



MEETING DATE: 1/05/04
ITEM NO. 15

COUNCIL AGENDA REPORT

DATE: December 18, 2003
TO: MAYOR AND TOWN COUNCIL
FROM: TOWN MANAGER 
SUBJECT: CONSIDER ADOPTION OF HILLSIDE DEVELOPMENT STANDARDS & GUIDELINES.

RECOMMENDATION:

Adopt the resolution adopting the Hillside Development Standards & Guidelines.

BACKGROUND:

On October 20, 2003 the Town Council considered a Town Code amendment to modify the definition of lot area and the draft Hillside Development Standards & Guidelines (HDS&G). The Council introduced the ordinance for the amendment to the Town Code, and following discussion, continued the HDS&G to allow a three member Planning Commission Sub-Committee to work with staff to refine several key concepts including FAR, exclusions from floor area, standards for visible homes, grading and exceptions. Staff and the Sub-Committee met on three occasions and developed revised language for consideration by the Council. The changes are discussed below.

DISCUSSION:

All of the following language changes have been incorporated into the draft HDS&G (see Exhibit A to Attachment 12).

(Continued on Page 2)

PREPARED BY: BUD N. LORTZ 
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: PSS Assistant Town Manager OK Attorney _____ Clerk _____ Finance
_____ Community Development

Revised: 12/18/03 11:11 am

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Conflicts between standards and guidelines

Language was added to the end of Section F., **Standards versus Guidelines** (page 10) to address conflicts that may arise between two standards or two guidelines, or between a standard and a guideline, as follows:

When a conflict arises between the implementation of two standards or two guidelines, a design solution will be sought that balances the objectives of the two standards or guidelines. However, when a conflict occurs between a standard and a guideline, the standard shall take precedence.

Conflicts Between Applicant and Neighbor

Language was added to address conflicts that may arise between an applicant and neighbor. The following was inserted at the end of Section 2, **Consultation with Neighbors** (page 13):

If a conflict occurs between a property owner's desire to develop their property and legitimate issues raised by a neighbor, a design solution will be sought which attempts to balance all issues or concerns that are raised by both parties.

Grading

A maximum grading volume was not specified as each site is evaluated independently. What might be appropriate on one parcel may not be acceptable on another. Other factors such as slope, trees, geologic hazards, riparian corridors and visibility need to be considered in conjunction with grading. To aid the decision making body in evaluation grading for a proposed project, a new standard was added to Section A, **Grading** (page 17) as follows:

Grading quantities shall be categorized as follows:

- a. access: driveway, parking and fire turnaround, if applicable*
- b. house footprint*
- c. cellar*
- d. other areas including landscaping, hardscape and outdoor spaces*

Fire Hazards

To address concerns about defensible space and appropriate landscaping, the following language was deleted under Section D.2, **Fire Hazards** (page 24):

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Defensible space shall be established around structures. Appropriate techniques include selective pruning, thinning and clearing. Flammable vegetation shall not be planted within Zone 1. The size of defensible space surrounding structures should be determined by the steepness of adjacent slopes.

The following was added in place of the above (see standard b., page 24):

A landscape plan shall be provided and will be reviewed by the Town's Landscape Consultant. The landscape plan shall create defensible space around the home, and if there is a fire ladder on the property it shall be eliminated in an environmentally sensitive manner.

It should be noted that in order to implement this standard, a landscape consultant will have to be retained just as the Town currently utilizes the services of the consulting architect. The landscape architect will work closely with Town staff and the Fire Department in the review of development applications.

Maximum Allowed Floor Area

To address a concern about applicants designing to the maximum floor area rather than proposing a house that is appropriate for the individual site (which might be smaller than the maximum FAR), the following language was added under Section A., **Maximum allowed gross floor area** (page 27):

The priority is to comply with the standards and guidelines rather than designing to the FAR. The FAR is a numerical guide and achieving the allowable square footage is not a goal. Greater weight will be given to issues including but not limited to height, building mass and scale, visual impacts, grading and compatibility.

Exclusions to Allowed FAR

Section C. **Exclusions from Allowed Floor Area**, was reinserted on page 29. The section was modified to reduce the exemption for garages from 800 to 400 square feet. The rationale for a 400 square foot exemption is to allow property owners to have a two-car garage without it counting against the maximum FAR. Most applicants propose a three car garage with a new home. The minimum size for three parking spaces requires at least 600 square feet for a three-car garage. If an applicant desires to have a garage larger than 400 square feet (minimum size to accommodate two parking spaces) the additional floor area would be counted toward the maximum FAR. Section C, page 29, now reads as follows:

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The following items are not included in the calculation of a structure's allowed gross floor area.

1. *Cellars*
2. *Garages up to 400 square feet in area.*
3. *Stables that are not fully enclosed.*
4. *Barns and/or stables that do not exceed the applicable size as shown in Table 3 below.*

Table 3 was reinserted on page 29, and was modified to apply only to barns and stables rather than all accessory structures. The new table reads as follows:

**TABLE 3
MAXIMUM FLOOR AREA FOR BARN AND STABLES***

Parcel Size (gross)	Maximum floor area of barn
<i>up to 1 acre</i>	<i>500 square feet</i>
<i>over 1 to 2½ acres</i>	<i>1,000 square feet</i>
<i>over 2½ to 5 acres</i>	<i>2,000 square feet</i>
<i>over 5 acres</i>	<i>2,500 square feet</i>

**all other enclosed accessory buildings are included in FAR*

To address concerns about accessory structures that may not count as floor area, but still present a potential impact, the following language was added following the above table:

Note: Accessory buildings that do not contain floor area because they are not fully enclosed (e.g. gazebos, arbors, carports) will be carefully reviewed for potential impacts such as grading, trees, impervious coverage, visibility, etc.

Definitions were developed for barns and stables as follows:

Barn: *A building designed for the storage of farm products or feed and/or for the housing of farm animals or farm equipment. To qualify for an exclusion from FAR a barn may not be habitable floor area.*

Stable: *a building with stalls or compartments in which domestic animals are sheltered and fed.*

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Exceptions to Maximum FAR

The Sub-Committee determined that homes that are visible from established viewing platforms should not be allowed to exceed 6,000 square feet. A definition of visible home has been added to the glossary (page 72). A visible home has been defined as follows:

Visible home is a single family residence where 25% or more of an elevation can be seen from any of the Town's established viewing platforms (see Chapter II, section B).

Accordingly, Section B., **Exceptions to Maximum Floor Area**, pages 29-30 has been modified to read as follows:

The Town Council or Planning Commission may approve residential projects greater than the maximum floor area allowed (but it is not guaranteed) when all of the following conditions apply:

1. *The development will not be visible from any of the established viewing platforms.*
2. *There will be no significant impacts on protected trees, wildlife habitat or movement corridors.*
3. *Any grading necessary to accommodate the building area that exceeds the allowed FAR or an accessory building will be minimized.*
4. *All applicable standards and guidelines are being met.*
5. *Compliance to Title 24 Energy Efficiency Standards are shown using computer methods. The compliance margin must be at least 10.0.*
6. *The house will be pre-wired for future photovoltaic (PV) installation.*
7. *A minimum of 25% of hardscape material is porous (certain types of interlocking pavers, grasscrete, porous concrete, etc.)*
8. *A significant cellar element is included in the design, unless it conflicts with other standards.*
9. *There will not be a significant visual impact to neighboring properties.*

Building Height

In addition to limiting a visible home to a maximum of 6,000 square feet, the Sub-Committee recommends reducing the maximum allowable height for a visible home to 18 feet. A lower height limit will result in new visible homes being lower in profile and, therefore, less visible. Language under Section E., **Building Height**, standards (page 37) was modified as follows:

1. *The maximum allowed height for homes in hillside areas shall be 25 feet. Building height shall be measured in compliance with provisions of the Town's Zoning Ordinance.*

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2. *The maximum height of a building's tallest elevation shall not exceed 35 feet measured from the lowest part of the building to the highest part, except buildings extending above a ridgeline or that are visible from an established viewing platform where the maximum height from the lowest to highest points shall not exceed 28 feet.*
3. *Ridgeline and visible homes shall not extend more than 18 feet above the existing grade.*

Staff will develop an illustration to demonstrate this concept and will have it available at the Council meeting.

Exceptions

Section F., **Exceptions** (page 68) was modified as follows:

Exceptions from the standards in this document may only be granted after carefully considering the constraints of the site. Any deviation from the standards contained in this document shall include the rationale and evidence to support the deviation. The burden of proof shall be on the applicant to show that there are compelling reasons for granting the requested deviation.

Major Exceptions

Major exceptions may only be granted by the Town Council or Planning Commission.

Major exceptions include the following:

- a. *building height*
- b. *maximum floor area*

The above language includes a provision placing the burden on the applicant to demonstrate why an exception should be granted. It has also been clarified that major exceptions, which are defined as exceptions to maximum building height and floor area, cannot be made by staff. The committee considered a number of criteria and decided that most were not significant enough to be considered a major exception. Building height and floor area stood out as being critical considerations when evaluating a project's impact.

McCarthy Planned Development

The McCarthy Planned Development (PD) on Foster Road includes six new home sites. One new home has already been approved by the Town and is under construction. A condition of approval for the PD requires all architecture and site applications to be consistent with the Town's Hillside Design Guidelines, although it is not specified whether the current or proposed version is applicable.

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Once the draft HDS&G are adopted, it is intended that they apply to all new development applications for properties within the designated hillside area. The McCarthy property is included in this area. As discussed by the Council on October 20, 2003, the HDS&G will apply to all applications that have not been deemed complete. No applications are on file for the five undeveloped lots within the McCarthy PD. The owner initially requested that the new HDS&G not apply to the project due to the length of time it has been in the development review process. Subsequently, the owner's attorney submitted proposed language changes to the document that were considered by the Planning Commission, but not incorporated. As written, the HDS&G allows homes up to 6,000 square feet. Houses larger than 6,000 square feet may be approved by the Council or Planning Commission if nine required findings can be made, including that the house is not visible from any established viewing platform. This provision and the proposed definition of visible home would preclude any of the future homes within the McCarthy PD from being larger than 6,000 square feet. Mr. McCarthy is requesting that the maximum home size of 6,000 square feet not be applied to the undeveloped lots within the PD (see Attachment 11). Council previously discussed this and indicated that visible homes should not be allowed to exceed 6,000 square feet, and that no special consideration be given to the undeveloped lots within the McCarthy PD. The Commission considered the request and recommended that individual homes that are not yet in the planning process be required to comply with the HDS&G. The other items in the letter have already been discussed by the Council and new language has been drafted by the Planning Commission Subcommittee.

CONCLUSION:

Staff recommends that the Council adopt the resolution (Attachment 12) adopting the Hillside Development Standards, with direction to staff on any final editing to be done to produce the final document. The committee considered a number of criteria and decided that most were not significant enough to be considered or major exception

ENVIRONMENTAL REVIEW:

It has been determined that this project could not have a significant impact on the environment, therefore, the project is not subject to the California Environmental Quality Act (section 15061 (b)(3)). Hillside projects will be evaluated for CEQA compliance and against the Hillside Development Standards & Guidelines at the time individual applications are filed.

FISCAL IMPACT:

None

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Attachments:

- 1.-10. Previously received
11. Letter from Thomas P. O'Donnell, Ferrari Ottoboni LLP (two pages), received December 17, 2003
12. Draft Resolution (two pages) with revised Hillside Development Standards & Guidelines

BNL:SD

cc: Joe McCarthy, McCarthy Land Co., LLC, P.O. Box 361256, Milpitas, CA 95036-1256
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December 17, 2003

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VIA ELECTRONIC MAIL AND U.S. MAIL

Paul Dubois, Chair
Los Gatos Planning Committee
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Guadalupe College Property - Vineyard Heights
McCarthy Land Company, LLC

Dear Mr. Dubois and Members of the Commission:

We represent McCarthy Land Company, LLC ("McCarthy Land"), developer of Vineyard Heights, the former Guadalupe College property in Los Gatos (the "Property"). We are writing with reference to the draft of the Hillside Development Standards and Guidelines (the "Ordinance"). We have previously commented on the Ordinance on January 8, June 13, December 6, 2002, February 20, April 17, and August 27, 2003.

The reason for this letter is to comment on Part IV of the proposed Ordinance and in particular Subpart B, "Exceptions to maximum floor area" and Subpart C, "Exclusions from allowed floor area." Under the proposed language in Subpart B, the "Planning Commission may approve residential projects greater than 6,000 square feet . . ." when all of five enumerated conditions are met. Among those conditions is "2. The Development will not be visible from any of the established viewing platforms." While this condition may or may not be fair on projects yet to be started, it would be uniquely unfair to Mr. McCarthy and the Property.

The road system at the Property has been constructed by McCarthy Land pursuant to the requirements and approval of the Town. In particular, the Town required McCarthy to elevate the center of the Foster Road cul-de-sac bulb by 5 feet. This increased height of the street required the raising of lots 1, 2, 3 and 6 to match the elevation of Foster Road. Elevating these lots caused them to be more exposed to the valley floor than would otherwise be the case. Moreover, as we have previously pointed out, much of the Property was the location of the buildings of the prior owner, Guadalupe College and thus already substantially graded. See the attached photo of Guadalupe College to remember the service Mr. McCarthy rendered to the Town in removing the large, very visible buildings in the reasonable expectation of being able to

develop the Property. To punish McCarthy for raising the street elevation at the Town's insistence and to disregard the history of the project will mean that he will have no chance of houses greater than 6,000 feet. In light of the very substantial development costs, this would be uniquely and pointedly unfair.

Subpart C has been entirely removed in the pending draft. This subpart had wisely allowed exclusions for such things as cellars, small garages and certain barns and stables. For reasons which are not obvious, the Planning Commission suggests that there be no such exceptions. Each exception is, of course, different and should not be lumped together as is done here. Obviously, barns and stables should be allowed and indeed, encouraged on large parcels of hillside land to foster a rural atmosphere. It is difficult to imagine why cellars should be discouraged in favor of surface improvements which would be the result if the exclusion is successful. Finally, allowing a small garage without penalizing living space encourages putting vehicles out of sight. The proposed exclusions therefor are unwise and may simply be punitive to large parcel development.

We request that the Ordinance be changed or that the Property be "grandfathered" from these provisions of the Ordinance so as to recognize the Property's history, state of development and prior use.

We appreciate your consideration.

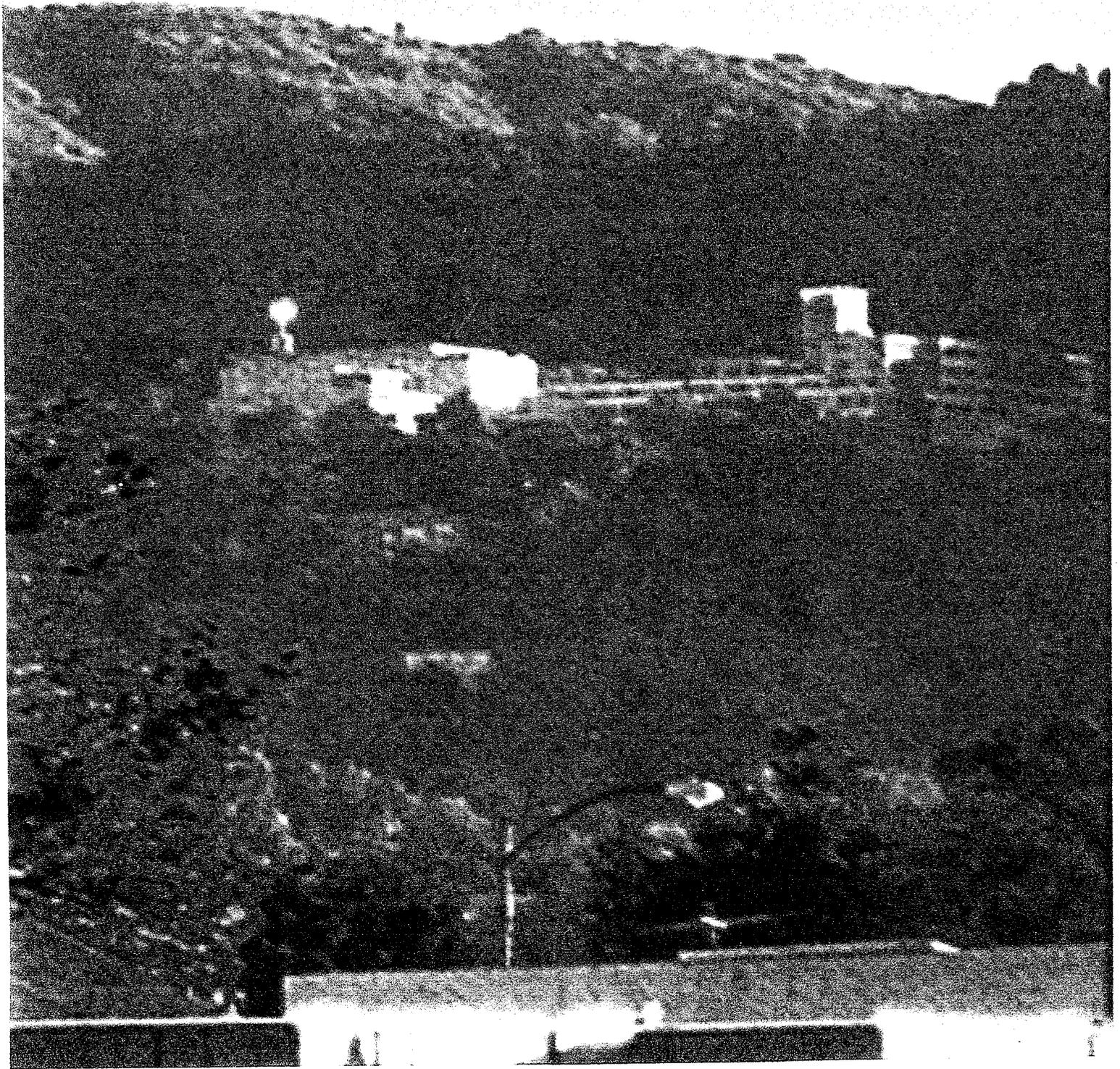
Very sincerely yours,

Thomas P. O'Donnell

TPO:gkw

Enclosure

cc: Jeanne Drexel
Michael Burke
Morriss Trevithick
Philip Micciche
Joanne Talesfore
Lee Quintana
Bud Lortz, Director (via email)
Orry Korb, Esq. (via email)
Joe McCarthy (via email)
Terry Szewczyk (via email)



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RESOLUTION 2003-

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
ADOPTING HILLSIDE DEVELOPMENT STANDARDS & GUIDELINES**

WHEREAS, the Town of Los Gatos desires to update its current Hillside Development Standards, and

WHEREAS, the General Plan Work Plan includes the adoption of hillside design standards and guidelines (Implementing Strategy CD.I.2.1); and a number of related Implementing Strategies including L.I.2.4, L.I.8.5, CD.I.1.13 and CD.I.2.3; and

WHEREAS, adoption of such standards and guidelines will help provide clear direction to developers and homeowners processing development applications (General Plan Implementing Strategy L.I.7.4); and

WHEREAS, adoption of such standards and guidelines will help reduce the bulk, mass and scale of new and remodeled homes in the hillside and help new development blend better with its site; and

WHEREAS, The Architectural Standards/Hillside Committee recommends that the Revised Public Hearing Draft dated December 2003 be adopted; and

WHEREAS, the Planning Commission has held a public hearing and forwarded a recommendation for adoption of the same document;

THEREFORE BE IT RESOLVED: the Town Council of the TOWN OF LOS GATOS does hereby recind Resolution 1998-20.

FURTHER RESOLVED, the Town Council adopts the Hillside Development Standards & Guidelines, attached hereto as Exhibit A. In addition, these standards and guidelines shall be used to review development applications in conjunction with the development standards set forth in the Comprehensive Blossom Hill Open Space Study, dated January 1990. In the event of a conflict, the more restrictive standard or guideline shall apply.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 5th day of January, 2004, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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