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September 11, 2020

Joel Paulson
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Dear Joel:

This is an application to subdivide the land at 16220 Harwood Road, Los Gatos, California (the "Parcel") into a three-lot residential subdivision containing subdivided Parcels A, B, and C (the "Project"). The applicant intends to construct three single-family homes for himself/his wife and their two adult children. If this application is approved, the applicant plans to commence preparation of architectural plans and submit for Architecture and approval soon thereafter.

Applicable Land Use, Zoning, and Subdivision Standards

The Parcel is within the Low Density Residential General Plan Land Use Designation. (Los Gatos General Plan, fig. LU-3.) This designation provides for "single-family residential properties" and encourages "single-family residential development[.]" (*Id.* at p. LU-13.) The existing land use on the Parcel is "Commercial" (General Plan, fig. LU-1), which appears to reflect the pervious preschool use.

The General Plan's Land Use Element includes policies that provide guidance for on land use decisions. (General Plan, p. LU-2.) Policy LU-4.5 "[d]iscourage[s] corridor lots," stating that "[c]orridor lots shall only be allowed if the use of a corridor lot decreases the amount of public street required for the subdivision, contributes to the surrounding neighborhood, and is in context with the existing scale and established character of the neighborhood. The subdivider shall also demonstrate that the use of the corridor lot benefits surrounding properties." (*Id.* at p. LU-24.)

The Town's Zoning Map designates the Parcel as Single Family Residential ("R-1") (Los Gatos Zoning Map). Permitted uses within the R-1 zone include "single-family dwelling[s], provided that there is not more than [1] principal residential structure on a lot[.]" (Los Gatos Code § 29.40.385(1).) The Town's Zoning Map also designates the property as "R-1:10," meaning that each parcel must have at least 10,000 feet of lot area. (Zoning Map; Code § 29.40.395.) R-1 lots are subject to specific frontage requirements (80 feet for interior lots; 90 feet for corner lots) and depth requirements (100 feet) (Code § 29.40.400) and minimum front yard (25 feet), side yard (10 feet; 15 feet abutting streets), and rear yard (20 feet) requirements (Code § 29.40.405). The Code provides for corridor lots subject to restrictions concerning the length of the corridor (not more than 300 feet long), the width of the corridor (not less than 20 feet wide), and the access

from the corridor (only serving one lot). (Code § 29.10.085.) Frontages for these corridor lots are an “exception” to the lot frontage requirement “in all zones.” (*Id.*)

The Town’s Subdivision Code provides that lots for one-family use shall not be designed with frontage on two streets except at street intersections and along highways. (Code § 24.50.130.)

Application to the Project

The Project is consistent with all applicable General Plan, zoning, and subdivision standards and criteria.

With respect to the General Plan, the Project proposes single-family development on the Parcel. The Project also satisfies the applicable corridor lot criteria. The criterion that the corridor lot “decrease[] the amount of public street required for the subdivision” is inapplicable because no new streets are required for the subdivision (Almond Blossom Lane and Harwood Road, which serve the subdivision, are existing). The Project would “contribute[] to the surrounding neighborhood” by enabling redeveloping the closed preschool site with three new, well designed single-family homes. The Project would be “in context with the existing scale and established character of the neighborhood[.]” The corridor lot enables the scale of the Project’s subdivided parcels to roughly match those of its neighbors and allows for three new single-family homes to bolster the neighborhood’s established residential character. Further, there is another corridor lot just south of the Project’s along the same side of the same street, the parcel for which will share a common boundary with the Project’s corridor lot. Because of the above, the Project will “benefit[] [its] surrounding properties.”

The Project also is consistent with the applicable Zoning and Subdivision Code standards. Each subdivided parcel will be utilized for one single-family dwelling and each subdivided parcel would be greater than 10,000 square feet of net area. Subdivided parcel A has at least 90 feet of corner-lot frontage. Subdivided parcel A also complies with the exception to the double frontage lot prohibition, since the parcel is at the intersection of Almond Blossom Lane and Harwood Road. Subdivided parcel C has at least 80 feet of interior-lot frontage. Both subdivided parcels A and C have at least 100 feet of depth. Subdivided parcel B, a corridor lot, is exempt from lot frontage requirements in the R-1 zone, but also contains more than 100 feet of depth. All subdivided parcels meet the yard-size requirements, each containing 25 feet of front yards, 20 feet of rear yards, 10 feet of side yards, and 15 feet of side yard abutting Harwood Road (only for subdivided parcel A). Finally, subdivided parcel B conforms with the Code’s specific requirements for corridors. The corridor to Parcel B is not more than 300 feet long (it is 90 feet), not less than 20 feet wide (it is 20 feet), and *only* serves Parcel B.

The applicant also has reviewed the comments provided during the May 9, 2001, Conceptual Development Advisory Committee (“CDAC”) meeting. The applicant is committed to working with the Town on the design of the new homes to provide high-quality design, architecture, and landscaping and to preserve healthy trees where feasible. While the applicant notes CDAC’s

preference for a two-lot design, as noted, the three-lot subdivision is consistent with all applicable General Plan, zoning, and subdivision standards. Also, addressing CDAC's concerns regarding shared-driveway disputes, the Project as depicted in the proposed Tentative Map does not propose any shared driveways.

Because the Project complies with applicable, objective¹ general plan, zoning, and subdivision criteria and standards, the Housing Accountability Act ("Act") limits a city's ability to disapprove or condition the Project on a lower density, absent an unavoidable and specific adverse impact upon public health or safety. (Gov. Code § 65589.5(j)(1).) The Act defines "[d]isapprove the housing development project" to include any vote to disapprove "a proposed housing development project *application* ... including *any required land use approvals or entitlements necessary for issuance of a building permit.*" (Gov. Code § 65589.5(h)(1)) (emphasis added.) The proposed Tentative Map is necessary for issuance of a building permit for the Project. Because the Project is consistent with objective standards and would not cause any unavoidable and specific adverse impact on public health or safety, the Act precludes the Town from disapproving the Tentative Map.

The Project Helps Los Gatos Meet its Housing Needs Allocation Requirements

California and the Bay Area are experiencing a severe housing crisis, with demand far outstripping supply. Through the Housing Element and Regional Housing Needs Allocation ("RHNA") process, the state has determined the total number of new homes needed in order to meet statewide housing needs. Los Gatos is out of compliance with its RHNA obligations, including its obligations for above-moderate income housing, so far progressing less than 50 percent towards its goal, with only three years left in the eight-year planning period. ([Source](#).) Moreover, Los Gatos' RHNA obligations likely will increase substantially in the upcoming RHNA cycle, putting the Town further out of compliance. The Project would provide three additional above-moderate houses to help Los Gatos satisfy its RHNA obligations.

¹ As noted above, the Project is consistent with General Plan Policy LU-4.5. In any event, however, pursuant to the Act, the provisions of that Policy are not applicable to the Project because they are not "objective." The Act defines "objective" as "involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official." (Gov. Code § 65589.5(h)(8).) The language of the Policy "discourages" corridor lots and indicates that corridor lots must "*contribute[] to the surrounding neighborhood,*" be "*in context with the existing scale and established character of the neighborhood,*" and "*benefit[] the surrounding properties.*" (General Plan, p. LU-24) (emphasis added.) These criteria are not objective because they require personal or subjective judgements and are not verifiable by reference to external and uniform benchmarks and standards.

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Sincerely,

Cox, Castle & Nicholson LLP

A handwritten signature in black ink, appearing to read "Margo N. Bradish". The signature is fluid and cursive, with a long horizontal stroke at the end.

Margo N. Bradish

MNB

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