors.

A local agency may not deny, reduce the density of, or make infeasible housing development projects that are affordable to low- or moderate-income households and are consistent with local objective development standards.

In order for a development to qualify for the protections under the HAA it must meet the definition of a "housing development project." Furthermore, for a project to qualify for the affordable housing protections, it must also meet the definition of "Housing for very low-, low-, or moderate-income households."

1) What is an eligible housing development project?

Pursuant to CA Gov. Code § 65589.5 (h)(2), a "housing development project" is a use consisting of residential units only, mixed-use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural,

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a development must consist of more than one unit to qualify under the HAA. The development can consist of attached or detached units and may occupy more than one parcel, so long as the development is included in the same development application.

Pursuant to CA Gov. Code § 65589.5 (h)(3), “a housing development affordable to lower- or moderate- income households” means a project that provides either of the following:

- At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code § 50079.5, which is 80 percent of area median income; or
- 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those persons and families whose incomes are 80 percent to 120 percent of area median income (Health and Safety Code, § 50093.). Middle-income households are those persons and families whose income does not exceed 150 percent of area median income [CA Gov. Code § 65008 subd. (c)].

In addition, the rent or sales prices of the affordable housing that is provided cannot exceed the following:

- For lower-income units, the monthly housing cost does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income-eligibility limits are based; or
- For moderate-income units, the monthly housing cost does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in

accordance with the adjustment factors on which the moderate-income eligibility limits are based.

2) What are Objective Development Standards?

Pursuant to CA Gov. Code § 65589.5 (f), local agencies are not prohibited from requiring a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies that were in effect at the time of project vesting. Those standards, conditions, and policies must meet the following criteria:

- Be appropriate to, and consistent with, meeting the local agency’s share of its Regional Housing Needs Allocation;

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- Be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development; and
- Meet the definition of “objective.” Objective standards are those that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and the public official.

3) HAA Provisions Addressing Disapproval of Housing Development Projects

Pursuant to Government Code Section 65589.5, the HAA limits, but does not prohibit a local agency from disapproving a housing development project. The HAA defines “disapproval” to include the following:

- A vote to disapprove a housing development project application.
- Failure to comply with statutory deadlines for a decision, including, but not limited to:
 - 90 days after certification of an environmental impact report pursuant to the California Environmental Quality Act (“CEQA”);
 - 60 days from the date of adoption of a negative declaration pursuant to CEQA;
 - or
 - 60 days from a determination by the local agency that the project is exempt from CEQA.

The foregoing is a non-exhaustive list of the local agency actions that constitute “disapproval” of a housing development project under the HAA.

4) Ability to Impose Development Conditions

The HAA does not prohibit a local agency from imposing conditions of approval on housing development projects. However, the HAA limits the application of conditions that lower the residential density of the project and, for housing affordable to low- and moderate-income households, would render the project economically infeasible or would have a substantial adverse effect on the viability of the proposed housing, unless specific findings are made and supported by a preponderance of evidence in the record. The “preponderance of the evidence” standard requires that local agencies weigh the evidence and conclude that the evidence on one side outweighs the evidence on the other side (i.e. 51 percent to 49 percent).

5) Determination of Consistency with Applicable Standards is Based on “Reasonable Person” Standard

In most cases, courts will uphold an agency's determination if there is "substantial evidence" to support that determination. "Substantial evidence" means that there is reasonable, adequate evidence in the administrative record to support of the agency's findings. However, when a project is subject to the HAA, a housing development project will be deemed consistent with local standards if there is substantial evidence that could allow a "reasonable person" to conclude that it is consistent.

6) Application of State Density Bonus Law

The use of a density bonus pursuant to state density bonus law does not constitute a valid basis on which to find a proposed housing development project is inconsistent with local standards. Here, with the use of incentives, concessions, and waivers that are available pursuant to state density bonus law, the project is consistent with Town standards. However, in order to be eligible for these incentives, concessions, and waivers, the applicant must "seek and agree" to build affordable housing.

7) Denial of a Housing Project that is Consistent with Local Standards

When a proposed housing development complies with applicable local standards, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall adopt written findings supported by a preponderance of the evidence that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and
- There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing project or the approval of the project upon the condition that it be developed at a lower density. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

8) Denial or Conditioning of Affordable Housing Affordable to Low- and Moderate-Income Households

The HAA specifies findings that local agencies must make if they wish to deny a housing development project that provides housing affordable to low-or moderate-income households, or condition such a project so as to render it infeasible or have a substantial adverse effect on the viability or affordability of the project. These findings are in addition to the findings described above. Under the version of the HAA that was in effect at the time that the Preliminary Application for this project was submitted, the

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local agency must make one of the following specific findings based upon a preponderance of the evidence:

- The local government has an adopted Housing Element and has met its share of the RHNA in all income categories proposed in the housing development project.
- The housing development project would have a specific, adverse impact upon public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the project unaffordable or financially infeasible.
- Denial of the housing project or the imposition of conditions is required to comply with specific state or federal law, and there is no feasible method to comply without rendering the project unaffordable to low- and moderate-income households.
- The housing development project is proposed on land zoned for agriculture or resource preservation that is either 1) surrounded on two sides by land being used for agriculture or resource preservation; or 2) does not have adequate water or wastewater facilities to serve the housing development project.
- The housing development project meets both of the following conditions:
 - Is inconsistent with both the zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete. This finding cannot be used when the project is inconsistent with one, but is consistent with the other; and
 - The local government has an adopted Housing Element in substantial compliance with state housing element law. This finding cannot be used when:
 - The project is proposed for a site identified as suitable or available for very low-, low-, or moderate-income households within the Housing Element and the project is consistent with the specified density identified in the Housing Element; or
 - The local agency has failed to identify sufficient adequate sites in its inventory to accommodate its RHNA, and the project is proposed on a site identified in any Element of its General Plan for residential use or in a commercial zone where residential uses are permitted or conditionally permitted.

In September 2024, the California State Legislature passed, and the Governor signed into law, Assembly Bill 1893 (AB 1893), which went into effect on January 1, 2025. AB 1893 made revisions to the findings in subsection (d) of Government Code Section 65589.5. However, the applicant for this project has not chosen to invoke the provisions of AB 1893. Therefore, the findings enumerated above are the ones that remain relevant to this project.

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9) Violations of the HAA

If a plaintiff alleges an HAA violation and prevails, the court must issue an order compelling compliance with the HAA in 60 days. The court may also issue an order directing the local agency to approve the project. If the plaintiff prevails, the court awards attorney fees and costs to the plaintiff. If the local agency fails to comply with the order, the court must impose a minimum fine of \$10,000 per housing unit.

C. State Density Bonus Law ("SDBL") - Explanation of Concessions/Incentives and Waivers

The applicant is seeking to use SDBL, which is codified at Government Code Sections 65915 through 65918.

The intent of SDBL is to encourage builders and local governments to include low- and moderate-income housing units in proposed developments. Under the statutes, the local authority must grant a density bonus or other specified incentives or concessions to a developer who "seeks and agrees" to build affordable housing.

Concessions and Incentives

So long as the required percentage of affordable housing is provided, a developer may opt to request "concessions and incentives" without seeking the density bonus. A local agency may decline to grant the concessions or incentives only under certain limited circumstances set forth in CA Gov. Code § 65915 (d). Those circumstances are:

- 1) The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing;
- 2) The concession or incentive would result in a "specific adverse impact . . . upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources," which cannot be feasibly mitigated without rendering the development unaffordable to low-income and moderate-income households; or
- 3) The concession or incentive would be contrary to state or federal law [CA Gov. Code § 65915 (d)(1)(A)-(C)].

Concessions and incentives include the following:

- 1) Reduction in site development standards;
- 2) Modifications of zoning or architectural design requirements that exceed state standards;

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- 3) Approval of mixed-use zoning in conjunction with the project if commercial, office, industrial, or other land uses will reduce the cost of, and are compatible with the development; and
- 4) Any other regulatory incentive or concession proposed by either party that results in “identifiable and actual cost reductions to provide for affordable housing costs” or to provide for affordable rents [CA Gov. Code 65915 (k)].

Under the SDBL, three incentives or concessions are permitted for projects that include at least 25 percent of the total units for lower income households and pursuant to AB 1893, a Builder’s Remedy project that is also a density bonus project qualifies for two additional incentives or concessions. This applicant is proposing a project with 25 percent of the residential units affordable for lower income households and this is a Builder’s Remedy project, therefore the project is entitled to a total of five incentives or concessions.

The applicant is seeking four incentives, as described below:

| Requested Incentives | |
|--|--------------|
| Not Installing Story Poles and Netting per the Visibility Analysis requirements of the Hillside Development Standards and Guidelines | Project wide |
| Not Providing Sidewalks | Project wide |
| Not Providing Trails | Project wide |
| Not Providing Open Space Easements | Project wide |

The applicant states that this will result in a cost reduction. Therefore, eliminating this development standard will result in cost savings to help provide the level of affordability proposed.

Waivers of Development Standards

Applicants are eligible for unlimited waivers of development standards when they “seek and agree” to construct affordable housing. This applicant is requesting waivers from the Town’s development standards. A local agency may not apply any development standard that will have the effect of physically precluding the construction of a development “as proposed” so long as it meets the criteria for density bonuses set forth in CA Gov. Code § 65915 (b).

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The applicant is requesting 58 waivers, including the following:

| Requested Waivers | |
|--|---|
| Reduced Lot Area | Lots 11 and 12 |
| Reduced Setbacks | Lots 1, 3, 6, 11, and 12 |
| Exceeding the Maximum Gross Floor Area | Lots 4 and 12 Lots 2,3,7,8,9, and 10 |
| Building Outside the Least Restrictive Development Area (LRDA) | Lots 3,6, and 7 |
| Exceeding Maximum Building Height | All Lots |
| Exceeding Maximum Graded Cut and Fill Depths | All Lots |
| Swimming Pools on Slopes greater than 30 percent | Lots 7 and 8 |
| Reduced Guest Parking | All Lots |
| Location of BMP | Project wide |
| Comparable Bed/Bath Size of BMPs | Project wide |

The waivers are described in greater detail in the sections that follow.

D. Housing Accountability Act - Builder's Remedy

The California Legislature adopted the Housing Accountability Act (HAA) to "significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects" [CA Gov. Code § 65589.5 (a)(2)(K)]. It is the policy of the state that the HAA "be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing" [Gov. Code § 65589.5 (a)(2)(L)]. The "Builder's Remedy" provision of the HAA specifically prohibits a local agency from relying on inconsistency with zoning and general plan standards as a basis for denial of a qualifying housing development project unless the agency has adopted a sixth cycle housing element in substantial compliance with state law by January 31, 2023. The Town's sixth cycle housing element was certified by the California Department of Housing and Community Development (HCD) on July 10, 2024. The Preliminary Application for this project achieved a vesting date of December 19, 2023, prior to certification of the Town's Housing Element. Therefore, the project qualifies as a Builder's Remedy project and the applicant has invoked the provisions of Builder's Remedy with this proposed project.

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The applicant is invoking the following through Builder's Remedy:

| Requested Exceptions through Builder's Remedy | |
|---|--------------|
| General Plan Designation | Project wide |
| Zoning Designation | Project wide |
| Density | Project wide |

The applicant seeks to invoke the Builder's Remedy provisions, thereby permitting the project to move forward despite non-conformance with the existing General Plan designation, zoning regulations, and established density thresholds, as discussed in greater detail in the sections that follow.

DISCUSSION:

A. General Plan and Zoning Consistency

The proposed twelve-lot single-family residential subdivision is not consistent with the site's current General Plan land use designation of Agriculture. The Agriculture designation does not permit the type or intensity of residential development proposed. Additionally, the proposed twelve-lot single-family residential subdivision is not consistent with the site's current zoning designation of RC, or Resource Conservation. Residential development in the RC zone is limited to a single-family dwelling, provide that there is not more than one (1) principal residential structure on a lot.

The project is being processed under the Builder's Remedy provisions of the HAA. Under these provisions, local agencies are prohibited from denying a qualifying housing development project solely on the basis of inconsistency with zoning or General Plan standards. Additionally, the HAA does not establish a limit on the number or extent of exceptions that may be requested for a qualifying Builder's Remedy project. However, because the applicant is utilizing Builder's Remedy and not the underlying zoning, the Town has applied the R-1:10 zoning standards to the project.

B. Hillside Overlay Zone and Hillside Specific Plan

The site is located within the Hillside Overlay Zone and is subject to the objective standards of the Town's Hillside Development Standards and Guidelines (HDS&G). Approximately 10.40 acres of the 17.55-acre project site are located in Sub-Area 2 (Shannon-Kennedy Roads) of the Town's Hillside Specific Plan (Sheet 2.2 of Exhibit 12).

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C. Subdivision and Site Design

The applicant requests approval of a Vesting Tentative Map to subdivide the project site into 12 residential hillside lots ranging in size from approximately 0.10 acres to 5.48 acres (Sheet 2 of Exhibit 15). The eastern portion of the site would remain undeveloped to preserve existing topography and natural features, while the western slope would be developed with eleven two-story single-family residences. A two-story single-family residence is proposed on the northeastern slope of the hillside (Lot 10) (Exhibit 25).

Lot Size

Under the Town's applied R-1:10 zone, pursuant to Zoning Code Section 29.40.395, the minimum lot area is 10,000 square feet. The proposed gross lot size for each lot is provided in the table below.

| Proposed Lot Sizes | | |
|---------------------------|---|----------------------------|
| | Min. Lot Size s.f. per Applied R-1:10 Zone | Gross Lot Size s.f. |
| Lot 1 (BMP) | 10,000 | 21,659 |
| Lot 2 | 10,000 | 34,485 |
| Lot 3 | 10,000 | 23,931 |
| Lot 4 | 10,000 | 25,686 |
| Lot 5 | 10,000 | 36,842 |
| Lot 6 | 10,000 | 33,979 |
| Lot 7 | 10,000 | 51,367 |
| Lot 8 | 10,000 | 213,486 |
| Lot 9 | 10,000 | 74,265 |
| Lot 10 | 10,000 | 238,899 |
| Lot 11 (BMP) | 10,000 | 4,785 |
| Lot 12 (BMP) | 10,000 | 4,785 |

The proposed Lots 11 and 12, do not meet the 10,000-square foot minimum lot size for the R-1:10 zone pursuant to Town Code. The applicant requests relief from the minimum lot size standard through a waiver under the SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request are provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

Access and Circulation

Primary access to the subdivision would be provided by a 24-foot-wide private street with a cul-de-sac connecting to Twin Oaks Drive and linking to the internal roadway system serving the development. The cul-de-sac would follow the slope transition between the western portion of the site and the steeper eastern hillside. A 20-foot-wide Emergency Vehicle Access (EVA) would extend south from the site to Brooke Acres Drive, providing secondary emergency access consistent with Fire Department standards (Sheet 2 of Exhibit 15). A separate private driveway extending from Cerro Vista Court would provide individual access to Lot 10.

Sidewalks

The proposed subdivision does not provide sidewalks, a walkway, or a path with the proposed private cul-de-sac street.

Pursuant to Town Code Sections 24.50.065 and 29.10.06712, sidewalks shall be constructed on all streets and highways within a subdivision; except, that in land being subdivided into lots twenty thousand (20,000) square feet or more in size, sidewalks may be omitted. In hillside subdivisions, a walkway or path shall be constructed on one (1) side of the street or highway, subject to the approval of the Town Engineer and the advisory agency.

The applicant has requested an incentive under SDBL (CA Gov. Code § 65915) to waive the requirement. The applicant must demonstrate that the requested incentive provides a specific benefit to the project and results in measurable cost savings or facilitates development of affordable units. Additional justification for this request is provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

Trails

The proposed subdivision does not provide trail easement dedication or the construction of trails as required by the HDS&G, Chapter VII. Subdivisions and Planned Development Projects, E. Development Standards and Guidelines, 5. Trails. Standard a, and the Hillside Specific Plan, Chapter 4.0, Open Space, Section 4. Implementation, 6. Trails. The project site is located in the County and Los Gatos Trails Plan.

The applicant has requested an incentive under SDBL (CA Gov. Code § 65915) to waive the requirement. The applicant must demonstrate that the requested incentive provides a specific benefit to the project and results in measurable cost savings or facilitates development of affordable units. Additional justification for this request is provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

Open Space Easement

The proposed subdivision does not provide open space easements as required by the 2040 General Plan and the Hillside Specific Plan.

Pursuant to the Open Space, Parks, and Recreation Element of the 2040 General Plan, OSPR- 2.3, Hillside Open Space Dedication: In all hillside subdivisions, the dedication of open space in fee or as an easement shall be required to protect unique natural features, habitats, and movement corridors.

Pursuant to the Hillside Specific Plan, Chapter 4.0, Open Space, Policies 4.3, 1. Open Space Easements: Open space easements shall be required by the deciding body for hillside subdivisions in accordance with the topographical, ecological, aesthetic, and other conditions pertinent to the making of such easements.

Pursuant to the Hillside Specific Plan, Chapter 4.0, Open Space, Section 4.4 Implementation, 1. Open Space Easements: Open space easement policies shall be implemented for each subdivision or Planned Development application to protect creeks, ridgelines, stands of trees, scenic views, hazardous areas, and to provide for trails.

The applicant has requested an incentive under SDBL (CA Gov. Code § 65915) to waive the requirement. The applicant must demonstrate that the requested incentive provides a specific benefit to the project and results in measurable cost savings or facilitates development of affordable units. Additional justification for this request is provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

Staff is unable to make the findings necessary to grant the incentive, as providing open space easements on the proposed properties would not result in a specific project benefit, measurable cost savings, or facilitate the development of affordable units. A Condition of Approval has been included for Lots 2, 7, 8, 9, and 10 requiring that, prior to recordation of the vesting map, open space easements shall be established to protect unique natural features, habitats, and movement corridors on the property (Exhibit 3).

D. Architecture and Site Analysis

The project proposes the construction of twelve two-story single-family residences on twelve individual lots. Lots 1, 11, and 12 are BMP units and the remaining residences are market-rate units (Exhibits 16 through 27). The unit types include three, five, and six bedrooms with multiple-floor plans. A Project Description Letter and Letter of Justification discussing the project are included as Exhibit 5. The residences range in size from 1,614 square feet to 6,156 square feet. The BMP units propose two-car garages, and the market rate units propose a three-car garage. The table on the following page summarizes the

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proposed floor area; maximum allowable floor area for the residence and garage per the applied R-1:10 zone and Hillside Overlay Area; total number of bedrooms and bathrooms; and floor plan type.

| Floor Area | | | | | | | | | |
|----------------|---------------------|-----------------|-------------------|------------------------|-------------------------|---------------------|----------------------|----------------------|-----------|
| | Gross Lot Size s.f. | Average Slope % | Net Lot Size s.f. | Max FAR Residence s.f. | Proposed Residence s.f. | Max FAR Garage s.f. | Proposed Garage s.f. | Bed/Bath | Plan Type |
| Lot 1* | 21,659 | 6.25 | 21,659 | 4,700 | 1,614 | 1,157 | 467 | 3/2½ | D |
| Lot 2 | 34,485 | 4.24 | 34,485 | 6,000 | 6,574 | 400 | 653 | 5/5½ | B |
| Lot 3 | 23,931 | 15.22 | 19,039 | 4,531 | 6,574 | 1,156 | 653 | 5/5½ | B |
| Lot 4 | 25,686 | 13.13 | 21,509 | 4,689 | 5,593 | 1,157 | 694 | 6/6½ | A |
| Lot 5 | 36,842 | 8.2 | 36,842 | 6,000 | 5,593 | 400 | 694 | 6/6½ | A |
| Lot 6 | 33,979 | 14.98 | 27,196 | 6,000 | 5,593 | 400 | 694 | 6/6½ | A |
| Lot 7 | 51,367 | 25.72 | 27,142 | 6,000 | 6,156 | 400 | 775 | 5/5 and 2 half baths | C |
| Lot 8 | 213,486 | 33.84 | 85,394 | 6,000 | 6,156 | 400 | 775 | 5/5 and 2 half baths | C |
| Lot 9 | 74,265 | 21.40 | 48,866 | 6,000 | 6,156 | 400 | 775 | 5/5 and 2 half baths | C |
| Lot 10 | 238,899 | 29.36 | 100,146 | 6,000 | 6,156 | 400 | 775 | 5/5 and 2 half baths | C |
| Lot 11* | 4,785 | 8.21 | 4,785 | 1,694 | 1,614 | 400 | 467 | 3/2½ | D |
| Lot 12* | 4,959 | 11.18 | 4,346 | 1,569 | 1,614 | 400 | 467 | 3/2½ | D |

* BMP Units

The proposed project would exceed the maximum allowed Floor Area Ratio (FAR) for residences on Lots 2, 3, 4, 7, 8, 9, 10, and 12 per the applied R-1:10 zoning standards. Pursuant to Town Code Section 29.40.075 for lots less than 30,000 square feet, Lots 4 and

12 exceed the maximum allowable FAR. Pursuant to the HDS&G, Chapter IV. Development Intensity, A. Maximum Allowable Development, Lots 2, 3, 7, 8, 9, and 10 exceed the maximum allowable FAR. Lots 1, 5, and 6 would meet the maximum allowable FAR.

The applicant requests to exceed the maximum allowable FAR through a waiver under SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request are provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

E. Building Design

The project proposes four different building models. The proposed two-story BMP homes located on Lots 1, 11, and 12 are modest in scale and designed in a traditional architectural style consistent with the surrounding neighborhood. All three BMP homes, Building Type D, are similar in scale and appearance (Sheet A2.1 of Exhibits 16, 26, and 27).

The proposed two-story market-rate homes on Lots 2 and 3 are located along the southern edge of the existing neighborhood. These two-story homes have smaller footprints compared to the homes on Lots 4 through 10 and have articulated massing with varied roof forms. The two homes, Building Type B, are similar in scale and appearance (Sheets A2.1 and A2.2 of Exhibits 17 and 18).

The proposed two-story market-rate homes on Lots 4, 5, and 6 are adjacent to the R-1:10 zoned residential properties to the west. These homes are primarily one story with a limited second-story element. Colors and materials reflect natural tones consistent with the California Ranch and Mediterranean styles in the neighborhood. The three homes, Building Type A, are similar in scale and appearance (Sheets A2.1 and A2.2 of Exhibits 19, 20, and 21).

The proposed two-story market-rate homes on Lots 7 and 10 are sited on slopes of approximately 20 percent, the homes are sited on terraced graded pads that follow the existing contours and avoid ridgelines, major trees, and natural features. A riparian corridor with an ephemeral drainage and swale separate Lots 8 and 9. Building forms and rooflines parallel the hillside, with stone bases and darker natural materials that blend with the hillside and meet the requirements of the HDS&G color and light reflectivity value (LRV) requirements. The four homes, Building Type C and D, are similar in scale and appearance (Sheets A2.1 and A2.2 Exhibits 22, 23, 24, and 25).

Exterior materials of the homes include weathered and stained cedar vertical siding, sand stucco with stone veneer accents, concrete flat tile roof, painted metal railings, fiberglass windows, and metal garage doors. A condition of approval has been included in Exhibit 3 requiring each home to record a Deed Restriction regarding meeting the HDS&G LRV and color requirements.

Review by the Town's Consulting Architect is typically required for Architecture and Site applications. For this application, it should be noted that the feedback provided by the Consulting Architect is subjective in nature and should not be used as the basis for a decision since the Town's review is limited to objective standards only, pursuant to SB 330 and Builder's Remedy.

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The Town's Consulting Architect reviewed the proposed project and provided feedback and recommendations for each of the twelve homes (Exhibit 6). The applicant submitted a letter responding to these recommendations and summarizing design changes that were made (Exhibit 7).

F. Height

Pursuant to Town Code, building height is measured from the natural or finished grade, whichever is lower and creates a lower profile. The project proposes the addition of fill to create building pads which increases the overall height of the buildings per Town Code. The proposed two-story building heights for the single-family homes range from 27 feet, four-inches to 40 feet, 10-inches. The maximum allowable building height for residences located within the Hillside Overlay Zone is of 18 feet if the building is visible per the HDS&G or 25 feet the building is not visible. See Visibility discussion below. The proposed building heights are summarized in the table on the following page.

| Building Height | |
|-----------------|-----------------|
| | Proposed Height |
| Lot 1* | 27 ft. – 7 in. |
| Lot 2 | 32 ft. – 6 in. |
| Lot 3 | 38 ft. – 0 in. |
| Lot 4 | 37 ft. – 3 in. |
| Lot 5 | 40 ft. – 10 in. |
| Lot 6 | 33 ft. – 10 in. |
| Lot 7 | 27 ft. – 6 in. |
| Lot 8 | 27 ft. – 6 in. |
| Lot 9 | 27 ft. – 6 in. |
| Lot 10 | 27 ft. – 6 in. |
| Lot 11* | 27 ft. – 8 in. |
| Lot 12* | 27 ft. – 4 in. |

* BMP Units

All twelve of the two-story homes exceed the maximum allowable building height of 25 feet pursuant to the HDS&G, E. Building Height, Standards 1 and 2.

The applicant requests to exceed the maximum allowable height through a waiver under SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project as proposed. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [Government Code § 65589.5 (d)(5)]. Additional information and

justification for this request is provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

G. Visibility Analysis

The HDS&G require that residential projects located within the Hillside Overlay Zone prepare a Visibility Analysis to determine whether a residence is visible from any of the Town's established viewing areas. A residence is considered visible if 24.5 percent or more of an elevation can be seen from any of the established viewing areas. Section B. of Chapter II of the HDS&G outlines the required methodology, including the use of story poles and netting to conduct the analysis. The applicant submitted an informal visibility analysis (Sheet G6 of Exhibit 15) concluding that the proposed homes would not be visible, allowing a maximum building height of 25 feet. However, the applicant's analysis did not follow the HDS&G methodology, as story poles and netting were not installed.

The applicant has requested an incentive under SDBL (CA Gov. Code § 65915) to waive the requirement. The applicant must demonstrate that the requested incentive provides a specific benefit to the project and results in measurable cost savings or facilitates development of affordable units. Additional justification for this request is provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

H. Lot Coverage

Pursuant to Town Code Section 29.10.415, the maximum building coverage on a lot in the R-1 or single-family residential zone, including any type of accessory building, is 40 percent. All twelve lots comply with the lot coverage requirements of the R-1:10 zone.

I. Setbacks

Pursuant to Town Code Section 29.40.405, the minimum front yard setback is 25 feet, the minimum side yard setback is 10 feet, and the minimum rear yard setback is 20 feet for the R-1:10 zone. The proposed setbacks are summarized on the following page.

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| Proposed Setbacks | | | | | |
|--------------------------|-------------------------------|----------------------------|---------------------------|---------------------------|---------------------------|
| | Applicant Applied Zone | Front (Min. 25 ft.) | Side (Min. 10 ft.) | Side (Min. 10 ft.) | Rear (Min. 20 ft.) |
| Lot 1* | R-1:10 | 37.21 | 5 | 122 | 39.4 |
| Lot 2 | R-1:10 | 46.2 | 100 | 25.9 | 23.8 |
| Lot 3 | R-1:10 | 39.36 | 8.48 | 54.8 | 44.1 |
| Lot 4 | R-1:10 | 36.57 | 15 | 33.4 | 41.7 |
| Lot 5 | R-1:10 | 32.33 | 56.75 | 26.7 | 32.7 |
| Lot 6 | R-1:10 | 40.42 | 29.17 | 41.6 | 19.8 |
| Lot 7 | R-1:10 | 113.09 | 123.19 | 38.92 | 96.18 |
| Lot 8 | R-1:10 | 99.18 | 47.7 | 36.25 | 400 |
| Lot 9 | R-1:10 | 70.66 | 20.2 | 79.5 | 118.7 |
| Lot 10 | R-1:10 | 77.92 | 32.04 | 345.6 | 116.4 |
| Lot 11* | R-1:10 | 52.24 | 5 | 5 | 39.7 |
| Lot 12* | R-1:10 | 56.27 | 5 | 5 | 44.6 |

* BMP Units

All twelve lots meet the front setback requirement; however, Lots 1, 3, 11, and 12 do not meet the side setback requirement, and Lot 6 does not meet the rear setback requirement. The applicant requests to exceed the minimum setback requirements through a waiver under the State Density Bonus Law (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request are provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

J. Parking

The proposed project complies with the Town Code Section 29.10.150 (c)(1) by providing two parking spaces per single family residence. However, the project does not comply with the Hillside Specific Plan, Chapter 3.0, Circulation, Section 3.4 Implementation, Item 15, which requires not less than four additional on-site guest parking spaces where roadways are not designated to permit parking. The proposed parking is summarized on the following page.

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| Proposed Parking Spaces | | | | |
|-------------------------|--------|------------|----------------|----------------|
| | Garage | Guest | Total Provided | Total Required |
| Lot 1* | 2 | 0 | 2 | 6 |
| Lot 2 | 2 | 2 | 4 | 6 |
| Lot 3 | 2 | 2 | 4 | 6 |
| Lot 4 | 2 | 1 (garage) | 3 | 6 |
| Lot 5 | 2 | 1 (garage) | 3 | 6 |
| Lot 6 | 2 | 2 | 4 | 6 |
| Lot 7 | 2 | 2 | 4 | 6 |
| Lot 8 | 2 | 2 | 4 | 6 |
| Lot 9 | 2 | 2 | 4 | 6 |
| Lot 10 | 2 | 0 | 2 | 6 |
| Lot 11* | 2 | 0 | 2 | 6 |
| Lot 12* | 2 | 0 | 2 | 6 |

* BMP Units

All twelve lots do not meet the Hillside Specific Plan requirement for on-site guest parking. The applicant requests relief from the guest parking requirements through a waiver under SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request is provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

K. Least Restrictive Development Area (LRDA)

Each development application subject to the HDS&G shall be accompanied by a constraints analysis when it is deemed necessary by the Town to identify the most appropriate area or areas on the lot for locating buildings given the existing constraints of the lot. When all constrained areas have been identified and mapped, the remaining area(s) will be designated as the LRDA. These are the areas most appropriate for development, including topography, with emphasis on slopes over 30 percent. Pursuant to the HDS&G, Chapter II, Constraints Analysis and Site Selection, A. Prior to Selecting a Building Site, Standard 1. Constraints Analysis, the buildings proposed on Lots 3, 6, 7, and 9 are located on slopes over 30 percent, outside of the LRDA.

The applicant requests to build outside the LRDA requirement through a waiver under SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that

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the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request are provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

L. Swimming Pools

The swimming pools proposed on Lots 7 and 8 are located on slopes greater than 30 percent, which is prohibited per the HDS&G. The HDS&G, Chapter VI. Site Elements, Pools, Standard 3 states, "due to topographic constraints, not every lot will be able to accommodate a pool or sport court. Swimming pools and sport courts are prohibited on slopes greater than 30 percent."

The applicant requests relief from this requirement through a waiver under SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request are provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

Staff is unable to make the findings to grant the waiver as the location of the pools would not physically preclude the construction of the project. A Condition of Approval has been included for Lots 7 and 8 requiring that, prior to issuance of a building permit, the proposed location of the swimming pools be modified to ensure that the pool locations are located on slopes less than 30 percent (Exhibit 3).

M. Grading and Drainage

The project proposes 10,878 cubic yards (CY) of soil to be exported and 21,082 CY to be imported to construct the twelve house pads, private cul-de-sac road, private driveways, Emergency Vehicle Access Road (EVA), and associated landscaping.

Maximum Graded Cut and Fill

The proposed subdivision improvements and each of the 12 lot improvements exceed the maximum allowable graded cut and/or fill depth standard of the HDS&G, Chapter III. Site Planning, A. Grading, Standards 1. The maximum graded cut and fill tables are located grading sheets of each plan set (Sheet 3.0 of Exhibit 16 through 27). The applicant requests relief from the maximum graded cut and fill requirements through a waiver under SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA

Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request are provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

Drainage

A majority of the proposed lots would function as individual drainage management areas (DMAs) (Sheet 5.0 of Exhibits 16-27). Lots 1, 11, and 12 would combine into one DMA, while the undeveloped area and roadways would form additional DMAs. Stormwater runoff from each DMA would be directed to an associated bioretention area for treatment. Lots 1 through 4 and Lots 7 through 10 have individual bioretention areas and Lots 5 and 6 have shared bioretention areas. Bioretention basins would be sized and designed to meet the Town's C.3 Stormwater Standards, and internal roadways would use pervious pavement to promote infiltration. Treated stormwater would be discharged to the existing 27- and 36-inch storm drains located north and west of the site.

N. Fire Access

The subject parcel is located in the High Fire Hazard Zone per the adopted June 2025 Fire Hazard Severity Zones Map. However, the project was vested per SB 330 prior to the adoption of the June 2025 Fire Hazard Severity Zones Map. The site was previously located in the Very High Fire Hazard Severity Zones (VHFHSZ) of the Local Responsibility Area (LRA) and is therefore subject to the July 1, 2021, California Public Resource Code 4290 (PRC 4290) requirements. PRC 4290 requirements require modifications to the width of existing roads, existing road surfaces, fire truck turnarounds, and the lengths of dead-end roads. An Alternative Materials, Methods of Construction, or Modification of Code (AMMR) was approved by the Santa Clara County Fire Department (SCCFD) for Lot 10 to meet the PRC 4290 requirements to mitigate deficiencies of the required 20-foot roadway width on a 10-foot in length segment of roadway on Cerro Vista Drive. In order to mitigate the noncompliant roadway width, the approved AMMR requires an upgraded sprinkler system for the proposed residence at Lot 10. The recommended Conditions of Approval (Exhibit 3) include roadway and other improvements for fire safety that will be required as a result of this coordination with the SCCFD.

O. Tree Impacts

The project site is composed of a mixed oak woodland, portions of which would be impacted by the proposed development. To determine whether trees proposed for removal qualify for protection under the Town's Tree Protection Ordinance, an Arborist Report was prepared by the applicant's arborist, McClintock Landscape Horticultural Services (Exhibit 8). Through the site tree survey, the Arborist Report identified 673 on-site trees measuring four inches or greater in diameter at breast height (DBH), representing 26 species. Of these, 630 trees were determined to be protected under the Town's Tree Protection Ordinance.

The Tree Mitigation and Protection Plan prepared for the proposed project denotes a total of 223 protected trees to be removed, which includes 12 large protected trees.

To comply with the Town's tree replacement requirements, a total of 551 replacement trees would need to be planted on-site. The schematic planting plan proposes planting 85 replacement trees, which does not satisfy the on-site replacement requirements (Sheet T-1 of Exhibit 15). The applicant has the option to request in-lieu payment for any required replacement trees that cannot be accommodated on site.

The applicant submitted an arborist report for peer review by the Town's Consulting Arborist. Following the review, the revised arborist report from the applicant was confirmed to meet the Town's requirements by the Consulting Arborist (Exhibit 9). If the project is approved, tree protection measures would be implemented prior to construction and maintained for the duration of construction activity. Arborist recommendations for tree protection, as well as compliance with the Town's Tree Protection Ordinance, are included in the Conditions of Approval (Exhibit 3).

P. Public Health and Safety Standards

During the Town's review process, the Town's Planning, Building, and Parks and Public Works staff, as well as the Santa Clara County Fire Department, reviewed the application for compliance with applicable objective standards. Although exceptions pursuant to Builder's Remedy and SDBL incentives and waivers are requested for some of the design and density standards, the proposed application was reviewed and deemed consistent with applicable public health and safety standards with the inclusion of the recommended conditions of approval in Exhibit 3, if approved by the Town Council.

As a part of the Initial Study and MND prepared for this application (Exhibit 1), the project was reviewed for CEQA compliance on a number of required topics, including the following which are related to public health and safety: Air Quality; Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Hydrology and Water Quality; Noise; Public Services; Transportation, including review on whether the project would result in inadequate emergency access; Utilities and Service Systems; and Wildfire. As described in the CEQA Determination section of this report below, it was determined that the project would not result in a significant impact in any of the categories either as proposed or with the inclusion of mitigation measures. Each of these mitigation measures are included in the Conditions of Approval in Exhibit 3.

Specifically for transportation, a Transportation Assessment was prepared by TJKM Transportation Consultants (Exhibit 1, Appendix H) for the proposed project. As noted in the memorandum, the assessment replaces LOS with Vehicle Miles Traveled (VMT) as the metric for conducting transportation analyses pursuant to CEQA and establishing the thresholds of significance to comply with Senate Bill 743 (Resolution 2020-045). Consistent

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with State CEQA Guidelines Section 15064.3, the Town of Los Gatos has adopted the following thresholds of significance to guide in determining when a land use project will have a significant transportation impact. First, Total Project Generated VMT, where a significant impact would occur if the total VMT per service population for the project would exceed a level of 11.3 percent below the total VMT per service population for the Town of Los Gatos baseline conditions. Second, Project's Effect on VMT/Boundary VMT, where a significant impact would occur if the project increases the total (boundary) County-wide VMT by 6.5 percent compared to baseline conditions.

Using the VTA Model and based on the inputs of 12 single-family dwelling units and a population of 31, the VMT with project is slightly over the threshold. As a result, the project would need to mitigate roughly 2.83 percent of its VMT to be considered insignificant. To achieve this, the following mitigation measures were selected:

- Measure 1: Construct sidewalk along the north side of Blossom Hill Road between Regent Drive and Union Avenue.
- Measure 2: Construct sidewalk along the north side of Fisher Avenue between Mitchell Avenue and Roberts Road.

These measures are consistent with the Town's 2020 Bicycle and Pedestrian Master Plan and are expected to achieve the required VMT reduction of 2.83 percent and reduce the project's VMT impact to a less-than-significant level. This mitigation measure is included in the Conditions of Approval in Exhibit 3.

Q. Density

The site's underlying RC zoning allows a maximum density of one dwelling unit per 20 acres (0.05 du/acre), while the proposed project would provide 12 units, or approximately 0.68 du/acre. The applicant has invoked the Builder's Remedy and does not intend to rezone the site; therefore, the Town has applied R-1:10 standards. The General Plan Land Use designation corresponding to the R-1:10 zoning is Low-Density Residential (0–5 du/acre), which would allow the site to accommodate up to 87 units.

R. Below Market Price (BMP) Units

The proposed project proposes a total of 12 units, three of which would be designated as affordable units (25 percent). The BMP units will be restricted to those low-income households whose income is above 50 percent, but no greater than 80 percent, of the median area income. Conditions of Approval are included in Exhibit 3 pertaining to the construction phasing, provision, and sale of the BMP units.

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BMP Size and Location

Pursuant to Section III. A. of the Town's BMP Program Guidelines, A. Size of Units, BMP units should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units. The three proposed BMP units are three bedroom units whereas the proposed market rate units range in bedroom count from four to six bedrooms.

Pursuant to Section III. B. of the Town's BMP Program Guidelines, BMP units shall be dispersed throughout the development, to the extent feasible, in all buildings, on each floor, and in each project phase. A concentration of BMP units in one location is not desirable and will not be allowed. The proposed site plan illustrates the location of the three BMP units on the project site (Sheet 2.0 of Exhibit 15). The BMP units, located on Lots 1, 11, and 12, are grouped together and share a private driveway and turnaround area, rather than being distributed throughout the subdivision.

The applicant requests relief from the BMP location and size requirements through a waiver under SDBL (CA Gov. Code § 65915), which allows modifications of development standards that would otherwise physically preclude construction of the project. The applicant further asserts that the project may utilize an exception under the Builder's Remedy provisions of the HAA [CA Gov. Code § 65589.5 (d)(5)]. Additional information and justification for this request are provided in the applicant's Project Description and Letter of Justification (Exhibit 5).

S. No Net Loss Law

Pursuant to CA Gov. Code § 65863 (No Net Loss Law), the Town must maintain adequate capacity in the Housing Element to accommodate its remaining unmet Regional Housing Needs Assessment (RHNA) by each income category at all times throughout the entire planning period. To comply with the No Net Loss Law, as the Town makes decisions regarding zoning and land use, or development occurs, the Town must assess its ability to accommodate new housing within the remaining capacity of the Housing Element. If the Town approves a development of a parcel identified in the Housing Element with fewer units than anticipated, the Town must either make findings that the remaining capacity of the Housing Element is sufficient to accommodate the remaining unmet RHNA by each income level, or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category. The Town may not disapprove a housing project on the basis that approval of the development would trigger the identification or zoning of additional adequate sites to accommodate the remaining RHNA.

The subject property was not identified in the Sites Inventory of the Housing Element, and therefore, the findings related to the Not Net Loss are not applicable for this project. However, the proposed housing units would count towards fulfilling the Town's RHNA

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requirements. The Town is not required to identify additional sites to accommodate the remaining RHNA as a result of this project.

T. CEQA Determination

An Initial Study was prepared for the project, which included a number of project-level technical studies, including: Air Quality and Greenhouse Gas Modeling; Biological Evaluation; Arborist Report; Geotechnical and Geologic Hazard Investigation; and Vehicle Miles Traveled (VMT) Technical Memorandum (Exhibit 1). All technical reports were peer reviewed by the Town or prepared by the Town's consultants. The Initial Study concluded that the project will not have a significant impact on the environment with adoption of the MND and MMRP to mitigate potential impacts to a less than significant level.

Each of the 18 mitigation measures identified in the MND and Errata Sheet (III-1, IV-1, IV-2, IV-3, IV-4, IV-5, IV-6, IV-7, IV-8, IV-9, IV-10, V-1, V-2, V11-1, X-1, X111-1, X111-2, and XVII-1) are included in the MMRP (Exhibit 12) and as Conditions of Approval in Exhibit 3.

The CEQA mandated 20-day public review period began on September 19, 2025, and ended on October 9, 2025. Exhibit 13 includes responses to comments received during the public review period.

An Errata Sheet is included in Exhibit 14 that includes revisions to the IS/MND. The revisions to the IS/MND reflected in the Errata do not affect the adequacy of the previous environmental analysis contained in the Surrey Farms Estates Subdivision Project IS/MND. Because the changes presented in the Errata would not result in any new significant impacts or increase in impact significance from what was identified in the IS/MND, recirculation of the Surrey Farms Estates Subdivision Project IS/MND is not required.

PUBLIC COMMENTS:

Project identification signage was installed on the Twin Oaks Drive, Brooke Acres Drive, and Cerro Vista Court frontages by September 17, 2024, consistent with Town policy. Visual simulations were completed by the Town's consultant and posted to the Town's website by September 1, 2025 (Exhibit 10). Written notice was sent to property owners and tenants within 1,000 feet of the subject property and notice of public hearing signage was installed on the street frontages by November 21, 2025, in anticipation of the December 17, 2025, Planning Commission hearing.

Staff conducted outreach through the following media and social media resources, for the availability of the visual simulations; public review of the Initial Study and MND; and notice of the public hearing:

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- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

Public comments received by 11:00 a.m., Friday, December 12, 2025, are included as Exhibit 11. Public comments included concerns regarding drainage, flooding, groundwater saturation, grading, traffic, impacts on wildlife, removal of trees, loss of views, privacy, fire safety, building height, size of homes, and construction impacts.

CONCLUSION:

A. Summary

The applicant is requesting approval for the subdivision of one lot into 12 lots with a Vesting Tentative map, construction of a new single-family residence on each lot, site work requiring a grading permit, and removal of large protected trees under SB 330 on a vacant property zoned RC, located at 178 Twin Oaks Drive.

As detailed above, the application was submitted and is being processed under SB 330. The applicant seeks approval for the proposed residential project utilizing both SDBL (CA Gov. Code § 65915) and the Builder's Remedy provisions under the HAA [CA Gov. Code § 65589.5 (d)(5)]. The project qualifies for three incentives and unlimited waivers under SDBL. The application meets the definition of a Builder's Remedy project and the applicant has requested a number of exceptions to Town standards pursuant to Builder's Remedy. The deviations from the Town's standards included in the project are requested through both SDBL and Builder's Remedy for which the applicant has provided justification (Exhibit 5).

B. Recommendation

Staff recommends that the Planning Commission consider the request and, if merit is found with the proposed project, forward a recommendation that the Town Council approve the Architecture and Site applications, Subdivision, and Mitigated Negative Declaration applications by taking the following actions:

1. Adopt the Mitigated Negative Declaration (ND-25-001) and Mitigation Monitoring and Reporting Program (Exhibit 12) and make the finding that the project, with adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, will not have a significant effect on the environment per CEQA;
2. Make the finding that the project is consistent with the General Plan with the incentives, and waivers requested pursuant to State Density Bonus Law and granting of the

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requested exceptions to the maximum allowed density pursuant to the Builder's Remedy provision of the Housing Accountability Act (Exhibit 2);

3. Make the finding that the proposed project complies with Section 66474 of the State Subdivision Map Act with granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability Act and make affirmative findings to approve the subdivision (Exhibit 2);
4. As required for tentative or parcel maps approved in state responsibility areas (SRA) or very high fire hazard severity zones (VH), findings are required to be made to the State Board of Forestry and Fire Protection (Board) pursuant to 14 CCR Section 1266.02 (Exhibit 2);
5. Make the finding that the project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the incentives and waivers requested pursuant to State Density Bonus Law and granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability Act (Exhibit 2);
6. Make the finding that the project in compliance with the Hillside Development Standards and Guidelines with granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability Act (Exhibit 2);
7. Make the finding that the project in compliance with the Hillside Specific Plan with the incentives and waivers requested pursuant to State Density Bonus Law and granting of the requested exceptions to Town standards pursuant to the Builder's Remedy provision of the Housing Accountability Act (Exhibit 2);
8. Make the affirmative findings as required by State Density Bonus Law for granting an incentive pursuant to California Government Code Section 65915 (d) and for granting waivers pursuant to California Government Code Section 65915 (a)(2) (Exhibit 2);
9. Make the finding that, as required by California Government Code Section 65589.5 (d) of the California Housing Accountability Act, none of the findings for denial of a Builder's Remedy project can be made (Exhibit 2);
10. Make the considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2); and
11. Approve Architecture and Site Applications S-24-023 through S-24-033 and S-24-059, Subdivision Application M-24-023, and Mitigated Negative Declaration Application ND-25-001 with the recommended conditions contained in Exhibit 3 and the development plans in Exhibits 15 through 27.

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Approve the applications with additional and/or modified conditions; or
3. Deny the applications.

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EXHIBITS:

1. Initial Study and Mitigated Negative Declaration with Appendices A through E
(available online at <https://www.losgatosca.gov/178TwinOaksDr>)
2. Required Findings and Considerations
3. Recommended Conditions of Approval – M-24-013, S-24-023 to -033 and S-24-059
4. Location Map
5. Project Description and Letter of Justification
6. Consulting Architect's Report
7. Applicant's Response to Consulting Architect's Report
8. Final Arborist Report
9. Consulting Arborist's Peer Review
10. Visual Renderings
11. Public comments received by 11:00 a.m., Friday, December 12, 2025
12. Mitigation Monitoring and Reporting Program
13. Public Comments and Responses Regarding the Mitigated Negative Declaration
14. Initial Study/ Mitigated Negative Declaration Errata Sheet
15. Development Plans – Subdivision
16. Development Plans – Lot 1
17. Development Plans – Lot 2
18. Development Plans – Lot 3
19. Development Plans – Lot 4
20. Development Plans – Lot 5
21. Development Plans – Lot 6
22. Development Plans – Lot 7
23. Development Plans – Lot 8
24. Development Plans – Lot 9
25. Development Plans – Lot 10
26. Development Plans – Lot 11
27. Development Plans – Lot 12