

**TOWN OF LOS GATOS  
PLANNING COMMISSION AGENDA  
FEBRUARY 26, 2020  
110 EAST MAIN STREET  
LOS GATOS, CA**

*Melanie Hanssen, Chair  
Kathryn Janoff, Vice Chair  
Mary Badame, Commissioner  
Jeffrey Barnett, Commissioner  
Kendra Burch, Commissioner  
Matthew Hudes, Commissioner  
Reza Tavana, Commissioner*

**PARTICIPATION IN THE PUBLIC PROCESS**

**How to participate:** The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please complete a “speaker’s card” and return it to the Staff Liaison. If you wish to speak to an item NOT on the agenda, you may do so during the “verbal communications” period. The time allocated to speakers may change to better facilitate the Planning Commission meeting.

**Effective Proceedings:** The purpose of the Planning Commission meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Planning Commission meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Commissioners without first being recognized; interrupting speakers, Commissioners or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

**Deadlines for Public Comment and Presentations are as follows:**

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Planning Department by 1 p.m. or the Clerk’s Office no later than 3:00 p.m. on the day of the Planning Commission meeting.
- Persons wishing to submit written comments to be included in the materials provided to the Planning Commission must provide the comments to the Planning Department as follows:
  - For inclusion in the regular packet: by 11:00 a.m. the Friday before the meeting
  - For inclusion in any Addendum: by 11:00 a.m. the Monday before the meeting
  - For inclusion in any Desk Item: by 11:00 a.m. on the day of the meeting

***Planning Commission meetings are broadcast Live on KCAT, Channel 15 (on Comcast) on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays at 7:00 p.m.***

***Live and Archived Planning Commission meetings can be viewed by going to:***

<https://www.kcat.org/government-meetings>

***IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]***

**TOWN OF LOS GATOS  
PLANNING COMMISSION AGENDA  
FEBRUARY 26, 2020  
7:00 PM**

**MEETING CALLED TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**VERBAL COMMUNICATIONS** *(Members of the public may address the Commission on any matter that is not listed on the agenda. Unless additional time is authorized by the Commission, remarks shall be limited to three minutes.)*

**CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)** *(Before the Planning Commission acts on the consent agenda, any member of the public or Commission may request that any item be removed from the consent agenda. At the Chair's discretion, items removed from the consent calendar may be considered either before or after the Public Hearings portion of the agenda)*

1. Approve Planning Commission Minutes of January 8, 2020.

**PUBLIC HEARINGS** *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to the Commission's consent at the meeting.)*

2. Recommend a Preferred Land Use Alternative Framework for the General Plan Update to the Town Council.
3. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations, Town Wide. Town Code Amendment Application A-20-002. Applicant: Town of Los Gatos.
4. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units, Town Wide. Town Code Amendment Application  
A-20-001. Applicant: Town of Los Gatos.

**REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT**

**SUBCOMMITTEE REPORTS / COMMISSION MATTERS**

**ADJOURNMENT** *(Planning Commission policy is to adjourn no later than 11:30 p.m. unless a majority of the Planning Commission votes for an extension of time)*

*Writings related to an item on the Planning Commission meeting agenda distributed to members of the Commission within 72 hours of the meeting are available for public inspection at the reference desk of the Los Gatos Town Library, located at 100 Villa Avenue; the Community Development Department and Clerk Department, both located at 110 E. Main Street; and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Commission at the meeting are available for review in the Town Council Chambers.*

*Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.*



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 02/26/2020

ITEM NO: 1

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**DRAFT  
MINUTES OF THE PLANNING COMMISSION MEETING  
JANUARY 8, 2020**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, January 8, 2020, at 7:00 p.m.

**MEETING CALLED TO ORDER AT 7:00 P.M.**

**ROLL CALL**

Present: Chair Matthew Hudes, Vice Chair Melanie Hanssen, Commissioner Mary Badame, Commissioner Jeffrey Barnett, Commissioner Kendra Burch, Commissioner Kathryn Janoff, and Commissioner Reza Tavana

Absent: None.

**PLEDGE OF ALLEGIANCE**

Commissioner Burch led the Pledge of Allegiance. The audience was invited to participate.

**VERBAL COMMUNICATIONS**

None.

**CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)**

**1. Approval of Minutes – December 11, 2019**

Commissioner Barnett disclosed that he was not a member of the Planning Commission during the December 11, 2019 meeting but was in the audience and was comfortable acting upon the minutes.

**MOTION:** Motion by Commissioner Badame to approve adoption of the Consent Calendar. **Seconded by Commissioner Burch.**

**VOTE:** Motion passed unanimously

Chair Hudes welcomed new Planning Commissier Jeffrey Barnett.



**PUBLIC HEARINGS**

**2. 15365 Santella Court**

Architecture and Site Application S-18-052

APN 527-09-036

Applicant: Hari Sripadanna

Property Owner: Christian and Hellen Olgaard

Project Planner: Erin Walters

Requesting approval for construction of a new single-family residence and removal of large protected trees on a vacant property zoned HR-2½:PD.

Sally Zarnowitz, Planning Manager, presented the staff report.

Opened Public Comment.

Hari Sripadanna, Applicant/Architect

- The property owners envision living in a sustainable, net-zero, green-designed home. The gentle rolling formation of the hills with a sloping and level terrain became the formula for the design. The LRDA lines are on both sides of the property and the site is surrounded by dense, mature tree clusters and a steeper slope that defines the LRDA. Their massing solution takes all this into consideration; as the building goes up the masses are pushed to the back to get the tree screening in the back. The level and cleared areas provide a firetruck turnaround, which is required by the long driveway because of the slope.

David Weissman

- The outdoor fireplace, an open fire source in the middle of an oak woodland under a flammable tree canopy, is not a good idea and should be prohibited. The visibility analysis shows a surface area with 24-percent visibility, close to the threshold of 24.5-percent. There are four trees listed in the tree plan as being both removed and retained and this confusion has carried over into the visibility analysis. This project would create the largest home in the highlands in terms of countable square footage. The applicant has also indicated that the house was moved farther north than indicated on the approved PD development plans to accommodate the fire engine turnaround, then touted the proposed linear footprint as a way to save more trees, but that could be accomplished by designing a smaller house.

Lee Quintana

- The house appears to be designed to fit into the hillside and follow its topography and she believes the below-grade area was used to set the house into the hillside, but not to expand the square footage and increase the grading. She questioned whether the trees meet the 100-foot fire safety requirements. She applauded the fact the house is very

sustainable. She also noted that the visibility is so close to the threshold and wondered if there is a way to reduce that visibility by reducing the tall area of the house. With respect to the house not being in the envelope of the PD, that is to show it is possible to get a house on the site but not necessarily the only place the house could be set on the site. She agreed it would be nice if the house were smaller but acknowledged it is within the parameters of the Hillside Design Guidelines.

Hari Sripadanna, Applicant/Architect

- The Town's staff has completely reviewed the tree analysis and the building square footage and the arborist has verified the tree screening. They are within the allowable area guidelines and have made the calculations the Town has requested. The terrain rises up before the property begins, so anyone seeing it would be a mile away. Tree 669 has been preserved. All the trees they have kept are accounted for and the arborist has verified their heights, canopy, and width. Only a small portion of the building would be seen due to the dark materials used.

Closed Public Comment.

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Badame** to approve an Architecture and Site Application for 15365 Santella Court. **Seconded by Commissioner Tavana.**

Commissioners discussed the matter.

**VOTE:**                    **Motion passed unanimously.**

**3. Town Code Amendments regarding Land Use and Economic Vitality Streaming**

Town Code Amendment Application A-19-010

Project Location: Town Wide

Applicant: Town of Los Gatos

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding land use and economic vitality streamlining.

Sean Mullin, Associate Planner, presented the staff report.

Opened Public Comment.

Bob Caya, representing McCarthy Ranch

- There has been noticeable progress toward the revitalization of downtown Los Gatos due to the temporary resolutions. The minor exterior modifications to commercial buildings resolution allowed them to renovate their existing Highway 9 properties; the new restaurant CUPs resolution has convinced a perspective tenant who previously perceived Los Gatos as having over restricted regulations to come to the town; the restaurant CUP modification allowed Rootstock Wine Bar to modify its CUP to offer live music twice a week, which has been well received. These resolutions have brought real results and will continue to encourage positive developments for the betterment of the Town should they be permanently enacted.

Closed Public Comment.

Commissioners discussed the matter.

**Temporary Resolution 1:**

- **Formula Retail Businesses in the Downtown C-2 Zone.**

**MOTION:** **Motion by Commissioner Burch** to recommend City Council adoption of Temporary Resolution 1: Revision to the Formula Retail Businesses in the Downtown C-2 Zone. **Seconded by Commissioner Janoff.**

Commissioners discussed the matter.

**VOTE:** **Motion passed 5-2 with Chair Hudes and Commissioner Badame opposing.**

**Temporary Resolutions 2 and 3:**

- **Restaurant CUP modifications at the Development Review Committee (DRC).**
- **New restaurant CUPs to be heard at the DRC and suspension of Ordinance 2021.**

Commissioners discussed the matter.

**MOTION:** **Motion by Chair Hudes** to recommend City Council adoption of Temporary Resolutions 2 and 3: Restaurant CUP Modifications at the Development Review Committee (DRC), and New Restaurant CUPs, to be Heard at the DRC and Suspension of Ordinance 2021. **Seconded by Commissioner Badame.**

**VOTE:** **Motion passed unanimously.**

**Temporary Resolution 4:**

- **Minor Exterior Modifications to Commercial Buildings.**

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Badame** to recommend City Council adoption of Temporary Resolution 4: Minor Exterior Modifications to Commercial Buildings. **Seconded by Commissioner Burch.**

**VOTE:**                    **Motion passed unanimously.**

**Temporary Resolution 5:**

- **Group Classes**

Commissioners discussed the matter.

**MOTION:**                    **Motion by Commissioner Badame** to recommend City Council adoption of Temporary Resolution 5: Group Classes with a definition of "group classes" added to the language.

**Chair Hudes requested the motion be amended to include the term "not a school" to the language, because school is covered elsewhere.**

**The Maker of the Motion accepted the amendment to the motion.**

**Seconded by Chair Hudes.**

**VOTE:**                    **Motion passed unanimously.**

**OTHER BUSINESS**

**ELECTION OF CHAIR AND VICE CHAIR**

**MOTION:**                    **Motion by Chair Hudes** to nominate Vice Chair Hanssen as Chair of the Planning Commission. **Seconded by Commissioner Badame.**

**VOTE:**                    **Motion passed unanimously.**

**MOTION:**                    **Motion by Chair Hanssen** to nominate Commissioner Janoff as Vice Chair of the Planning Commission. **Seconded by Commissioner Burch.**

**VOTE:**                    **Motion passed unanimously.**

**REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT**

Joel Paulson, Director of Community Development

- Town Council will hold a strategic priority session on 1/14/20 and a workshop for the General Plan Update on 1/16/20.

**SUBCOMMITTEE REPORTS/COMMISSION MATTERS**

**Conceptual Development Advisory Committee**

Commissioner Badame

- The CDAC met on 1/8/20 and reviewed one item:
  - 14915 Shannon Road

**General Plan Advisory Committee**

Chair Hanssen

- The GPAC met on 12/12/19 and reviewed a Land Use Alternatives Report and will have a follow up meeting once a community workshop has occurred.

**ADJOURNMENT**

The meeting adjourned at 9:18 p.m.

This is to certify that the foregoing is a true  
and correct copy of the minutes of the January 8, 2020  
meeting as approved by the Planning Commission.

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/s/ Vicki Blandin



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 02/26/2020

ITEM NO: 2

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DATE: February 21, 2020  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Recommend a Preferred Land Use Alternative Framework for the General Plan Update to the Town Council.

**RECOMMENDATION:**

Recommend a preferred land use alternative framework for the General Plan update to the Town Council.

**BACKGROUND:**

The Town of Los Gatos is in the process of updating its long range, comprehensive General Plan that looks forward to the year 2040. The Town Council appointed a General Plan Update Advisory Committee (GPAC) consisting of two Council Members, three Planning Commissioners, members of the General Plan Committee, and other residents. The GPAC is advisory to the Planning Commission and Town Council. All GPAC staff reports are available online: [www.losgatosca.gov/13/Agendas-Minutes](http://www.losgatosca.gov/13/Agendas-Minutes)

Key milestones are brought to the Planning Commission for its recommendation(s) to the Town Council. The purpose of this agenda item is for the Planning Commission to consider forwarding the GPAC's recommendation on a preferred land use alternative to the Town Council. This report focuses on the development of the preferred land use alternative through the work of the GPAC.

**DISCUSSION:**

The identification of a preferred land use alternative is an important step in the General Plan update. The preferred alternative becomes the framework for the preparation of the 2040 General Plan Land Use Element and informs the other required Elements, including Open Space, Sustainability, and Mobility. The alternative provides high level guidance regarding the

**PREPARED BY:** Jennifer Armer, AICP  
Senior Planner

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Reviewed by: Planning Manager and Community Development Director

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DISCUSSION (continued):

type and location of land uses, in combination with the Town Vision and Guiding Principles (approved by Town Council on August 20, 2019) to guide the development of General Plan goals, policies, and action items through the conclusion of the update process.

On June 20, 2019, July 18, 2019, and August 15, 2019, the GPAC met to discuss and provide direction for draft land use alternatives. As part of the materials provided for these discussions, the GPAC received an excerpt of the 2020 General Plan land use designations (Exhibit 1), an excerpt of the Background Report, Section 3.3: Existing General Plan Land Use Designations (Exhibit 2), a summary of the Regional Housing Needs Allocation (RHNA) objectives and factors (Exhibit 3), information about Missing Middle Housing (Exhibit 4), and a booklet of housing type examples (Exhibit 5).

In addition, the Town Council approved the Vision and Guiding Principles in August 2019 (Exhibit 6) which also informed the development of the preferred land use alternative.

The GPAC discussed the importance of maintaining the Town's diverse economy, its commercial and industrial businesses, and potential for new enterprises. As such, most of the GPAC discussions and direction focused on how the Town could meet its expected State mandates to plan for significant amounts of new housing in a way that would implement the Town Vision and Guiding Principles for the Town's General Plan 2040. The specific goal, as determined by the GPAC, was to provide 2,000 new residential units.

On December 12, 2019, the GPAC met to discuss the proposed land use alternatives and provide guidance on an upcoming Community Workshop. The consultants put forward four land use alternative concepts (A, B, C, and D) designed to accommodate future housing growth. The description and analysis of the alternatives was provided to the GPAC in a Land Use Alternatives Report (available online: [www.losgatos2040.com/documents.html](http://www.losgatos2040.com/documents.html)).

The four alternatives vary based on certain assumptions, including height, density, and the redevelopment rate for each of the land use designations included in the analysis. In addition, the consultant identified seven opportunity areas where there is capacity to accommodate additional residential density due to the proximity of commercial services and/or employment centers to support additional development. The allowed density and redevelopment rates are set at a higher level for properties within the opportunity areas.

As described in the Land Use Alternatives Report, the preferred land use alternative could be one of the four alternatives described in the report (Alternatives A, B, C, or D), or could be a combination of features from several alternatives.

On January 16, 2020, the Town hosted the second Community Workshop for the General Plan update process. The Community Workshop was held to inform the community about the

DISCUSSION (continued):

General Plan update process and obtain feedback regarding the land use alternatives. A summary of the Community Workshop and online feedback collected over the following two weeks is included as Exhibit 10.

On January 30, 2020, the GPAC met to develop a preferred land use alternative recommendation. The Committee received a comparison table of the four land use alternatives (Exhibits 7, 8, and 9) to assist with its deliberations.

The GPAC had a robust discussion regarding the alternatives and the implications for development within Los Gatos. The Committee eliminated Alternatives A and D from consideration because A did not achieve the housing target and D was too aggressive. Major features of the discussion included:

- The need to meet the housing target by providing opportunities for a variety of housing strategies;
- The density range for the Low Density Residential land use designation;
- Compatible interface of development on major corridors with adjacent neighborhoods;
- Whether an entire opportunity area had redevelopment potential;
- Historic preservation;
- The additional regulatory controls in the Town's Zoning Code that would work in concert with implementation of the General Plan to maintain the Town's urban form in existing residential neighborhoods; and
- Opportunities for mixed use in downtown.

The GPAC passed a motion (7-2 with Quintana and Rosenberg opposed, and Burch and Jarvis absent) to recommend Alternative C as a framework for the General Plan update with the addition of downtown as an eighth opportunity area. The General Plan update consultants have created a description of the recommended GPAC land use alternative framework (Exhibit 11).

The GPAC recommendation is a logical outcome of the Committee's discussions and consideration of the approved Vision and Guiding Principles. The overarching framework provides Los Gatos with more housing opportunities and a menu of housing strategies. In this way, particular housing types would be available to and appropriate in certain geographic locations. For example, a duplex could be accommodated within the "shell" of an existing single-family home in a predominately single-family neighborhood, while vertical mixed use development might be more fitting for commercial corridors, such as Los Gatos Boulevard.

This approach maintains the unique character of Los Gatos, its historic neighborhoods, and business areas while creating opportunities to adapt to State requirements, create housing



DISCUSSION (continued):

choices for seniors, millennials, and others to live in Town, and better integrate land use and transportation.

The preferred alternative is a framework. As the GPAC works on the Land Use Element and other content of the General Plan update, the GPAC may refine the specific application of height and density increases within and outside the identified Opportunity Areas.

CONCLUSION:

Based on the recommendation of the GPAC, staff recommends that the Planning Commission review the GPAC recommended preferred land use alternative framework included as Exhibit 11 and forward a recommendation to the Town Council for approval.

ALTERNATIVES:

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the GPAC recommended preferred land use alternative framework with modifications; or
2. Forward a recommendation to the Town Council for a different land use alternative; or
3. Continue the matter to a date certain with specific direction.

PUBLIC COMMENTS:

No written public comments have been received.

PUBLIC OUTREACH:

The Los Gatos General Plan update process has so far included the following outreach activities and other opportunities for community participation:

- All-hands kick-off meeting (August 23, 2018)
- Launch of the General Plan update website: losgatos2040.com (early September 2018)
- EngagementHQ (Topics and surveys opened October 1, 2018)
- Newsletter #1 General Plan Overview (October 1, 2018)
- Community Workshop #1: Assets, Issues, Opportunities, and Vision (October 17, 2018)
- GPAC Meeting #1 (October 30, 2018)
- GPAC Meeting #2 (December 11, 2018)
- Democracy Tent Presentation (March 14, 2019)
- Background Report (March 15, 2019)

PUBLIC OUTREACH (continued):

- Newsletter #2: Background Report Summary (March 20, 2019)
- Spring into Green Booth (April 14, 2019)
- GPAC Meeting #3 (April 23, 2019)
- GPAC Meeting #4 (April 30, 2019)
- GPAC Meeting #5 (May 23, 2019)
- GPAC Meeting #6 (June 20, 2019)
- Planning Commission Meeting on Vision Statement and Guiding Principles (July 10, 2019)
- GPAC Meeting #7 (June 18, 2019)
- GPAC Meeting #8 (August 15, 2019)
- Town Council Meeting on Vision Statement and Guiding Principles (August 20, 2019)
- Land Use Alternatives Report (December 2019)
- GPAC Meeting #9 (December 12, 2019)
- Community Workshop #2: Land Use Alternatives (January 16, 2019)
- GPAC Meeting #10 (January 30, 2020)

Additional outreach activities have included informational booths at the Farmers Market, the Library, and Music in the Park during Summer 2019.

CEQA:

The Planning Commission's recommendation to the Town Council has no effect on the environment and is not subject to the California Environmental Quality Act (CEQA). A final decision on the preferred land use alternative will be considered as part of the approval of the 2040 General Plan. An Environmental Impact Report will be prepared as part of the General Plan update process.

EXHIBITS:

1. 2020 General Plan Land Use Designations
2. Background Report Section 3.3: Existing General Plan Land Use Designations
3. RHNA Objectives and Factors
4. Missing Middle Housing Information
5. Booklet of Housing Type Examples
6. Council Approved Vision and Guiding Principles
7. Master Land Use Alternatives Comparison Table
8. Opportunity Area Dwelling Units by Alternatives Comparison Table
9. Assumptions, Development Standards, and Net New Dwelling Unit Comparison Table
10. Community Workshop #2 Summary
11. GPAC Recommended Preferred Land Use Alternative Summary

playgrounds and neighborhood parks, country clubs, and natural open spaces. After Residential – Single Family land use, Open Space/Recreation comprises the second highest percentage of total land in Los Gatos. There are approximately 1,624 acres of open space in the Town and approximately 2,218 acres in the SOI. Much of this acreage is contained in four large facilities: St. Joseph's Hill and Sierra Azul Open Space to the south of Los Gatos, and Vasona Lake County Park and La Rinconada Country Club to the north.

#### **10. Vacant**

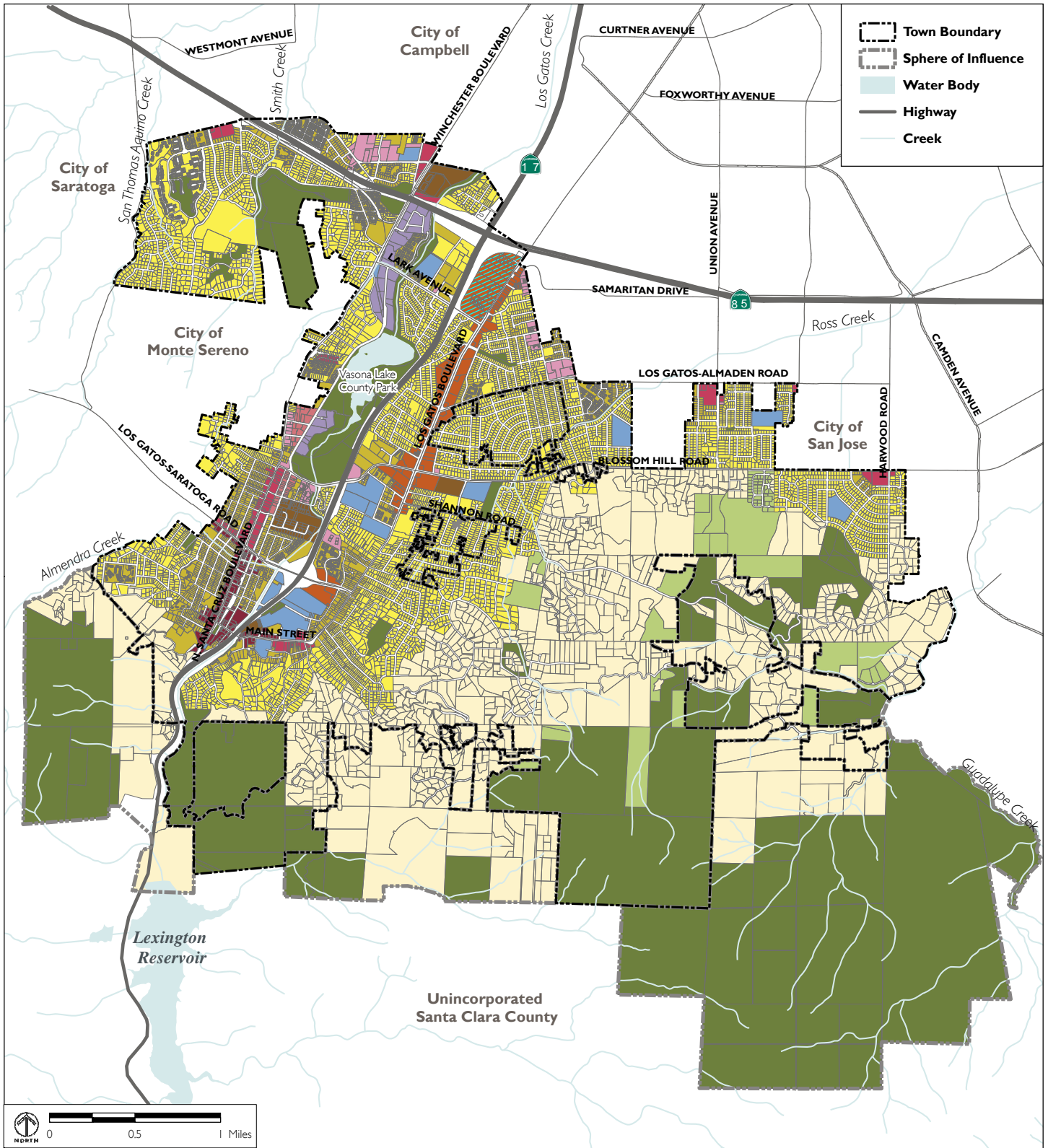
Approximately 292 acres within the Town are vacant parcels of varying sizes that are scattered throughout the Town. Most of the vacant acreage in Los Gatos is located in the single-family residential area on the eastern side of the Town. Parcels here are generally larger than they are elsewhere in Los Gatos, and a number of significantly sized parcels are vacant. Generally, vacancies are more common in residential areas of Los Gatos than in commercial areas, although a few small, isolated commercial vacancies exist. Additionally, the SOI contains approximately 107 acres of vacant property.

### ***E. General Plan Land Use Designations***

The Land Use Element is the basis for physical development in Los Gatos. The land use map and designations identify the general location, density, and extent of land available for residential and non-residential uses. Land use designations do not necessarily reflect the existing land use of each parcel. Figure LU-3 presents a map of the land use designations in Los Gatos. Each land use designation is listed and described below.

#### **1. Residential Land Use Designations**

This section provides a brief description of each residential land use designation and the desirable range of density for each designation.



Source: Town of Los Gatos, 2008; Santa Clara County Office of the Assessor, 2008.

<b>General Plan Land Use</b>	<b>High Density Residential</b>	<b>Service Commercial</b>	<b>Agriculture</b>
<b>Hillside Residential</b>	<b>Mixed-Use Commercial</b>	<b>Office Professional</b>	<b>Open Space</b>
<b>Low Density Residential</b>	<b>Central Business District</b>	<b>Light Industrial</b>	<b>North Forty Specific Plan Overlay</b>
<b>Medium Density Residential</b>	<b>Neighborhood Commercial</b>	<b>Public</b>	

FIGURE LU-3

- a. Hillside Residential: 0-1 dwelling units per net acre

Up to 3.5 persons per acre

The Hillside Residential designation provides for very low density, rural, large lot or cluster, single-family residential development. This designation allows for development that is compatible with the unique mountainous terrain and vegetation of parts of Los Gatos.

- b. Low Density Residential: 0-5 dwelling units per net acre

Up to 17.5 persons per acre

The Low Density Residential designation provides for single-family residential properties located on generally level terrain. It encourages single-family residential development in either the standard development established by traditional zoning or by innovative forms obtained through planned development.

- c. Medium Density Residential: 5-12 dwelling units per net acre

Up to 24 persons per acre

The Medium Density Residential designation provides for multiple-family residential, duplex, and/or small single-family homes.

- d. High Density Residential: 12-20 dwellings per net acre

Up to 40 persons per acre

The High Density Residential designation provides for more intensive multi-family residential development. Its objective is to provide quality housing in close proximity to transit or a business area.

- e. Mobile Home Park: 5-12 dwellings per net acre

Up to 24 persons per acre

The Mobile Home Park designation provides for mobile home parks. The intent is to provide and preserve Mobile Home Parks as a source of affordable housing. This designation is described in this Element; however, it is not represented on the accompanying General Plan Land Use Map.

## 2. Non-Residential Land Use Designations

For non-residential land uses, the specific uses mentioned are illustrative, and other compatible uses, including those authorized in any other Zoning District within the Town, may be permitted where authorized by a Conditional Use Permit or Planned Development Overlay Zone. In a mixed-use project residential uses may be permitted in conjunction with other permitted uses in non-residential Zoning Districts with the exception of the Commercial Industrial and Controlled Manufacturing Zoning Districts. For non-residential land uses, building intensity limits are indicated by either allowable land coverage or floor area ratio(FAR) and a maximum height limit.

- ◆ Office Professional: Up to 50 percent land coverage with a 35-foot height limit

The Office Professional designation provides for professional and general business offices. This designation applies to various locations throughout the Town, often in close proximity to neighborhood- or community-oriented commercial facilities, or as a buffer between commercial and residential uses. The intent of this designation is to satisfy the community's need for general business and professional services and local employment.

- ◆ Central Business District: 0.6 FAR with a 45-foot height limit

The Central Business District designation applies exclusively to the downtown and accomplishes the following:

- ◆ Encourages a mixture of community-oriented commercial goods, services and lodging unique in its accommodation of small-town style merchants and maintenance of small-town character.
- ◆ Maintains and expands landscaped open spaces and mature tree growth without increasing setbacks.
- ◆ Integrates new construction with existing structures of historical or architectural significance and emphasizes the importance of the pedestrian.

- ◆ Mixed-Use Commercial: Up to 50 percent land coverage with a 35-foot height limit

The Mixed-Use Commercial designation permits a mixture of retail, office, and residential in a mixed-use project, along with lodging, service, auto-related businesses, non-manufacturing industrial uses, recreational uses, and restau-

rants. Projects developed under this designation shall maintain the small-town, residential scale and natural environments of adjacent residential neighborhoods, as well as provide prime orientation to arterial street frontages and proper transitions and buffers to adjacent residential properties. This designation should never be interpreted to allow development of independent commercial facilities with principal frontage on the side streets.

- d. Neighborhood Commercial: Up to 50 percent land coverage with a 35-foot height limit

The Neighborhood Commercial designation provides for necessary day-to-day commercial goods and services required by the residents of the adjacent neighborhoods. This designation encourages concentrated and coordinated commercial development at easily accessible locations.

- e. Service Commercial: Up to 50 percent land coverage with a 35-foot height limit

The Service Commercial designation provides for service businesses necessary for the conduct of households or businesses. These include auto repair, building materials sales, paint suppliers, janitorial services, towing businesses, contractors offices and yards, launderers and dry cleaners, as well as wholesaling and warehousing activities.

- f. Light Industrial: Up to 50 percent land coverage with a 35-foot height limit

The Light Industrial designation provides for large-scale office developments and well-controlled research and development, industrial-park-type and service-oriented uses subject to rigid development standards. These uses should respond to community or region-wide needs.

- g. Public

The Public designation identifies public facilities in the Town such as the Civic Center, courthouse, schools, parks, libraries, hospitals, churches, and fire stations.

h. Agriculture

The Agricultural designation identifies areas for commercial agricultural crop production.

i. Open Space

The Open Space designation identifies the location of public parks, open space preserves, private preserves, and stream corridors.

*F. Special Planning Areas*

Development in Los Gatos can be targeted to achieve a more specific outcome by designating specific overlay zones and special planning areas. These areas have more detailed development guidelines that remain consistent with existing policies. Los Gatos has three overlay zones that implement land use policies through the Town Code, five Historic Districts, three Specific Plans, and one Redevelopment Project Area.

1. Overlay Zones

There are three overlay zones in the Town Code, the Landmark and Historic Preservation, Planned Development, and Public School Overlay Zones.

- ◆ **Landmark and Historic Preservation (LHP) Overlay Zone.** This zone is designated by Town Council and is applied to individual sites and structures or small areas deemed of architectural and/or historical significance. The structure(s) in LHP overlays are subject to special standards regarding their appearance, use, and maintenance.
- ◆ **Planned Development (PD) Overlay Zone.** The PD overlay zone is intended to ensure orderly planning and quality design that will be in harmony with the existing or potential development of the surrounding neighborhood. The Planned Development Overlay is a specially tailored development plan and ordinance which designates the zoning regulations for the accompanying project, sets specific development standards, and ensures that zoning and the General Plan are consistent. Commercial,



residential or industrial property or a mixture of these uses may be considered for a Planned Development Overlay.

- ◆ **Public School (PS) Overlay Zone.** The PS overlay zone is intended to allow school buildings to be used, without extensive exterior modifications, in ways which will make it unnecessary to sell school facilities. The overlay permits a variety of community-related and education-related uses, including, but not limited to, museums, community centers, playgrounds, and nursery schools. Any land owned by a public school district (regardless of underlying zone) may be zoned PS.

## 2. Historic Districts

The Town has established five historic districts to preserve neighborhoods deemed significant to the history of Los Gatos.

- ◆ **Almond Grove Historic District.** An approximately 40-acre area that constitutes the largest subdivision following incorporation of the Town of Los Gatos. This District was established by ordinance in 1980.
- ◆ **Broadway Historic District.** An approximately 100-acre area that is the site of the first residential subdivision and first residential street in the Town of Los Gatos. This District was established by ordinance in 1985.
- ◆ **Los Gatos Historic Commercial District.** Bounded by Elm Street to the north, Main Street to the south, Los Gatos Creek to the east, and North Santa Cruz Avenue to the west. The Town's only concentration of intact historic commercial buildings. It was established by ordinance in 1991.
- ◆ **Fairview Plaza Historic District.** Limited to the cul-de-sac termination of Fairview Plaza, part of an historic subdivision originally surveyed in 1885 known as the "Fairview Addition." The District retains the same configuration as originally mapped and contains a rare collection of Victorian and Craftsman homes, unique in their compact scale and proximity to one another. This District was established by ordinance in 1992.
- ◆ **University/Edelen Historic District.** Bounded by Saratoga Avenue to the north, Main Street to the south, Los Gatos Creek to the east, and the

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### 3.3 Existing General Plan Land Use Designations

The Los Gatos General Plan guides how land in the Town may be developed and used by designating each parcel of land for a particular use or combination of uses, as well as, by establishing broad development policies. Land use designations identify both the types of development (e.g., residential, commercial, industrial) that are permitted and the density or intensity of allowed development, such as the minimum or maximum number of housing units permitted on an acre of land, or the amount of building square footage allowed. This section identifies existing general plan land use designations, as outlined in the Town of Los Gatos 2020 General Plan.

#### Major Findings

- Hillside residential is the most common land use, accounting for approximately 40.0 percent (4257.1 acres) of the total land designated in the existing 2020 General Plan.
- Open space represents 28.9 percent (3091.2 acres) of the current 2020 General Plan land use area. Four large tracts in the southern half of the SOI account for a majority of open space land.
- Low-density residential is the third largest land use in the Town, accounting for 17.7 percent (1890.3 acres) of the total 2020 General Plan land use area.
- Commercial uses (Office, Neighborhood Commercial, Mixed-Use Commercial, Service Commercial, Central Business District, and Light Industrial) make up 3.4 percent (362.2 acres) of the land use area designated in the 2020 General Plan.

#### Existing Conditions

The 2020 General Plan includes 15 land use designations, which are relatively broad and intended to indicate the general type of activity that may occur on a site. Figure 3.3-1 shows the land use designations throughout the Town. Table 3.3-1 shows the total acreage per land use designation.

The 2020 General Plan designations, as described in the Land Use Element, are summarized below.

#### Hillside Residential District

The purpose of this designation is to allow for very-low density, rural, large lot, or cluster, single-family residential development that is compatible with the mountainous parts of the Town.

##### *Density/Intensity*

- Up to one dwelling unit per net acre
- Up to 3.5 persons per acre

#### Low-Density Residential

The purpose of this designation is to allow for low-density single-family residential development formed through standard zoning or through planned development.

##### *Density/Intensity*

- Up to five dwelling units per net acre
- Up to 17.5 persons per acre

#### Medium-Density Residential

The purpose of this designation is to allow for multi-family residential, duplex, and/or small single-family homes.

##### *Density/Intensity*

- Up to five to 12 dwelling units per net acre
- Up to 24 persons per acre

### High-Density Residential

The purpose of this designation is to allow for intensive multi-family residential and to provide quality business and transit-oriented development.

#### ***Density/Intensity***

- Up to 12 to 20 units per net acre
- Up to 40 persons per acre

### Mobile Home Park

The purpose of this designation is to allow for affordable housing within mobile home parks. This designation is not represented on the 2020 General Plan Land Use Map.

#### ***Density/Intensity***

- Five to 12 dwelling units per acre
- Up to 24 persons per acre

### Office Professional

The purpose of this designation is to allow for professional and general business office uses. This designation applies to various locations throughout the Town. Locations are often near neighborhood or commercial-orientated facilities or serve as a buffer between commercial and residential uses. The intent of the designation is to meet community needs for general business and commercial services and provide local employment.

#### ***Density/Intensity***

- Up to 50 percent land coverage
- 35-foot height limit

### Neighborhood Commercial

The purpose of this designation is to allow for necessary day-to-day goods and services within close proximity of neighborhoods. This designation encourages concentrated and coordinated commercial development at easily accessible locations.

#### ***Density/Intensity***

- 50 percent land coverage
- 35-foot height limit

### Mixed-Use Commercial

The purpose of the Mixed-Use designation is to provide for a combination of residential, office, retail, commercial, non-manufacturing industrial, and recreation uses. This designation is for sites that are centrally located in Town and will not conflict with existing land uses.

#### ***Density/Intensity***

- 50 percent land coverage
- 35-foot height limit

### Service Commercial

The purpose of this designation is to allow for service-oriented businesses. Types of businesses allowed include auto repair, building materials sales, paint suppliers, janitorial services, towing businesses, contractors offices and yards, launderers and dry cleaners, as well as wholesaling and warehousing activities.

#### ***Density/Intensity***

- 50 percent land coverage
- 35-foot height limit

### Central Business District

The purpose of this designation is to encourage a mixture of community-orientated commercial goods and services within the downtown. This designation applies exclusively to the downtown, with the goal to accommodate and retain small-town merchants and preserve the Town's character. The District shall maintain and expand open spaces and mature tree growth without increasing setbacks, as well as, integrate new construction with existing structures of archeological and historical significance.

#### ***Density/Intensity***

- 0.6 FAR
- 45-foot height limit

### Light Industrial

The purpose of this designation is to allow for large-scale office developments, well-controlled research and development facilities, industrial parks and service-oriented uses subject to rigid development standards. These uses shall respond to the community and regional-wide needs.

#### ***Density/Intensity***

- Up to 50 percent land coverage
- 35-foot height limit.

### Public

The purpose of this designation is to allow for public facilities within the Town such as the Civic Center, courthouse, schools, parks, libraries, hospitals, churches, and fire stations.

### Agriculture

The purpose of this designation is to allow for commercial agricultural crop production.

### Open Space

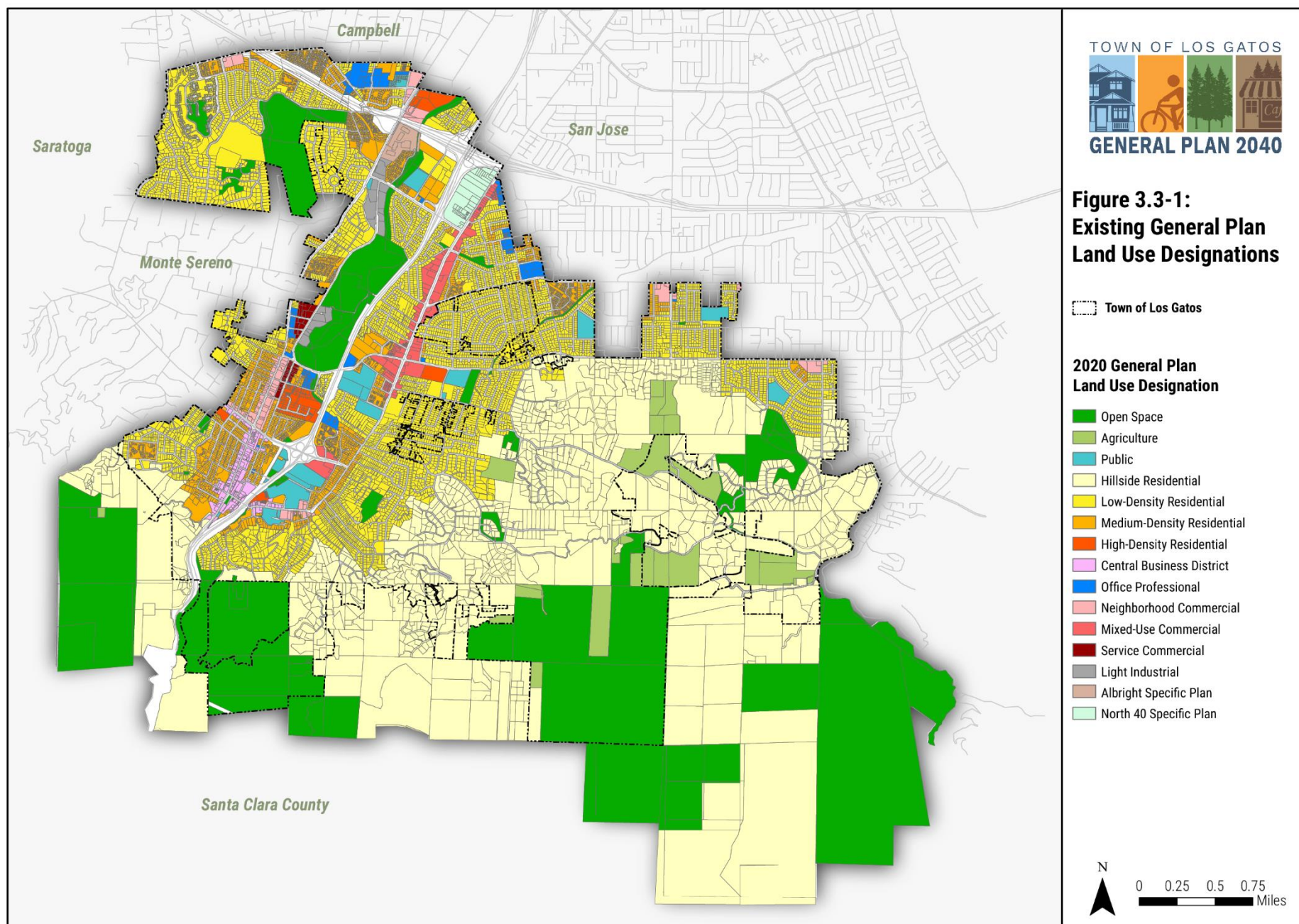
The purpose of this designation is to allow for public parks, open space preserves, private preserves, and stream corridors.

### Albright Specific Plan

The purpose of this designation is to provide land for the Albright Specific Plan as described in Section 3.5.

### North 40 Specific Plan

The purpose of this designation is to provide land for the North 40 Specific Plan as described in Section 3.5.



**Table 3.3-1 General Plan Land Use Designation Summary**

Land Use Designation		Density/Intensity	Acres	Percent of Total
<b>HR</b>	Hillside Residential	0-1 du/ac	4257.07	39.91%
<b>LDR</b>	Low-Density Residential	0-5 du/ac	1890.35	17.72%
<b>MDR</b>	Medium-Density Residential	5-12 du/ac	514.45	4.82%
<b>HDR</b>	High-Density Residential	12-20 du/ac	60.29	0.57%
<b>MHP<sup>1</sup></b>	Mobile Home Park	5-12 du/ac	0.00	0.00%
<b>O</b>	Office Professional	Up to 50 percent land coverage 35-foot height limit	65.05	0.61%
<b>NC</b>	Neighborhood Commercial	Up to 50 percent land coverage 35-foot height limit	68.32	0.64%
<b>MUC</b>	Mixed-Use Commercial	Up to 50 percent land coverage 35-foot height limit	100.11	0.94%
<b>SC</b>	Service Commercial	Up to 50 percent land coverage 35-foot height limit	17.93	0.17%
<b>CBD</b>	Central Business District	0.6 FAR 45-foot height limit	48.50	0.45%
<b>LI</b>	Light Industrial	Up to 50 percent land coverage 35-foot height limit	39.91	0.37%
<b>P</b>	Public	N/A	135.40	1.27%
<b>A</b>	Agriculture	N/A	311.88	2.92%
<b>OS</b>	Open Space	N/A	3088.56	28.96%
<b>A SP</b>	Albright Specific Plan		24.99	0.23%
<b>NF SP</b>	North 40 Specific Plan	0-20	43.70	0.41%
<b>Total</b>			<b>10666.51</b>	<b>100.00%</b>

Source: Town of Los Gatos, 2018; Mintier Harnish, 2018.

<sup>1</sup> The Town of Los Gatos has two mobile home parks that are designated Medium-Density Residential in the 2020 General Plan. The mobile home parks are currently not designated Mobile Home Park in the current General Plan as noted above in Table 3.1-1. The underlying zoning for both mobile home parks is Mobile Home Park Residential Zone (RMH) shown in Table 3.3-2.

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## **RHNA Objectives and Factors**

### **Summary of RHNA Objectives** *(from Government Code §65584(d) and (e))*

The regional housing needs allocation plan shall further all of the following objectives:

- (1) Increase housing supply and mix of housing types, tenure, and affordability all cities and counties within the region in an equitable manner
- (2) Promote infill development and socioeconomic equity, protect environmental and agricultural resources, encourage efficient development patterns, and achieve GHG reduction targets
- (3) Promote improved intraregional jobs-housing relationship, including balance between low-wage jobs and housing units affordable to low-wage workers in each jurisdiction
- (4) Balance disproportionate household income distributions (more high-income RHNA to lower-income areas and vice-versa)
- (5) Affirmatively further fair housing

### **Summary of RHNA Factors** *(from Government Code §65584.04(d))*

- (1) Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing
- (2) Lack of capacity for sewer or water service due to decisions outside the jurisdiction's control.
- (3) The availability of land suitable for urban development.
- (4) Lands protected from urban development under existing federal or state programs
- (5) County policies to preserve prime agricultural land.
- (6) The distribution of household growth assumed for regional transportation plans and opportunities to maximize use of public transportation and existing transportation infrastructure.
- (7) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county
- (8) The loss of units in assisted housing developments as a result of expiring affordability contracts.
- (9) The percentage of existing households paying more than 30 percent and more than 50 percent of their income in rent.
- (10) The rate of overcrowding.
- (11) The housing needs of farmworkers.
- (12) The housing needs generated by the presence of a university within the jurisdiction.
- (13) The loss of units during a state of emergency that have yet to be rebuilt or replaced at the time of the analysis.
- (14) The region's greenhouse gas emissions targets provided by the State Air Resources Board.



Content from <https://missingmiddlehousing.com/about>

# What is Missing Middle Housing?

Opticos Design founder Daniel Parolek inspired a new movement for housing choice in 2010 when he coined the term “Missing Middle Housing,” a transformative concept that highlights a time-proven and beloved way to provide more housing and more housing choices in sustainable, walkable places.

## Missing Middle Housing:

House-scale buildings  
with multiple units  
in walkable neighborhoods

These building types, such as duplexes, fourplexes and bungalow courts, provide diverse housing options to support walkable communities, locally-serving retail, and public transportation options. We call them “Missing” because they have typically been illegal to build since the mid-1940s and “Middle” because they sit in the middle of a spectrum between detached single-family homes and mid-rise to high-rise apartment buildings, in terms of form and scale, as well as number of units and often, affordability.



*Missing Middle Housing is primarily about the form and scale of these buildings, designed to provide more housing choices in low-rise walkable neighborhoods, although it also tends to be more affordable than other new housing products currently being built.*

And while they are “missing” from our new building stock, these types of buildings from the 1920s and 30s are beloved by many who have lived in them. Ask around, and your aunt may have fond memories of living in a fourplex as a child, or you might remember visiting your grandmother as she grew old in a duplex with neighbors nearby to help her out. And today, young couples, teachers, single, professional women and baby boomers are among those looking for ways to live in a walkable neighborhood, but without the cost and maintenance burden of a detached single-family home. Missing Middle Housing helps solve the mismatch between the available U.S. housing stock and shifting demographics combined with the growing demand for walkability.

We need a greater mix of housing types to meet differing income and generational needs. This is where Missing Middle Housing can change the conversation.”

— Debra Bassert, National Association of Home Builders

Opticos Design is driving a radical paradigm shift, urging cities, elected officials, urban planners, architects and builders to fundamentally rethink the way they design, locate, regulate, and develop homes. Americans want and need more diverse housing choices in walkable neighborhoods; homes that are attainable, sustainable, and beautifully designed.

This website is designed to serve as a collective resource for elected officials, planners and developers seeking to implement Missing Middle projects. You will find clear definitions of the types of housing that are best for creating walkable neighborhoods, as well as information on the unifying characteristics of these building types. You’ll also find information on how to integrate Missing Middle Housing into existing neighborhoods, how to regulate these building types, and pin-point the market demographic that demands them.

“If there’s one thing Americans love, it’s choices: what to eat, where to work, who to vote for. But when it comes where we live or how to get around, our choices can be limited. Many people of all ages would like to live in vibrant neighborhoods, downtowns, and Main Streets—places where jobs and shops lie within walking distance—but right now those places are in short supply. ‘Missing Middle’ Housing provides more housing choices. And when we have more choices, we create living, thriving neighborhoods for people and businesses.

— Lynn Richards, President and CEO of the Congress for the New Urbanism

# What does the market want?

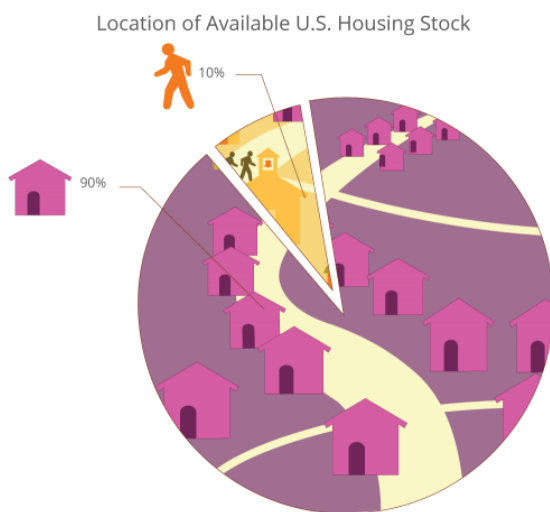
## Demand for Housing Choice

A greater variety of household sizes and demographics require a greater variety of housing choices.

Young, highly educated, technology-driven **millennials** desire mobile, walkable lifestyles. They are willing to exchange space for shorter commutes, mixed-use neighborhoods, and shared open spaces that foster community interaction.

At the same time, **baby boomers** are working and living longer. They want to stay mobile and active in their later years, but they won't drive forever and don't want to be dependent on their family members to get around. They also want to find ways to stay in their community without having to care for a large home and yard.

**Multigenerational** homes have increased by 17% since 1940, and that number continues to rise. The growing senior population, more families with multiple working parents, diverse family cultures, and an increased desire to live in intergenerational neighborhoods all contribute to the growing demand for multigenerational and even multi-family households. Affluent seniors seek to downsize from their large suburban homes to more convenient, easy-to-care-for townhouses, apartments, or condos, while others need quality, affordable housing that won't break their limited budget. Many retirees would like to move close to, but not live with, their children and grandchildren.



The growing demand for a walkable lifestyle has the potential to transform sprawling suburbs into walkable communities.

*90% of available housing in the U.S. is located in a conventional neighborhood of single-family homes, adding up to a 35 million unit housing shortage. Source: Dr. Arthur C. Nelson, "Missing Middle: Demand and Benefits," Utah Land Use Institute conference, October 21, 2014.*

## Walkable and Accessible Amenities

Up to 85% of households will be childless by 2025.

“This country is in the middle of a structural shift toward a walkable urban way of living. After 60 years of almost exclusively building a drivable suburban way of life ... the consumer is now demanding the other alternative,” wrote Christopher Leinberger in the *New York Times* article [“Car-Free in America? Bottom Line: It’s Cheaper.”](#)

By 2020, 34% of all American households will consist of a single person, and many of these will be women, or older persons. By 2025, up to 85% of households will be childless as millennials choose to marry later and have fewer children and the number of empty nester households continues to grow.

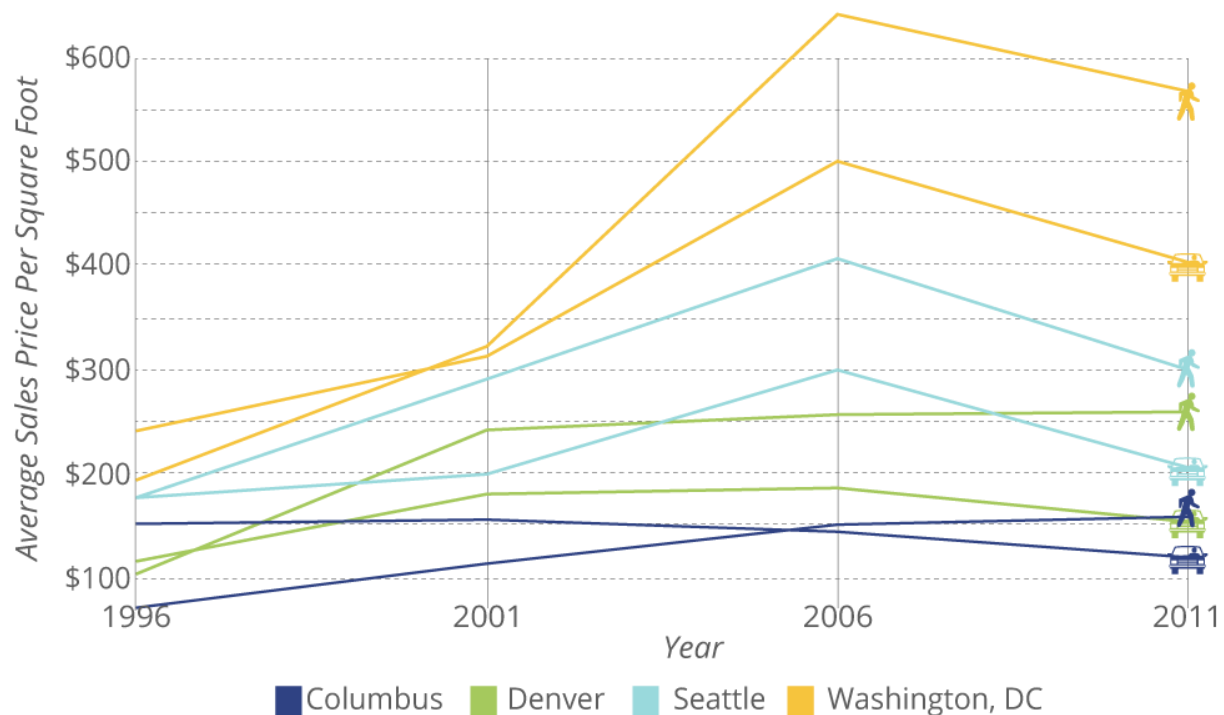
Housing trends show singles demand more amenities, and women and older persons who live alone generally seek housing options that offer better security. They also drive less, reducing the need for off-street parking in private garages or lots, and increasing the need for accessible public transportation.

“The present economic research finds that business wants talent, but talent wants place—so more businesses are relocating to places. When drilled further the research finds Missing Middle Housing is the fastest growing preference because it has the ‘place’ quality talent seeks. Hence development of Missing Middle is now recognized as a housing AND economic development strategy.”

— James Tischler, Michigan State Housing Development Authority

According to the National Association of Realtors, walkability is fast becoming one of the most important factors in choosing where to live. People want of all ages want easy access to amenities such as stores, businesses, cultural center, and transit. Homebuyers are seeking locations within walking distance to shopping, cultural amenities, jobs, and open space and the value of homes in these types of neighborhoods has increased at a much faster pace than homes in driveable suburban neighborhoods. “In a scenario where two houses are nearly identical, the one with a five-foot-wide sidewalk and two street trees not only sells for up to \$34,000 more, but it also sells in less time,” wrote J. Cortright, in CEOs for Cities’ [Walking the Walk: How Walkability Raises Home Values in U.S. Cities](#). But, as the chart at the right shows, now you don’t have to live in a dense urban center to live a walkable lifestyle. Some 70% of upcoming, walkable places in Washington D.C. are quaint neighborhoods located outside of the urban core.

## Home Price Comparison Walkable vs. Drivable Neighborhoods



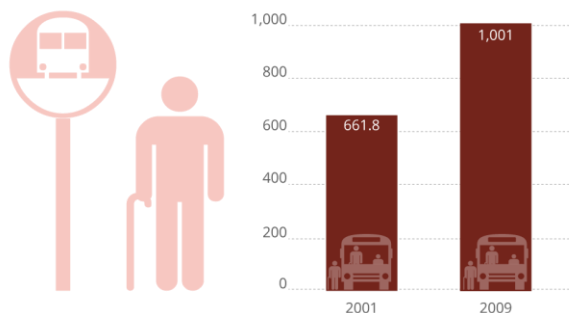
70% of walkable places in Washington D.C. are located outside the urban core.

## Variety of Transportation

Accessibility to useful multimodal transit—public transportation, bike friendly streets, and car share—is needed by baby boomers and desired by millennials. But there is an economic argument, too.

“American families who are car-dependent spent 25% of their household income on their fleet of cars, compared to just 9% for transportation for those who live in walkable urban places,” [says Leinberger](#).

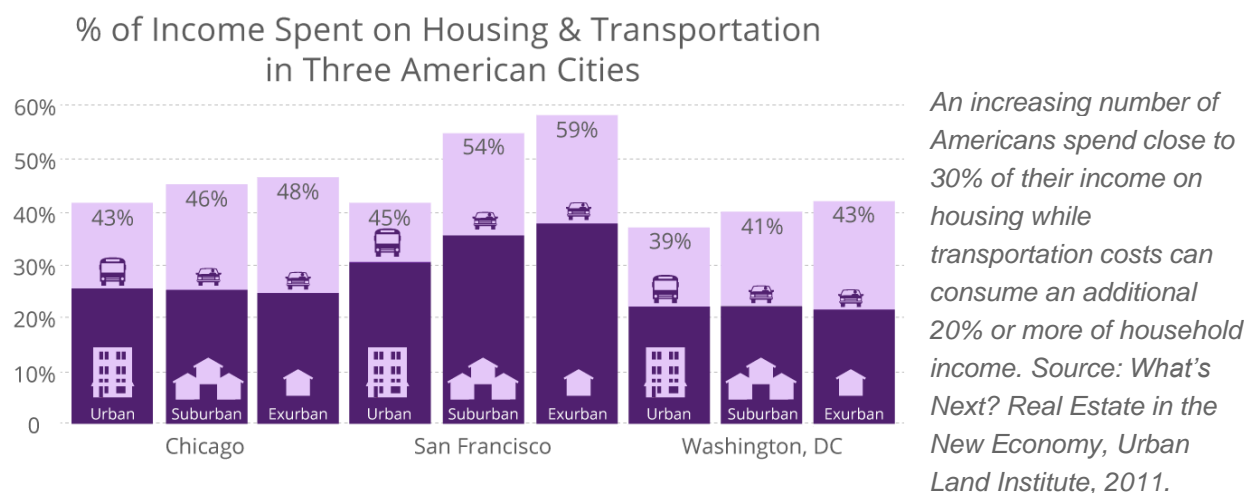
Trips by Seniors on Public Transportation in the U.S.



Walkable neighborhoods are now a top priority for seniors, along with access to transportation, and connectivity. Source: *What's Next? Real Estate in the New Economy*, Urban Land Institute, 2011; *Transportation for America*.

The same is true for bike friendly cities. According to the [Livable Street Alliance](#), as reported on the [AARP Livability Fact Sheet](#), the average American household spends more than \$8,000 a year on cars while the cost to maintain a bicycle is only about \$300 per year. These savings, which could amount into the billions if trends were widely adopted, could be reinvested into transit-oriented development and infrastructure, education, and health care.

Cities and property owners benefit from less car dependent zoning too. “An off-street parking space costs between \$3,000 and \$27,000 to build, and about \$500 a year to maintain and manage. On-street parking is more efficient and can bring in as much as \$300,000 per space in annual revenues,” writes Prof. Donald Shoup, in [Instead of Free Parking](#).



## Affordability

Housing affordability is a primary concern for many Americans across the country ranging from blue-collar workers to early-career singles, young families and seniors. There is an increasing segment of the population that spends more than 30% of their income on housing, reducing their purchasing power for other amenities (*Source: What's Next? Real Estate in the New Economy, Urban Land Institute, 2011*).

Smaller homes and apartments cost less to rent or purchase and maintain, while urban neighborhoods provide services and amenities within walking distance as well as a variety of affordable transportation options.

Cities and towns that want to retain or attract these household types need to focus on providing diverse, affordable housing options near jobs, schools, and other amenities within walkable communities. In addition, suburbs that want to retain their aging populations and attract newer, younger families, will need to



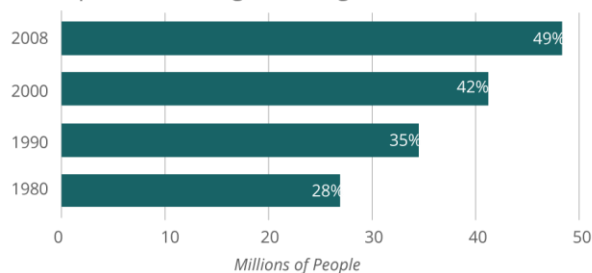
create new, walkable urban environments and encourage the construction of Missing Middle Housing through rezoning and by providing public transportation options.

## Sense of Community

More and more, Americans say living in a diverse community that includes people at all stages of life is an important factor in determining where to live.

Seniors want to live near family and friends, but not with them. Missing Middle building types allow people to stay in their community throughout their lives because of the variety of sizes available and an increased accessibility to services and amenities.

% U.S. Population Living in Multigenerational Households



*Almost 49% of Americans are living in a multigenerational household. Source: Pew Research Center analysis of U.S. Decennial Census and American Community Surveys.*

According to Chris Leinberger in his article [“The Next Slum?” for The Atlantic](#), elements that used to draw families into the suburbs—better schools and safer communities—are now becoming the norm in cities, while these elements could worsen in suburbs that are dependent on home values and new development.

Housing market projections suggest that construction in the near future will accelerate only moderately for single-family housing but will greatly increase for multifamily housing (Source: Jordan Rappaport, [“The Demographic Shift From Single-Family to Multifamily Housing,” Economic Review, Kansas City: Federal Reserve Bank of Kansas City, 2013](#)). Implemented in both urban and rural contexts, Missing Middle Housing allows people to stay in their community during different stages of life because of the wide variety of sizes, housing levels, and accessibility it provides.



# What are the characteristics of Missing Middle Housing?

Missing Middle Housing is not a new type of building. It is a range of building types that exist in cities and towns across the country and were a fundamental building block in pre-1940s neighborhoods. They are most likely present on some of your favorite city blocks—you may even have them in your own neighborhood.

Combined together (and usually with detached single-family homes), Missing Middle building types help provide enough households within walking distance to support public transit and local businesses, and they are found within many of the most in-demand communities in places like Denver, Cincinnati, Austin and San Francisco.

So what do Missing Middle building types have in common?



*Development patterns in walkable urban neighborhoods make walking and biking convenient and support robust public transit. (Bouldin Creek neighborhood in Austin, TX.)*

## Walkable Context

Missing Middle housing types are best located in a walkable context. Buyers and renters of these housing types are often trading space (housing and yard square footage) for place (proximity to services and amenities).

## Small-Footprint Buildings

These housing types typically have small- to medium-sized footprints, with a body width, depth and height no larger than a detached single-family home. This allows a range of Missing Middle types—with varying densities but compatible forms—to be blended into a neighborhood, encouraging a mix of socioeconomic households and making these types a good tool for compatible infill.



*Missing Middle housing types generally have a similar size footprint to detached single-family homes.*

## Lower Perceived Density

Due to the small footprint of the building types and the fact that they are usually mixed with a variety of building types even on an individual block, the perceived density of these types is usually quite low—they do not look like dense buildings.

But one of the primary benefits of Missing Middle Housing is that it helps provide the number of households needed for transit and neighborhood-serving local businesses to be viable (typically about 16 dwelling units per acre).

“From the perspective of my work, Missing Middle Housing has a natural complement in MMP (missing middle plan), a.k.a. a ‘hybrid grid’ or as named it in my work, a Fused Grid ... The Fused Grid proposes a set of neighborhood modular layouts (reminiscent of Savannah) that incorporate all the desirable elements—livability, safety, security, sociability, and delight—as do MMH buildings.”

— Fanis Grammenos, Director of Urban Pattern Associates and author of “Remaking the City Street Grid – A Model for Urban and Suburban Development”

## Smaller, Well-Designed Units

Most Missing Middle housing types have smaller units. The challenge is to create small spaces that are well designed, comfortable, and usable. The ultimate unit size will depend on the context, but smaller-sized units can help developers keep their costs down and attract a different market of buyers and renters who are not being provided for in all markets.



*One characteristic of Missing Middle Housing is smaller, well-designed units. Courtesy: [The Cottage Company](#)*

## Fewer Off-street Parking Spaces

Because they are built in walkable neighborhoods with proximity to transportation options and commercial amenities, Missing Middle housing types do not need the same amount of parking as suburban housing. We typically recommend no more than one parking spot per unit, and preferably less. In fact, requiring more than one parking space per unit can make Missing Middle Housing infeasible to build. For example, if your zoning code requires two parking spaces per unit, a fourplex would require eight parking spaces, which would never fit on a typical residential lot. In addition, providing that much off-street parking for each fourplex would create a neighborhood of small parking lots rather than the desired neighborhood of homes. Finally, requiring too much parking means that fewer households can fit in the same amount of land, lessening the viability of transit and local businesses.

## Simple Construction

Missing Middle Housing is simply constructed (wood-frame/Type V), which makes it a very attractive alternative for developers to achieve good densities without the added financing challenges and risk of more complex construction types. This aspect can also increase affordability when units are sold or rented.

As providing single family detached sub-\$200,000 starter homes is becoming increasingly out of reach for builders across the country, Missing Middle Housing can provide [an attractive and affordable alternative starter home](#).

## Creates Community

Missing Middle Housing creates community through the integration of shared community spaces within the building type (e.g. [bungalow court](#)), or simply from being located within a vibrant neighborhood with places to eat, drink, and socialize.



This is an important aspect in particular considering the growing market of single-person households (nearly 30% of all households) that want to be part of a community.

*Missing Middle housing types help to create walkable communities.*

## **Marketable**

Because of the increasing demand from baby boomers and millennials, as well as shifting household demographics, the market is demanding more vibrant, sustainable, walkable places to live. These Missing Middle housing types respond directly to this demand.

In addition, the scale of these housing types makes them more attractive to many buyers who want to live in a walkable neighborhood, but may not want to live in a large condominium or apartment building.

If there is land for beautifully-designed homes that fill a gap between stand-alone houses and mid-rise apartments, the smart thing to do is to fill it with housing types we've been missing in our market for so long."

— Heather Hood, Deputy Director, Northern California, Enterprise Community Partners

# How does Missing Middle Housing integrate into blocks?

Missing Middle Housing [types](#) typically have a footprint not larger than a large detached single-family home, making it easy to integrate them into existing neighborhoods, and serve as a way for the neighborhood to transition to higher-density and main street contexts. There are a number of ways in which this can be accomplished:

## Distributed throughout a block

Missing Middle Housing types are spread throughout the block and stand side-by-side with detached single-family homes. This blended pattern of detached single-family homes and Missing Middle Housing types, with densities up to 40 dwelling units per acre, works well because the forms of these types are never larger than a large house.



“For us, mixing housing types is important in today’s market. Buyers want choices, the investors and lenders want more flexibility in the projects, and planning officials expect a more thoughtful integration into the existing neighborhoods. The mixing of product provides a diverse community, enhances value, and it helps create the type of place our buyers are looking for today.”

— David Leazenby, Onyx+East

## Placed on the end-grain of a block

Missing Middle Housing types are placed on the end-grain of a block with detached single-family homes, facing the primary street, which is often a slightly busier corridor than the streets to which the detached single-family homes are oriented. The most common condition is to have several [fourplex](#) units on the end grain lots facing the primary street. This configuration is usually located on the end grain of several continuous blocks adjacent to a neighborhood main



street, which increases the blended density to achieve the 16 dwelling units/acre necessary to support small, locally-serving commercial and service amenities.

This configuration allows for the use of slightly larger buildings because the Missing Middle housing types are not sitting next to detached single-family homes. In this block type, the alley to the rear of the lots also allows for a good transition in scale to the detached single-family home lots behind them. Often you will see a similar block configuration with one or two fourplexes on the corners of the end grain lots on the block.



## Transitioning to a commercial corridor

Missing Middle Housing is excellent to transition from a neighborhood to a Main Street with commercial and mixed-use buildings. These types are generally more tolerant and better able to effectively mitigate any potential conflicts related to the proximity to commercial/retail buildings or parking lots behind commercial buildings.



## Transitioning to higher-density housing

Smaller-scale Missing Middle Housing types are placed on a few of the lots that transition from the side street to the primary street, providing a transition in scale to the larger buildings on the end grain of the block along the primary street.



# What's the best way to regulate Missing Middle Housing?

## **Hint: Conventional Zoning Doesn't Work**

Conventional (Euclidean) zoning practice regulates primarily by land use or allowed activities, dividing neighborhoods into single-family residential, multifamily residential, commercial, office, etc. This separation of uses is the antithesis of mixed-use walkable neighborhoods. Along with use, the zones are often defined and controlled by unpredictable numeric values, such as floor area ratio (FAR) and density, which create all sorts of barriers to Missing Middle Housing.

For starters, Missing Middle Housing (MMH) is intended to be part of low-rise residential neighborhoods, which are typically zoned as “single-family residential” in conventional zoning. However, because MMH contains multiple units, it is, by definition, not allowed in single-family zones. On the other hand, most multifamily zones in conventional codes allow much bigger buildings (taller and wider) and also typically encourage lot aggregation and large suburban garden apartment buildings. The environments created by these zones are not what Missing Middle Housing is intended for.

In addition, density-based zoning doesn't work with the blended densities that are typical in neighborhoods where Missing Middle Housing thrives. MMH are similar in form and scale to detached single-family homes, but because they include more units, they often vary dramatically in their densities, making them impossible to regulate with a density-based system. For example, a bungalow court can have densities of up to 35 dwelling units per acre even though the buildings are only one story tall, because the size of each cottage is only 25 feet by 30 feet. So if a zoning district sets a maximum density of 20 dwelling units per acre, it would not allow the bungalow court type. On the other hand, if the zoning district has a maximum density of 35 dwelling units per acre with few or no additional form standards, every builder/developer will max out a lot with a large, out-of-scale apartment building, rather than building the bungalow court the neighborhood would prefer.

And one more thing: density-based zoning treats all units the same regardless of size. This means that a 3,500-square-foot unit is considered the same as a 600-square-foot unit for calculations such as density, parking and open space, thus discouraging much-needed smaller units. For example, a fourplex with four 600sf units would require four times the parking and open space as a 2,400sf detached



single-family home, even though the size of the building is the same, typically making the fourplex infeasible to fit on a typical lot.



*This Alameda, CA neighborhood has several Missing Middle housing types on each block.*

## The Alternative: Form-Based Coding

[Form-Based Coding](#) is a proven alternative to conventional zoning that effectively regulates Missing Middle Housing. Form-Based Codes (FBCs) remove barriers and incentivize Missing Middle Housing in appropriate locations in a community.

FBCs represent a paradigm shift in the way that we regulate the built environment, using physical form rather than a separation of uses as the organizing principal, to create predictable, built results and a high-quality public realm.

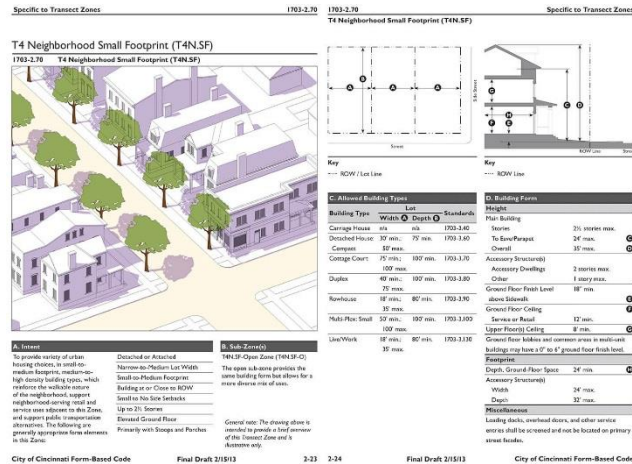
## The Form-Based Approach to Regulating Missing Middle Housing

Regulating Missing Middle Housing starts by defining a range of housing types appropriate for the community based on the community's existing physical patterns, climate, and other considerations, as part of the early Community Character Analysis phase of a planning and Form-Based Coding project.

Specific to Building Types		1703-3.30	1703-3.30	Specific to Building Types	
Table 1703-3.30-A: Building Types General		Table 1703-3.30-B: Building Types General (continued)		Table 1703-3.30-C: Building Types General (continued)	
Building Type	Transect Zone	Building Type	Transect Zone	Building Type	Transect Zone
 Carriage House. This building type is an accessory structure, typically located at the rear of a lot. It is typically used for either a residential home office space or other small commercial or service use that may be above a garage or on a ground level. This type is important for providing affordable housing opportunities and creating a vibrant business district within walkable neighborhoods.	TBC	 Detached House, Medium. This building type is a medium-sized detached structure, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC	 Detached House, Small. This building type is a small detached structure, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC
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 Garage House. This building type consists of a series of small, detached structures, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC	 Garage House. This building type consists of a series of small, detached structures, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC	 Garage House. This building type consists of a series of small, detached structures, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC
 Duplex. This building type is a small, medium-sized detached structure, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC	 Duplex. This building type is a small, medium-sized detached structure, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC	 Duplex. This building type is a small, medium-sized detached structure, typically located in the center of a lot. It is typically used for residential purposes and is important for providing a variety of housing types and promoting walkability.	TBC

*A building types page from Cincinnati's Form-Based Code*

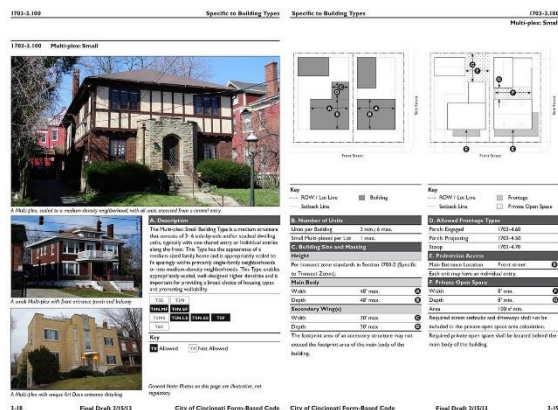
Then for each form-based zone, a specific range of housing types is allowed based on the intention for the neighborhood. For example, in a walkable neighborhood, single-family-detached homes, bungalow courts, and side-by-side duplexes may be allowed, or in a slightly more urban walkable neighborhood, bungalow courts, side-by-side duplexes, stacked duplexes, fourplexes, and small multiplexes might be allowed.



A zone from the Cincinnati's Form-Based Code

In addition for each type, there are typically supplemental form standards that are regulated to allow some of the individual aspects of certain MMH types while preventing overbuilding in terms of height and bulk. For example, a bungalow court type typically allows for more units, but has a maximum height of 1–1.5 stories, a maximum building footprint/unit size of around 800 square feet and a minimum size of courtyard. A Form-Based Code can regulate these fine-grained details, such that on a 100' by 100' lot, two fourplexes or a bungalow court with eight small, one-story units could be allowed, but not a single, larger eight-unit apartment building.

For these reasons and more, Form-Based Coding is the most effective way to enable Missing Middle Housing.



The small multiplex building type from Cincinnati's Form-Based Code

“I want to thank you for your great work on Missing Middle Housing! It has been useful in my current research on policy reforms to support more affordable infill development in Victoria, B.C., and informing my report ‘Affordable Accessible Housing in a Dynamic City.’”

— Todd Litman, Victoria Transport Policy Institute

For more information about Form-Based Codes, see:

- *Form-Based Codes: A Guide to Planners, Urban Designers, Municipalities, and Developers*,  
by Daniel Parolek, Karen Parolek, and Paul C. Crawford
- [Form-Based Codes Institute](#)  
Form-Based Codes with Building Types to Reference:
- [Cincinnati, OH](#) (And read this [blog post](#) about the project)
- [Mesa, AZ](#) (Article 6: Form-Based Code)
- [Livermore, CA](#)

Or find out about our [Form-Based Coding services](#)

*Illustration of the variety of places regulated by Flagstaff's Form-Based Code*



# HOUSING TYPE EXAMPLES

*Los Gatos General Plan 2040 GPAC*

EXHIBIT 5



# Accessory Dwelling Units



Accessory dwelling units (ADUs) are an additional dwelling unit to a primary residence. They are known by many names: granny flats, in-law units, backyard cottages, secondary units, and more. ADUs are an innovative, affordable, effective option for adding much-needed housing. ADUs can be detached and newly constructed units, converted garages or basements, or built above a garage or workshop.



## New Laws to Streamline ADU Construction

Over the past few years, the California legislature has made efforts to streamline ADU construction. This includes:

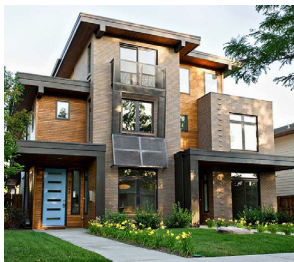
- Making ADU approval a ministerial action,
- Mandating that local governments approve ADU building permit requests if the ADU meets certain standards,
- Allowing ADUs to be built in all zoning districts that allow single-family uses,
- Reducing or eliminating ADU parking requirements, and
- Reducing ADU utility-related fee requirements.

## Tiny Homes

The tiny-house movement is an architectural and social movement that promotes living simply, financial prudence, and safe, shared community experiences. Tiny homes are generally defined as residential structures **under 400 sq. ft.** They can be built on permanent foundations or trailers.



## Duplexes



A duplex has **two** dwelling units **attached** to one another with separate entrances for each. This includes two-story houses with a complete apartment on each floor and side-by-side apartments on a single lot that share a common wall.



# Triplexes and Fourplexes

A triplex has **three** dwelling units **attached** to one another with separate entrances for each, while a fourplex has **four** dwelling units. This includes multi-story houses with a complete apartment on each floor and also side-by-side apartments on a single lot that share a common wall.



# Townhouses



Townhouses are **single-family** dwelling units that usually have two or three floors that share a wall with another house. Unlike duplexes, triplexes, or fourplexes, each townhouse is **individually owned**.



## Courtyard Apartment/Bungalow Court

A courtyard apartment consists of multiple side-by-side and/or stacked dwelling units that are centered around a shared outdoor open space or garden. Each unit may have its own individual entry, or several of the units may share a common entry.

A bungalow court consists of a series of small, detached structures, providing multiple units arranged to define a shared court that is typically perpendicular to the street. The shared court takes the place of a private rear yard and is an important community-enhancing element.



## Co-Housing



Co-housing is an intentional community of private homes clustered around shared space. Each attached or detached single-family home has traditional amenities, including a private kitchen. Shared spaces typically feature a common house, which may include a large kitchen and dining area, laundry, and recreational spaces.





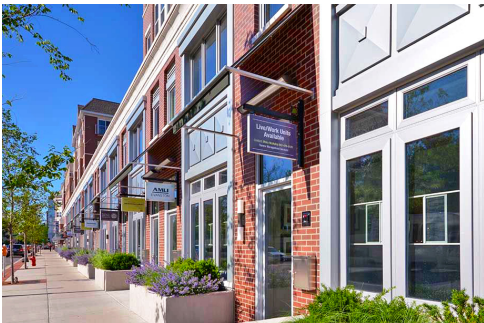
# Micro Units



While there is no standard definition, a working definition of micro units is a small studio apartment, typically **less than 350 square feet**, with a fully functioning and accessibility compliant **kitchen and bathroom**. Under this definition, a 160-square-foot single-room-occupancy (SRO) unit that relies upon communal kitchen or bathroom facilities does not qualify as a micro unit.

# Live/Work

Live/work units consist of a separate living space attached to a work space within the same unit that is occupied by the same tenant.



## Single-Family Detached



A single-family detached home is a stand-alone structure that is maintained and used as a single dwelling unit.

**Density Range:** 1-5 dwelling units/acre

**Height/Stories:** 35 feet, 2 stories

## Small Lot Single-Family Detached



Small Lot Single-family detached homes with a smaller building footprint and lot size can accommodate more dwelling units per acre.

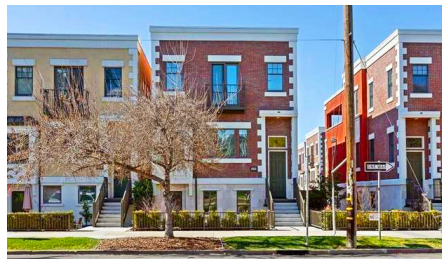
**Density Range:** 5-12 dwelling units/acre

**Height/Stories:** 35 feet, 2-3 stories





# Compact Single-Family or Multifamily-Very Low



Compact Single-family detached homes with a smaller building footprint and lot size can be accommodate more dwelling units per acre. Similarly, multifamily-very low buildings can provide more dwelling units per acre.

**Density Range:** 12-20 dwelling units/acre  
**Height/Stories:** 35-45 feet, 2-3 stories

Government Code Section 65583.2(c)(3)(B) allows the Town to use “**default density**” standards as a streamlined option to meet the **lower-income RHNA**. The default density for Los Gatos is **20 du/ac**.

# Multifamily-Low



Multifamily buildings are designed to house several different families in separate housing units. They are commonly known as apartments or condominiums.

**Density Range:** 20-40 dwelling units/acre  
**Height/Stories:** 35-50 feet, 2-4 stories

## Multifamily-Medium

Multifamily buildings are designed to house several different families in separate housing units. They are commonly known as apartments or condominiums, depending on the ownership structure.

**Density Range:** 40-60 dwelling units/acre  
**Height/Stories:** 40-60 feet, 3-5 stories



## Multifamily-High



Multifamily buildings are designed to house several different families in separate housing units. They are commonly known as apartments or condominiums, depending on the ownership structure.

**Density Range:** 60+ dwelling units/acre  
**Height/Stories:** 50-80 feet, 5-8 stories



# Low-Intensity Mixed Use



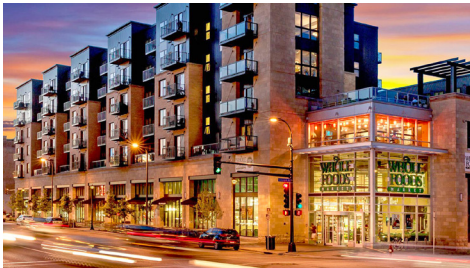
Mixed-use development blends two or more of the following land use types: residential, commercial, cultural, institutional, and/or industrial. Typically, these developments have commercial uses on the ground floor with residential units above.

- Density Range:** up to 60 dwelling units/acre
- Height/Stories:** 40-60 feet, 3-5 stories
- FAR Range:** 0.3 to 1.0

# High-Intensity Mixed Use

Mixed-use development blends two or more of the following land use types: residential, commercial, cultural, institutional, and/or industrial. Typically, these developments have commercial uses on the ground floor with residential units above.

- Density Range:** 60+ dwelling units/acre
- Height/Stories:** 50-80 feet, 5-8 stories
- FAR Range:** 0.3 to 1.0



At their meeting on August 20, 2019, the Los Gatos Town Council approved a Vision Statement and set of Guiding Principles for the Los Gatos 2040 General Plan.

## Vision

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The Town of Los Gatos is a welcoming, family-oriented, and safe community nestled in the beautiful foothills of the Santa Cruz Mountains. The Town is a sustainable community that takes pride in its small-town character and provides a range of housing opportunities, historic neighborhoods, local culture and arts, excellent schools, and a lively and accessible downtown. Los Gatos offers a choice of mobility options, superior public facilities and services, and an open and responsive local government that is fiscally sound. Los Gatos has a dynamic and thriving economy that includes a mix of businesses throughout Town that serves all residents, workers, and visitors.

## Guiding Principles

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### **Transportation**

Provide a well-connected transportation system that enables safe access for all transportation modes, including pedestrians, bicyclists, motorists, and transit riders of all ages and abilities.

### **Sustainability**

Manage, conserve, and preserve Los Gatos' natural environment for present and future generations. Identify and provide opportunities to enhance the Town's sustainability policies and practices.

### **Protect Natural Resources**

Protect the natural resources and scenic assets that define Los Gatos, including open space preserves, recreational trails, surrounding hillsides, and natural waterways.

### **Fiscal Stability / Responsibility**

Provide high quality municipal services to the Los Gatos community while sustaining the Town's long term fiscal health.

### **Government Transparency**

Conduct governmental processes in an open manner and encourage public involvement in Town governance.

### **Community Vitality**

Invigorate downtown Los Gatos as a special place for community gathering, commerce, and other activities for residents and visitors. Foster the economic vitality of all Los Gatos business locations. Preserve and enhance the Town's historic resources and character while guiding the community into the future.

### **Diverse Neighborhoods**

Foster appropriate investments to maintain and enhance diverse neighborhoods, housing opportunities, and infrastructure to meet the needs of all current and future residents.

### **Inclusivity**

Recognize the importance of and promote ethnic, cultural, and socio-economic diversity and equity to enhance the quality of life in Los Gatos.

### **Promote Public Safety**

Maintain and enhance Los Gatos as a safe community through preparation and planning, education, and community design that is responsive to the full range of potential natural and man-made hazards and safety issues.

## Master Land Use Alternatives Comparison Table

	Alternative A	Alternative B	Alternative C	Alternative D
<b>Population</b>				
Total Net New Population	2,834	4,598	5,587	7,682
Total Population	3,974	5,738	6,727	8,822
Total Projected 2040 Population	34,969	36,733	37,722	39,817
<b>Housing</b>				
Net New Dwellings	681	1,416	1,828	2,701
Potential Net New Accessory Dwelling Units	500	500	500	500
<b>Total Net New Dwelling Units</b>	<b>1,181</b>	<b>1,916</b>	<b>2,328</b>	<b>3,201</b>
Pending/Approved Dwelling Units	475	475	475	475
<b>Total Future Dwelling Units</b>	<b>1,656</b>	<b>2,391</b>	<b>2,803</b>	<b>3,676</b>
Dwelling Units Per Land Use Designation				
Low Density Residential (LDR) - in OA	95	141	180	283
Low Density Residential (LDR) - outside OA	43	160	164	264
Low Density Residential (LDR) - Total Dwelling Units	<b>138</b>	<b>301</b>	<b>344</b>	<b>547</b>
Medium Density Residential (MDR) - in OA	129	166	166	258
Medium Density Residential (MDR) - outside OA	120	315	315	561
Medium Density Residential (MDR) - Total Dwelling Units	<b>249</b>	<b>481</b>	<b>481</b>	<b>819</b>
High Density Residential (HDR) - in OA	104	104	236	322
High Density Residential (HDR) - outside OA	54	81	98	98
High Density Residential (HDR) - Total Dwelling Units	<b>158</b>	<b>185</b>	<b>334</b>	<b>420</b>
Neighborhood Commercial (NC) - in OA	30	76	192	194
Neighborhood Commercial (NC) - outside OA	2	7	7	25
Neighborhood Commercial (NC) - Total Dwelling Units	<b>32</b>	<b>83</b>	<b>199</b>	<b>219</b>
Mixed Use Commercial (MUC) - in OA	91	345	21	630
Mixed Use Commercial (MUC) - outside OA	13	21	449	66
Mixed Use Commercial (MUC) - Total Dwelling Units	<b>104</b>	<b>366</b>	<b>470</b>	<b>696</b>
<b>Employment</b>				
Employment	1,280	1,280	1,280	1,280
<b>Transportation</b>				
Traffic Congestion Increase Levels	Minimal Increase with 2 studied intersections seeing moderate increase in congestion	Minimal Increase with 3 studied intersections seeing moderate increase in congestion	Moderate increase with 4 studied intersections seeing moderate increase in	Moderate increase with 4 studied intersections seeing moderate increase in
Total Daily VMT (lower VMT better)	1,245,000	1,259,000	1,267,000	1,284,000
VMT per Service Population (lower VMT better)	22.65	22.20	21.95	21.48
<b>Fiscal*</b>				
Annual Revenue	\$ 4,320,000.00	\$ 5,796,000.00	\$ 6,564,000.00	\$ 8,378,000.00
Annual Costs	\$ 3,710,000.00	\$ 5,280,000.00	\$ 6,264,000.00	\$ 8,413,000.00
Net Fiscal Impact	\$ 610,000.00	\$ 516,000.00	\$ 300,000.00	\$ (35,000.00)
Residential Net Impact	\$ 190,000.00	\$ 96,000.00	\$ (121,000.00)	\$ (455,000.00)
Non-residential Net Impact	\$ 420,000.00	\$ 420,000.00	\$ 420,000.00	\$ 420,000.00
<b>Urban Form</b>				
Range of allowable building heights	up to 35 feet	up to 40 feet	up to 50 feet	up to 60 feet
Maximum number of stories	2 stories	3-4 stories	4 stories	5 stories

\*There will be increases in property tax revenues associated with redevelopment of commercial space, which is not shown here



## Opportunity Area Dwelling Units by Alternative Comparison Table\*

		Alternative A						Alternative B				
		HDR	MDR	MU	NC	LDR		HDR	MDR	MU	NC	LDR
Outside OA	0	54	120	13	2	43		81	315	21	7	160
Pollard Road OA	1	0	8	0	4	2		0	10	0	9	5
North Santa Cruz Avenue OA	2	39	14	0	4	0		39	17	0	19	0
Winchester Boulevard OA	3	42	16	0	7	3		42	19	0	20	5
Lark Avenue OA	4	0	46	0	0	69		0	61	0	0	98
Los Gatos Boulevard OA	5	23	42	91	0	21		23	55	345	0	33
Union Avenue OA	6	0	1	0	11	0		0	2	0	17	0
Harwood Road OA	7	0	2	0	4	0		0	2	0	11	0
		158	249	104	32	138		185	481	366	83	301
		<b>Total</b>	<b>681</b>					<b>Total</b>	<b>1,416</b>			
		Alternative C						Alternative D				
		HDR	MDR	MU	NC	LDR		HDR	MDR	MU	NC	LDR
Outside OA	0	98	315	21	7	164		98	561	66	25	264
Pollard Road OA	1	0	10	0	21	13		0	17	0	21	25
North Santa Cruz Avenue OA	2	100	17	0	63	1		141	26	0	63	3
Winchester Boulevard OA	3	88	19	0	50	10		117	30	0	50	17
Lark Avenue OA	4	0	61	0	0	101		0	92	0	0	123
Los Gatos Boulevard OA	5	48	55	449	0	53		64	87	630	0	111
Union Avenue OA	6	0	2	0	32	1		0	3	0	34	3
Harwood Road OA	7	0	2	0	26	1		0	3	0	26	1
		334	481	470	199	344		420	819	696	219	547
		<b>Total</b>	<b>1,828</b>					<b>Total</b>	<b>2,701</b>			

*\*The following net new dwelling units include only those new units produced under each land use alternative. The totals exclude assumed accessory dwelling units (500 units) and pending/approved Town projects (475 units).*

## Assumptions, Development Standards, and Net New Dwelling Unit Comparisons\*

Land Use Designation	Alternative A: Base Case - Low Growth								
	Redevelopment		Density Range (DU/AC)		Typical Density (DU/AC)		FAR	Dwelling Units	
	Outside OA	Inside OA	Outside OA	Inside OA	Outside OA	Inside OA		Outside OA	Inside OA
LDR	5%	5%	0 to 5	5 to 12	4	10	0.25	43	95
MDR	5%	10%	5 to 12	12 to 20	10	16	0.5	120	129
HDR	10%	10%	12 to 20	20 to 30	18	26	0.75	54	104
NC	5%	5%	0 to 20	10 to 20	18	18	0.5	2	30
MU	5%	5%	0 to 20	10 to 20	18	18	0.5	13	91
Land Use Designation	Alternative B: Medium Growth								
	Redevelopment		Density Range (DU/AC)		Typical Density (DU/AC)		FAR	Dwelling Units	
	Outside OA	Inside OA	Outside OA	Inside OA	Outside OA	Inside OA		Outside OA	Inside OA
LDR	5%	5%	5 to 12	8 to 16	10	14	0.25	160	141
MDR	10%	10%	12 to 20	14 to 24	16	20	0.75	315	166
HDR	10%	10%	20 to 30	20 to 30	26	26	1	81	104
NC	10%	10%	0 to 20	10 to 20	18	18	0.75	7	76
MU	10%	15%	0 to 20	20 to 30	18	26	0.75	21	345
Land Use Designation	Alternative C: Medium-High Growth								
	Redevelopment		Density Range (DU/AC)		Typical Density (DU/AC)		FAR	Dwelling Units	
	Outside OA	Inside OA	Outside OA	Inside OA	Outside OA	Inside OA		Outside OA	Inside OA
LDR	5%	10%	5 to 12	8 to 16	10	14	0.5	164	180
MDR	10%	10%	12 to 20	14 to 24	16	20	0.75	315	166
HDR	15%	15%	20 to 30	30 to 40	26	36	1.25	98	236
NC	10%	15%	0 to 20 *	20 to 30 *	18	26	0.75	7	192
MU	10%	20%	0 to 20 *	30 to 40 *	18	26	1	21	449
Land Use Designation	Alternative D: High Growth								
	Redevelopment		Density Range (DU/AC)		Typical Density (DU/AC)		FAR	Dwelling Units	
	Outside OA	Inside OA	Outside OA	Inside OA	Outside OA	Inside OA		Outside OA	Inside OA
LDR	10%	15%	5 to 12	12 to 20	10	16	0.75	264	283
MDR	15%	15%	14 to 24	14 to 24	20	20	1	561	258
HDR	15%	20%	20 to 30	30 to 40	26	36	1.5	98	322
NC	15%	15%	20 to 30 *	20 to 30 *	26	26	1	25	194
MU	15%	20%	30 to 40 *	30 to 40 *	36	36	1.5	66	630

**\*The following net new dwelling units include only those new units produced under each land use alternative. The totals exclude assumed accessory dwelling units (500 units) and pending/approved Town projects (475 units).**

## Community Workshop #2: Land Use Alternatives

**Thursday January 16, 2020**  
**6:30 pm – 8:30 pm**  
**Fisher Middle School Library**  
**Los Gatos, CA**

On Thursday, January 16, 2020, the Town hosted the second community workshop on the General Plan update to inform the community about the General Plan update process and solicit feedback related to the Land Use Alternatives Report. The Community Workshop included an introductory presentation by the consultant team on where we are in the General Plan update process, an overview of the Land Use Alternatives Report, and a discussion of the next steps.

Attendees were provided a similar presentation to that provided to the General Plan Advisory Committee (GPAC) on December 12, 2019. The presentation highlighted the importance of the land use alternatives process in the General Plan update and the steps the GPAC, Town staff, and Consultant team took to develop the set of alternatives and associated analysis presented in the Alternatives Report. At the conclusion of the presentation, attendees were able to ask questions on the process and results of the Land Use Alternatives Report. Attendees were then able to walk through a series of stations with informative boards and an interactive survey highlighting the process and results of the Land Use Alternatives Report.

This workshop format was set up as an open house which allowed for more one-on-one interaction and dialogue between attendees, Town staff, and the consultant team. Following the workshop, the PowerPoint presentation, informational posters, and the survey were uploaded to the General Plan website ([logatos2040.com](http://logatos2040.com)) to allow community members who were not able to attend in person the ability to participate and provide feedback. The online engagement exercises were active from January 17 – January 29, 2020.

The following is an overview of the public comments and feedback from both the workshop and online engagement, as of January 29, 2020.

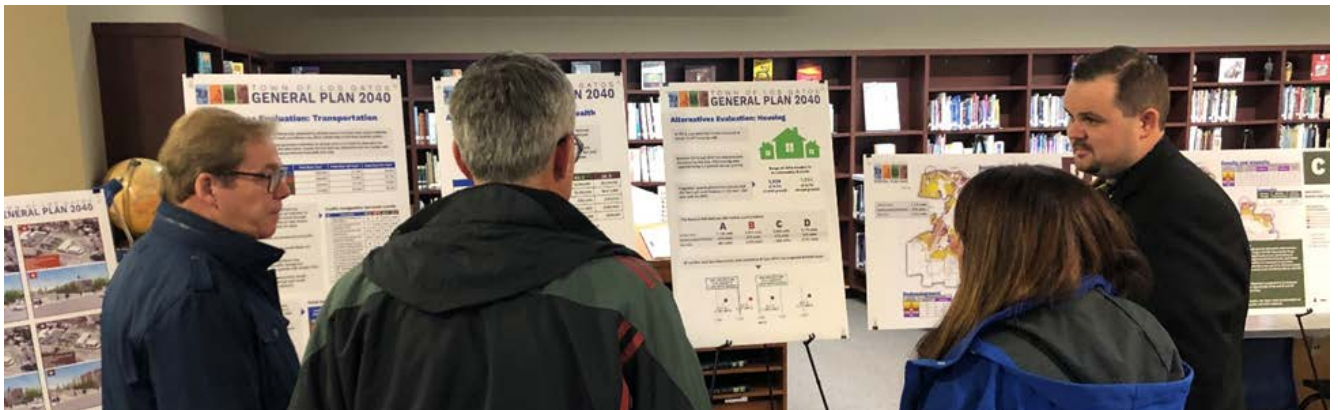
### **Community Workshop #2 Survey**

The survey provided at the community workshop and on the General Plan website consisted of a series of 10 questions. These questions focused on the identification and selection of Opportunity Areas as well as input on the range of, allowable density, building height, and housing product types.



## Community Workshop #2 Summary

January 30, 2020

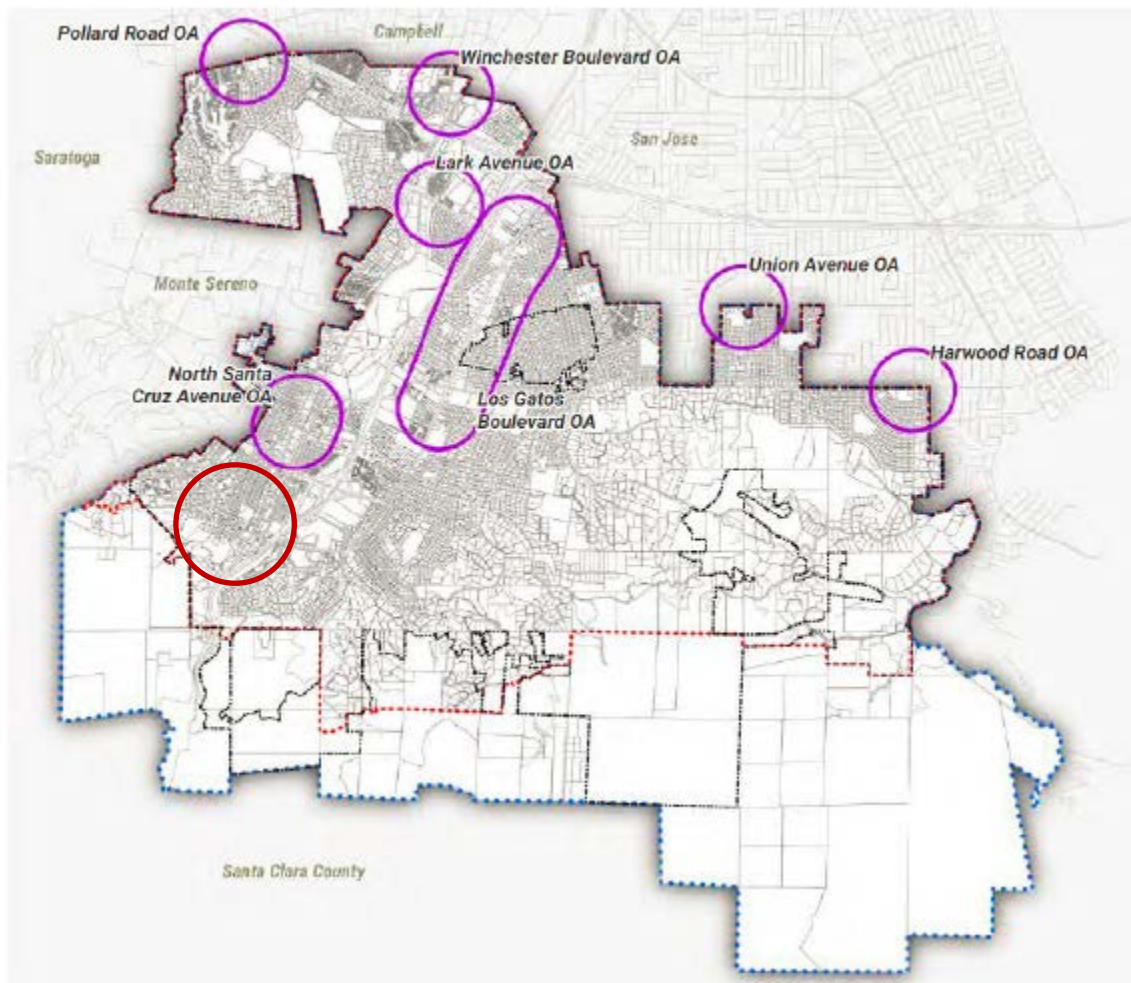


## Community Workshop #2 Survey Results

The following includes all feedback collected at both the workshop and online related to the Land Use Alternatives Survey.

- 1. Are there any additional Opportunity Areas that you believe should be considered?**  
Outline the new Opportunity Areas you propose on the map below.

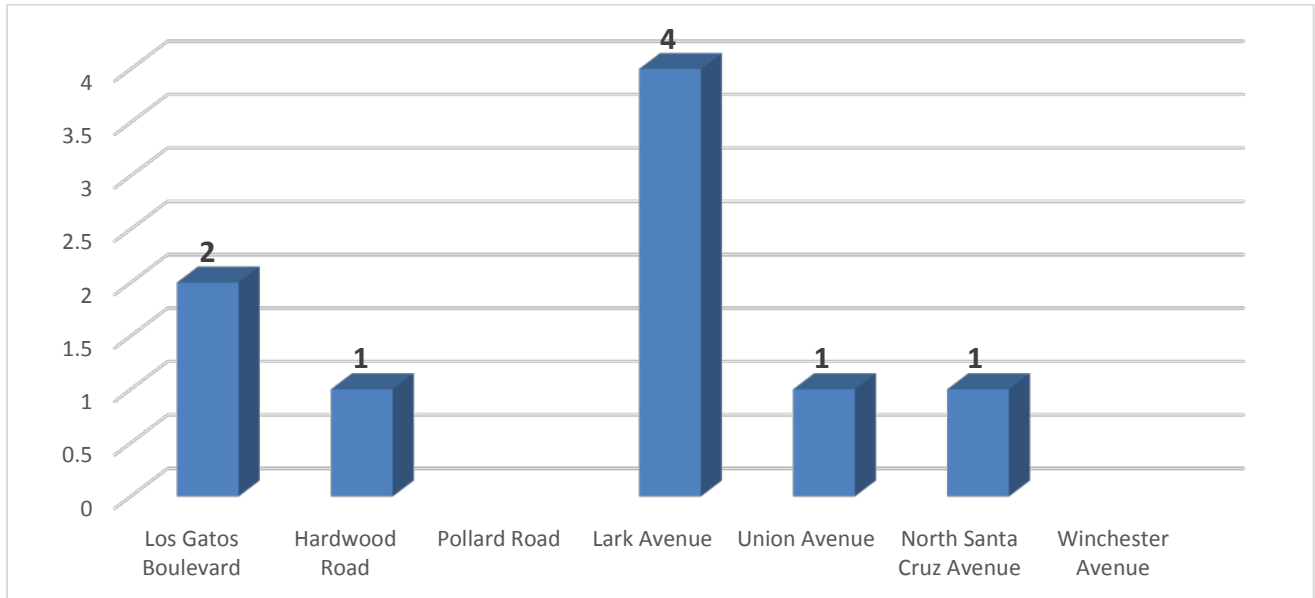
The only additional area identified by attendees was inclusion of the Downtown area, highlighted in red below.





- 2.** Of the seven Opportunity Areas identified above, mark the opportunity areas you **DO NOT** agree should be included in the alternatives considered (you can check more than one box).

- |  |                                       |  |
|--|---------------------------------------|--|
| <input type="checkbox"/> Los Gatos Boulevard | <input type="checkbox"/> Lark Avenue  | <input type="checkbox"/> North Santa Cruz Avenue |
| <input type="checkbox"/> Harwood Road        | <input type="checkbox"/> Union Avenue | <input type="checkbox"/> Winchester Boulevard    |
| <input type="checkbox"/> Pollard Road        |                                       |  |



The graph above shows the number of persons that thought that Opportunity Area should be removed from the alternatives considered.

**3. What types of multi-unit housing are appropriate in Los Gatos?**  
 You can select more than one choice below.

**Townhomes**



**SELECTED: 7 times**

**Apartments**



**SELECTED: 5 times**

**Condominiums**



**SELECTED: 4 times**

**Duplex/Triplex/Fourplex**



**SELECTED: 4 times**

**Multiple Detached  
Single-Family Units**



**SELECTED: 7 times**

- 4.** Are you aware that under new State law, up to two Accessory Dwelling Units (a detached unit and an unit inside an existing residence) can be put on any residential lot in the Town?

☐ Yes, I was aware of that option

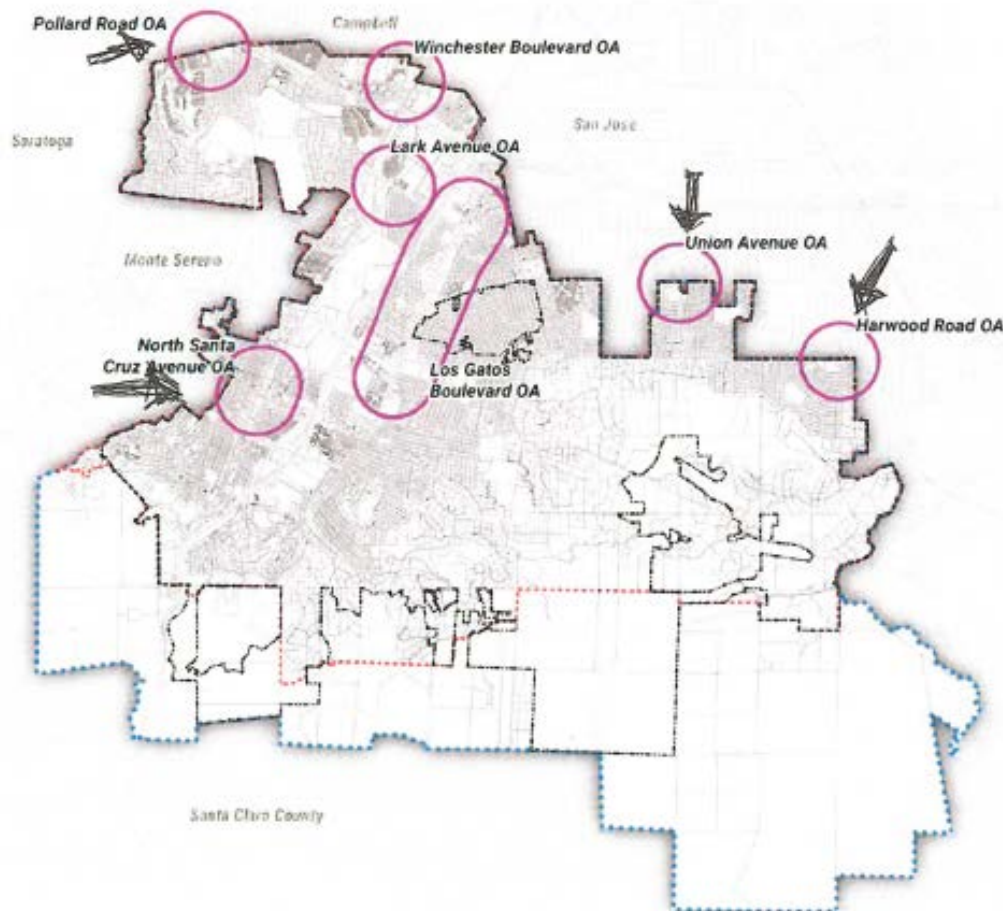
☐ No, I was not aware that was possible

**SELECTED: 5 times**

**SELECTED: 3 times**

- 5.** State law is requiring all California communities to plan for more housing by right. This includes a range of housing, including multi-unit housing (condominiums, apartments, etc.). Where are the best locations for multi-unit housing in Los Gatos (outside of the Opportunity Areas)?

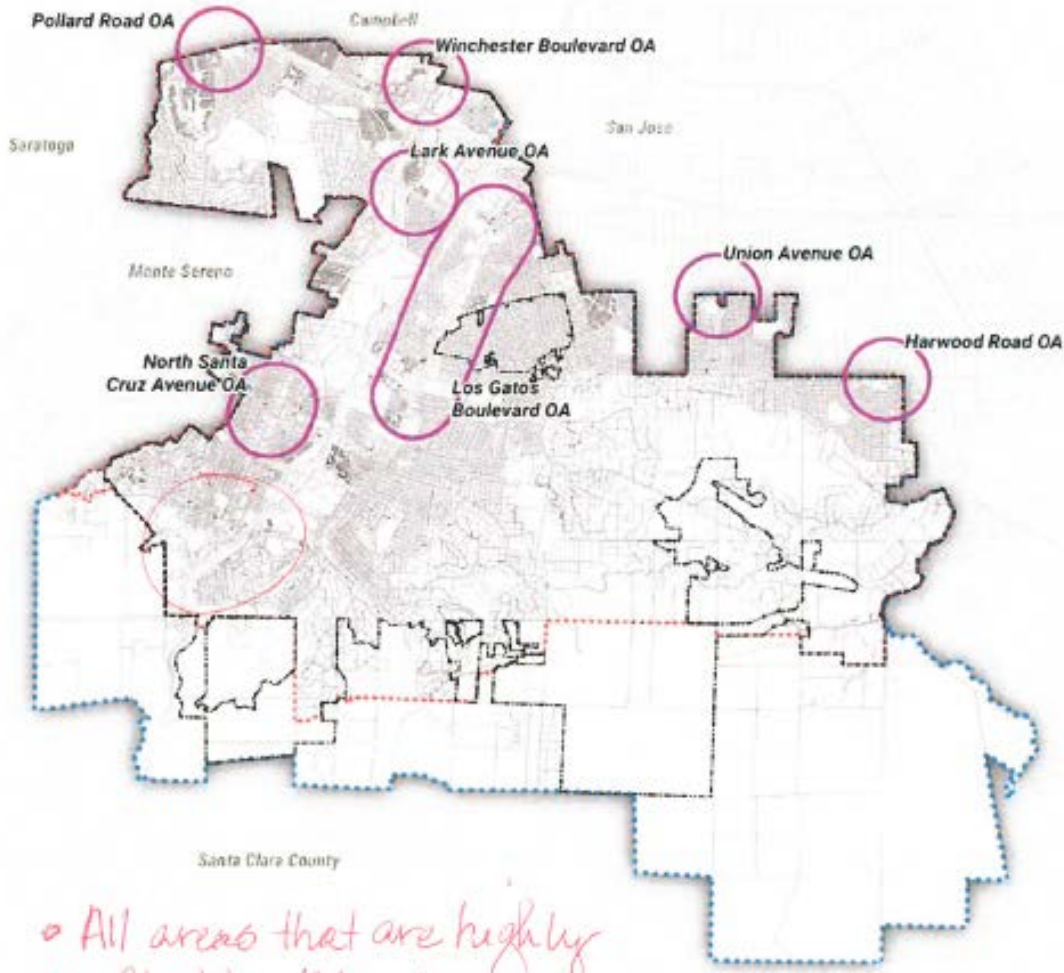
The following are the maps that attendees completed at the workshop. At the time of the completion of the Staff Report for the GPAC Meeting, no maps were completed as part of the online engagement.



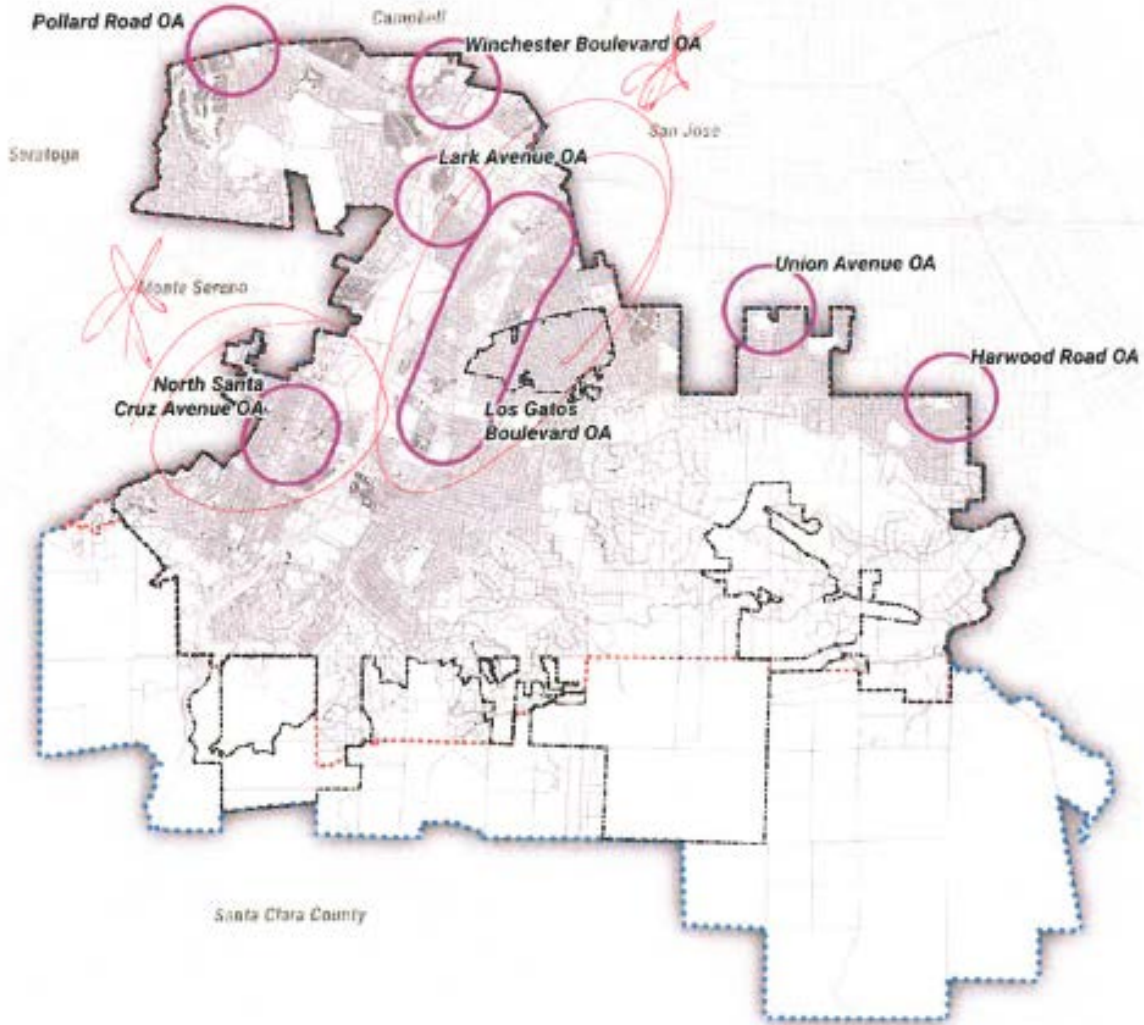


## Community Workshop #2 Summary

January 30, 2020



- All areas that are highly walkable, like downtown + near shopping centers, + along bus lines



## Community Workshop #2 Summary

January 30, 2020

- 6.** Do you support the inclusion of duplex/triplex/fourplex units in existing neighborhoods if designed for compatibility with existing homes?

Duplex	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not sure/no opinion
Tripix	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not sure/no opinion
Fourplex	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not sure/no opinion

The following numbers in the table show how many times the option was selected.

	Yes	No	Not sure/no opinion
<b>Duplex</b>	<b>5</b>	<b>3</b>	<b>0</b>
<b>Tripix</b>	<b>4</b>	<b>4</b>	<b>0</b>
<b>Fourplex</b>	<b>2</b>	<b>6</b>	<b>0</b>

- 7.** On the scale below, what is the highest density you feel could work in Los Gatos (mark one box)?

<input type="checkbox"/> 18 dwelling units per acre	<input type="checkbox"/> 24 dwelling units per acre	<input type="checkbox"/> 30 dwelling units per acre	<input type="checkbox"/> 36 dwelling units per acre	<input type="checkbox"/> 40 dwelling units per acre
<b>SELECTED:</b> <b>2</b> times	<b>SELECTED:</b> <b>2</b> times	<b>SELECTED:</b> <b>1</b> time	<b>SELECTED:</b> <b>1</b> time	<b>SELECTED:</b> <b>1</b> time

- 8.** On the scale below, what is the maximum building height you feel could work in Los Gatos (mark one box)?

<input type="checkbox"/> 2 stories maximum (35 feet)	<input type="checkbox"/> 3-4 stories maximum (35-40 feet)	<input type="checkbox"/> 4 stories maximum (40-50 feet)	<input type="checkbox"/> 5 stories maximum (50-60 feet)
<b>SELECTED:</b> <b>1</b> time	<b>SELECTED:</b> <b>4</b> times	<b>SELECTED:</b> <b>2</b> times	<b>SELECTED:</b> <b>1</b> time

9. Do you prefer any of the presented land use alternatives as is (mark all that apply)?
- ☐ Alternative A      ☐ Alternative B      ☐ Alternative C      ☐ Alternative D
- ☐ None of the above

The following numbers in the table show how many times the option was selected.

<b>Alternative A</b>	<b>3</b>
<b>Alternative B</b>	<b>2</b>
<b>Alternative C</b>	<b>1</b>
<b>Alternative D</b>	<b>2</b>
<b>None of the Above</b>	<b>0</b>

10. Any other thoughts, suggestions, or recommendations relating to the land use alternatives?

- ☐ Please identify the Elks Lodge properly as High Density Residential (HDR). Currently the map shows it as Low Density Residential (LDR). What a coincidence it is located directly across from the "The Bay Club".
- ☐ Make the former lot high density residential at the corner of Los Gatos-Almaden at Los Gatos Blvd.
- ☐ There are current issues with traffic congestion, and I anticipate more upon the completion of the project at LG Boulevard and Lark. Parking is constrained at all stores. We do not have the infrastructure to accommodate large increases to the population. Los Gatos is a town, not a city with multi-storied buildings.

## Summary of GPAC Preferred Alternative

On Thursday, January 30, 2020, the GPAC met to discuss the results of the community feedback received on the Land Use Alternatives Report. This meeting was a follow-up to the December 12, 2019, GPAC Meeting when the members discussed the findings of the Land Use Alternative Report. The Consultant team described the input received from those attending Community Workshop #2 on January 16, 2020 (7 members of public attended), as well as additional feedback collected through online engagement (input from 5 persons).

Following the discussion on community feedback, the Consultant team provided the GPAC with an expanded look at the land use alternative projections contained in the Alternatives Report (based on discussions with the GPAC from its December 2019 meeting). This new information addressed:

- The inclusion of projected accessory dwelling units (ADUs) into the projected dwelling units under each of the land use alternatives. This increase, which was assumed to be the same for each alternative, increased the unit production projected under each alternative; and
- Additional breakouts of each alternative by Opportunity Area for comparative purposes are provide in Table 2 (Land Use Alternatives Comparison). This was provided to allow the GPAC to develop hybrid alternatives by adding or removing components from a base alternative.

### **GPAC Direction**

The GPAC deliberated on developing a recommendation of a preferred land use alternative to transmit to the Planning Commission and Town Council for their respective consideration. A majority of GPAC members agreed that both Alternative A and D did not adequately meet the direction from the GPAC. The consensus amongst members was to focus on both Alternatives B and C which resulted in close to or above 2,000 net new housing units. Nearing and/or exceeding the 2,000 net new dwelling units would provide the Town enough flexibility to plan for projected housing requirements from future Regional Housing Needs Allocation (RHNA) cycles.

The GPAC narrowed down the selection to Alternative C as the preferred land use alternative framework because it provided opportunities for a wider range of housing types to meet the needs of a diversifying community, while exceeding the 2,000 net new dwelling unit target. Alternative C included a variety of development assumptions pertaining to redevelopment percentage, allowable density range, typical density, and FAR (Table 1: GPAC Preferred Alternative Development Assumptions). These assumptions fluctuated depending on whether a parcel is located within one of the seven designated Opportunity Areas or not. Alternative C also allowed for the ability of development within specific areas in Town to have a potential maximum height of up to 50 feet or 4 stories. Increasing the allowable height would

potentially encourage the development of smaller multi-family units, which are needed to meet the housing target in the Alternative .

In addition to selecting Alternative C as the Preferred Land Use Alternative Framework, the GPAC directed Town staff and the Consultant team to retain the existing seven Opportunity Areas and include an eighth Opportunity Area for Downtown Los Gatos (Figure 1: Opportunity Areas and General Plan Land Use Designations). This new Opportunity Area would be restricted to only those parcels designated with the Central Business District Land Use Designation or C-2 Zoning Designation. The rationale behind including Downtown as a new Opportunity Area stems from community feedback as well as GPAC consensus that there is the potential to increase the number of dwelling units in Downtown to create an even more vibrant, walkable environment.

As the GPAC works on the Land Use Element and other content of the General Plan update, the GPAC may refine the specific application of height and density increases within and outside the identified Opportunity Areas.

### **GPAC Preferred Land Use Alternative**

The following is the GPAC Preferred Land Use Alternative Framework depicted through a series of tables and maps. The GPAC Preferred Alternative reflects Alternative C as the base with the addition of the Downtown as an Opportunity Area. The assumptions used to calculate potential new dwelling units Downtown were based on the same assumptions used to calculate the potential new dwelling units for Neighborhood Commercial, shown in Table 1 (GPAC Preferred Alternative Development Assumptions).

*Table 1: GPAC Preferred Alternative Development Assumptions*

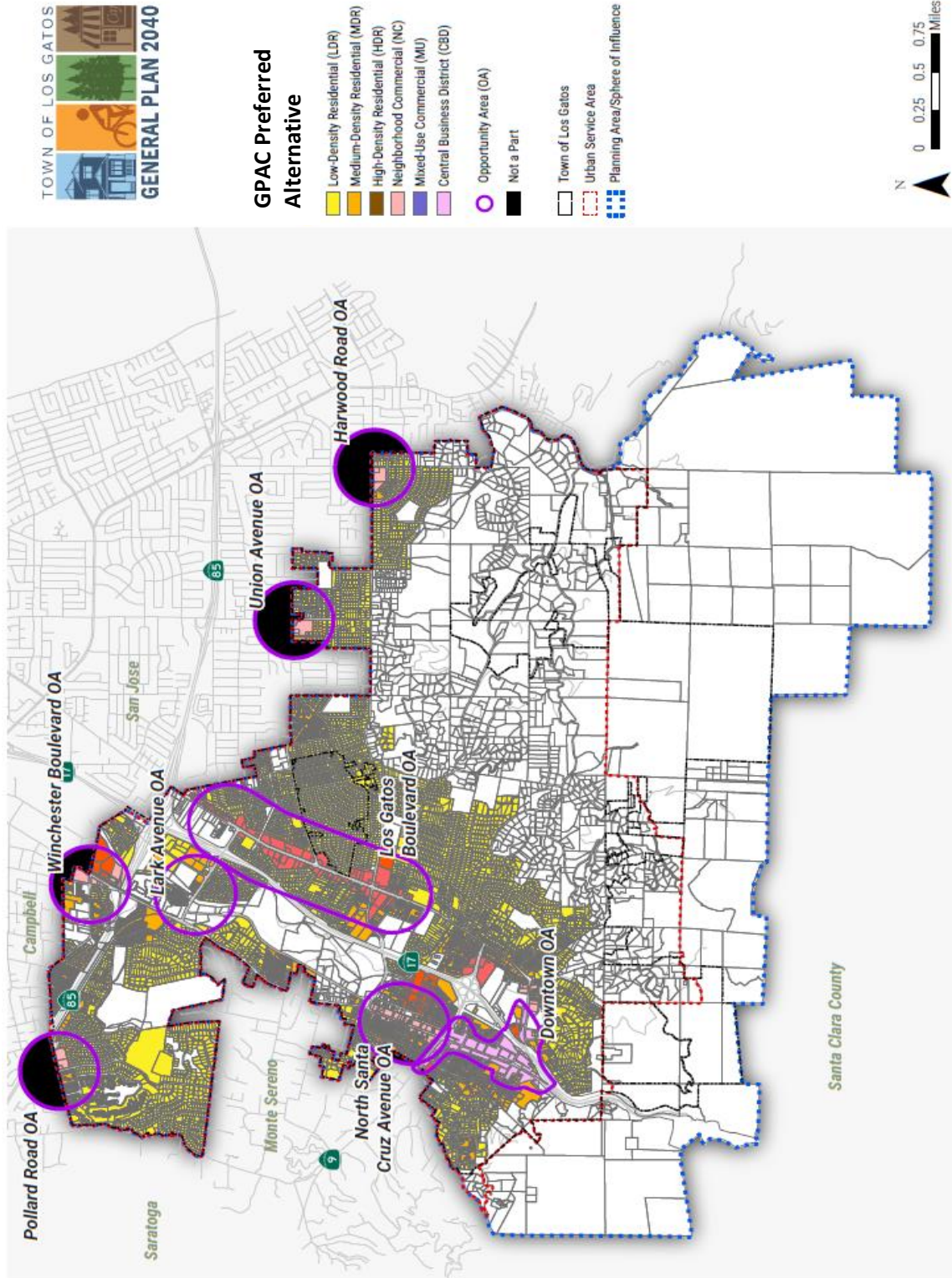
Land Use Designation	GPAC Preferred Alternative									
	Existing Density Range (DU/AC)	Redevelopment		Density Range (DU/AC)		Typical Density (DU/AC)		FAR	Dwelling Units	
		Outside OA	Inside OA	Outside OA	Inside OA	Outside OA	Inside OA		Outside OA	Inside OA
LDR	0 to 5	5%	10%	5 to 12	8 to 16	10	14	0.5	164	180
MDR	5 to 12	10%	10%	12 to 20	14 to 24	16	20	0.75	315	166
HDR	12 to 20	15%	15%	20 to 30	30 to 40	26	36	1.25	98	236
NC	0 to 20	10%	15%	0 to 20	20 to 30	18	26	0.75	7	192
MU	0 to 20	10%	20%	0 to 20	30 to 40	18	26	1	21	449
CBD	0 to 20	N/A	15%	N/A	20 to 30	N/A	26	0.75	0	136



Table 2: Land Use Alternatives Comparison

	Alternative A	Alternative B	Alternative C	Alternative D	GPAC Preferred Alternative
<b>Population</b>					
Total Net New Population	2,834	4,598	5,587	7,682	5,914
Total Population	3,974	5,738	6,727	8,822	7,054
Total Projected 2040 Population	34,969	36,733	37,722	39,817	38,049
<b>Housing</b>					
Net New Dwellings	681	1,416	1,828	2,701	1,964
Potential Net New Accessory Dwelling Units	500	500	500	500	500
<b>Total Net New Dwelling Units</b>	<b>1,181</b>	<b>1,916</b>	<b>2,328</b>	<b>3,201</b>	<b>2,464</b>
Pending/Approved Dwelling Units	475	475	475	475	475
<b>Total Future Dwelling Units</b>	<b>1,656</b>	<b>2,391</b>	<b>2,803</b>	<b>3,676</b>	<b>2,939</b>
Dwelling Units Per Land Use Designation					
Low Density Residential (LDR) - in OA	95	141	180	283	180
Low Density Residential (LDR) - outside OA	43	160	164	264	164
Low Density Residential (LDR) - Total Dwelling Units	<b>138</b>	<b>301</b>	<b>344</b>	<b>547</b>	<b>344</b>
Medium Density Residential (MDR) - in OA	129	166	166	258	166
Medium Density Residential (MDR) - outside OA	120	315	315	561	315
Medium Density Residential (MDR) - Total Dwelling Units	<b>249</b>	<b>481</b>	<b>481</b>	<b>819</b>	<b>481</b>
High Density Residential (HDR) - in OA	104	104	236	322	236
High Density Residential (HDR) - outside OA	54	81	98	98	98
High Density Residential (HDR) - Total Dwelling Units	<b>158</b>	<b>185</b>	<b>334</b>	<b>420</b>	<b>334</b>
Neighborhood Commercial (NC) - in OA	30	76	192	194	192
Neighborhood Commercial (NC) - outside OA	2	7	7	25	7
Neighborhood Commercial (NC) - Total Dwelling Units	<b>32</b>	<b>83</b>	<b>199</b>	<b>219</b>	<b>199</b>
Mixed Use Commercial (MUC) - in OA	91	345	21	630	21
Mixed Use Commercial (MUC) - outside OA	13	21	449	66	449
Mixed Use Commercial (MUC) - Total Dwelling Units	<b>104</b>	<b>366</b>	<b>470</b>	<b>696</b>	<b>470</b>
Central Business District (CBD) - Total Dwelling Units	-	-	-	-	<b>136</b>
<b>Employment</b>					
Employment	1,280	1,280	1,280	1,280	1,280

Figure 1: Opportunity Areas and General Land Use Designations







**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 02/26/2020

ITEM NO: 3

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DATE: February 21, 2020  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations, Town Wide. Town Code Amendment Application A-20-002. Applicant: Town of Los Gatos.

**RECOMMENDATION:**

Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations.

**CEQA:**

The project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment.

**FINDINGS:**

- The project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3); and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

**BACKGROUND:**

In September of 2019, Governor Newsom signed Senate Bill 234 (Exhibit 3), amending sections 1596.72 – 1597.543 of the Health and Safety Code regarding large family daycare homes. The new State law requires a large family daycare home to be considered a residential use by right,

**PREPARED BY:** Diego Mora  
Assistant Planner

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Reviewed by: Planning Manager and Community Development Director

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BACKGROUND (continued):

where residential uses are permitted.

DISCUSSION:

A. Town Code Amendments

**Section 29.10.020. – Definitions**

A family daycare home, as defined by State law, is a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day.

Existing Town Code Section 29.10.020 defines family daycare home as:

*Family day care home* means a dwelling where day care is provided for children under eighteen (18) years of age who are unrelated to the licensee. A small family day care home is for six (6) or fewer children and a large family day care home is for seven (7) to twelve (12) children. Both limitations include the number of children residing in the dwelling unit.

The draft Ordinance (Exhibit 2) would modify the definition for family daycare home in Section 29.10.020 – Definitions, to be consistent with the new State law as follows:

*Family ~~day care~~ daycare home* means a dwelling where ~~day care~~ daycare is provided for children under eighteen (18) years of age who are unrelated to the licensee. A small family ~~day care~~ daycare home is for ~~six~~ eight (6 ~~8~~) or fewer children and a large family day care home is for ~~seven~~ nine (7 ~~9~~) to ~~twelve~~ fourteen (~~12~~ 14) children. Both limitations include ~~the number of children residing in the dwelling unit~~ children under 10 years of age who reside at the home.

**Section 29.10.09050 – Large family daycare homes.**

Existing Town Code Section 29.10.09050 currently requires a non-discretionary large family daycare home permit that must be approved by the Development Review Committee prior to issuance of a business license, as previously allowed by State law. The new State law removed that provision and requires large family daycare homes to be considered a residential use by right, where residential uses are permitted. The draft Ordinance (Exhibit 2) would remove Section 29.10.09050 of the Town Code to conform to the new State law.

DISCUSSION (continued):

**Sections 29.20.745(10). – Development Review Committee.**

Existing Town Code currently assigns the approval of large family daycare home permits to the Development Review Committee. The new State law allows a large family daycare home to be considered a residential use by right, where residential uses are permitted. The draft Ordinance (Exhibit 2) would amend Section 29.10.745(10) of the Town Code to conform to the new State law.

**Sections 29.40.160 through 29.40.835. – Permitted Uses.**

Existing Town Code currently identifies a small family daycare home as a permitted use in residential zones. The new State law allows both a small and large family daycare home to be considered a residential use by right, where residential uses are permitted. The draft Ordinance (Exhibit 2) would modify the permitted uses to permit any family daycare home in all residential zones to conform to the new State law.

PUBLIC OUTREACH:

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall;
- 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:

At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Recommendation

Based on the analysis above, staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval. The Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

CONCLUSION (continued):

1. Make the finding that the project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3) (Exhibit 1);
2. Make the required finding that the amendments to the Town Code (Zoning Regulations) are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to Chapter 29 of the Town Code (Exhibit 2).

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft Ordinance with modifications; or
2. Forward a recommendation to the Town Council for denial of the draft Ordinance; or
3. Continue the matter to a date certain with specific direction.

Exhibits:

1. Required Findings
2. Draft Ordinance
3. California Government Sections 1596.72 – 15.97.543 as amended

**PLANNING COMISSION – February 26, 2020**  
**REQUIRED FINDINGS FOR:**

**Town Code Amendment Application A-20-002**

Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations.

**FINDINGS**

**Required Findings for CEQA:**

- The project is Exempt pursuant to the adopted Guidelines for Implementation of the California Environmental Quality Act, Section 15061(b)(3).

**Required Findings for General Plan:**

- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

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**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE  
REGARDING FAMILY DAYCARE HOME REGULATIONS**

**WHEREAS**, in 2019, Senate Bill 234 amended Government Code Sections 1596.72 through 1597.543 regarding family daycare homes; to address the current shortage of regulated childcare; and

**WHEREAS**, the current definition of large family daycare home within the Town Code is for seven (7) to twelve (12) children; and

**WHEREAS**, the new State law requires family daycare homes to allow up to fourteen (14) children; and

**WHEREAS**, the current regulations of family daycare homes within the Town Code would require a large family daycare home to obtain approval of a discretionary large family daycare home permit from the Development Review Committee; and

**WHEREAS**, the new State law requires large family daycare homes to be considered a residential use by right; and

**WHEREAS**, the Town Council wishes to amend the Town Code, to consider a small or large family daycare home as a residential use by right, to comply with the new State law; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on February 26, 2020; and

**WHEREAS**, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding family daycare home regulations and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on \_\_\_\_\_, \_\_\_\_\_; and

**WHEREAS**, on \_\_\_\_\_, \_\_\_\_\_, the Town Council reviewed and commented on the proposed amendments regarding family daycare home regulations and the Town Council voted to introduce the Ordinance.

EXHIBIT 2

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES  
ORDAIN AS FOLLOWS:**

**SECTION I**

Chapter 29 of the Town Code is hereby amended as follows:

**ARTICLE I. DIVISION 1. - MISCELLANEOUS**

**Sec. 29.10.020. - Definitions.**

...

*Family ~~day care~~ daycare home* means a dwelling where ~~day care~~ daycare is provided for children under eighteen (18) years of age who are unrelated to the licensee. A small family ~~day care~~ daycare home is for ~~six~~ eight (~~6~~ 8) or fewer children and a large family day care home is for ~~seven~~ nine (~~7~~ 9) to ~~twelve~~ fourteen (~~12~~ 14) children. Both limitations include ~~the number of children residing in the dwelling unit~~ children under 10 years of age who reside at the home.

...

**~~Sec. 29.10.09050. — Large family day care homes.~~**

~~(a) Scope. Large family day care homes are allowed in all residential zones subject to the following regulations:~~

- ~~(1) All perimeter gates must be self-latching and the latches shall be a minimum of four (4) feet above grade.~~
- ~~(2) The rear yard must be enclosed with a minimum five-foot high fence.~~
- ~~(3) Use of the garage for day care must meet Uniform Building Code for living space.~~
- ~~(4) Two (2) off-street parking spaces must be provided, plus one (1) space for each employee.~~
- ~~(5) No double key deadbolts may be used on exterior doors.~~
- ~~(6) A minimum of two (2) exits must be provided.~~
- ~~(7) A minimum of one hundred (100) square feet of habitable space as defined by Section 409 of the Uniform Building Code shall be provided for each child.~~
- ~~(8) No child care space is permitted on the second floor unless approved by the Building Official.~~

- ~~(9) No signs may be displayed.~~
- ~~(10) A minimum lot size of six thousand (6,000) square feet is required.~~
- ~~(11) A minimum of five hundred (500) feet between large family day care homes is required.~~
- ~~(12) The day care home operator must be a resident of the home.~~
- ~~(13) The large family day care home shall not alter the single family residential character of the premises.~~
- ~~(b) Permit. A large family day care permit must be obtained from the Development Review Committee and all conditions identified must be satisfied prior to issuance.~~
- ~~(c) Inspection. Prior to issuance of a permit, the large family day care home is subject to an on-site inspection to insure compliance with all regulations to the satisfaction of the Building Official and Planning Director.~~
- ~~(d) Notification. All property owners within one hundred (100) feet shall be notified prior to the issuance that a large family day care home permit will be issued and the notification shall include the conditions under which the permit shall operate.~~
- ~~(e) Affidavit. All property owners of the property where the large family day care home is to be located shall sign an affidavit certifying that the property shall remain in compliance with the requirements of subsection 29.10.09050(a).~~
- ~~(f) Denial. The Planning Director may not issue a large family day care home permit where he finds the day care home will not comply with the provisions of this chapter.~~
- ~~(g) Revocation. The Planning Director may revoke large family day care home permits for violations of this chapter. Before revoking a large family day care home permit, the Planning Director shall give the permittee ten (10) days' notice in writing that revocation is under consideration, shall consider whatever evidence the permittee wishes to present to contest the revocation, and shall give the permittee written notice of this decision. Both notices shall be mailed to the address given by the permittee in his application for the large family day care home permit or such other address as the permittee has provided the Planning Director.~~

...

## ARTICLE II. DIVISION 3. – APPROVALS

### Sec. 29.20.185. – Table of conditional uses.

...

(4) Schools

...

Table of Conditional Uses		RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
d.	<del>Small family day care daycare home</del>								X	X	X	X		
e.	<del>Large family day care home</del> <u>Reserved.</u>													

...

## ARTICLE II. DIVISION 7. – ASSIGNMENT OF DUTIES

### Sec. 29.20.745. – Development Review Committee.

...

(10) Reserved.

...

## ARTICLE IV. DIVISION 2. – RC OR RESOURCE CONSERVATION ZONE

### Sec. 29.40.160. – Permitted Uses.

...

(4) ~~Small family day care home~~ Family daycare home.

...

## ARTICLE IV. DIVISION 3. – HR OR HILLSIDE RESIDENTIAL ZONE

### Sec. 29.40.235. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

## ARTICLE IV. DIVISION 4. – R-1 OR SINGLE-FAMILY RESIDENTIAL ZONE

### Sec. 29.40.385. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

**ARTICLE IV. DIVISION 5. – R-D OR DUPLEX RESIDENTIAL ZONE**

**Sec. 29.40.510. – Permitted Uses.**

...

(3) ~~Small family day care home~~ Family daycare home.

...

**ARTICLE IV. DIVISION 6. – R-M OR MULTIPLE-FAMILY RESIDENTIAL ZONE**

**Sec. 29.40.610. – Permitted Uses.**

...

(3) ~~Small family day care home~~ Family daycare home.

...

**ARTICLE IV. DIVISION 7. – R-1D OR SINGLE-FAMILY RESIDENTIAL DOWNTOWN ZONE**

**Sec. 29.40.725. – Permitted Uses.**

...

(3) ~~Small family day care home~~ Family daycare home.

...

**ARTICLE IV. DIVISION 8. – RMH OR MOBILE HOME RESIDENTIAL ZONE**

**Sec. 29.40.835. – Permitted Uses.**

...

(6) Family daycare home.

**SECTION II**

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

### **SECTION III**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

### **SECTION IV**

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

### **SECTION V**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_\_ day of 2020, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_\_ day of 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).



COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

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# California

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### SB-234 Family daycare homes. (2019-2020)

Disclaimer: The bill is compared here to the law that was in affect at the time. Note that the code section(s) in question may have been subsequently amended.

**As Amends the Law on Nov 18, 2019**

[As Amends the Law Today](#)

**SECTION 1.** Section 1596.72 of the Health and Safety Code is amended to read:

**1596.72.** The Legislature finds all of the following:

- (a) That child ~~day-care~~ *daycare* facilities can contribute positively to a child's emotional, cognitive, and educational development.
- (b) That it is the intent of this state to provide a comprehensive, quality system for licensing child ~~day-care~~ *daycare* facilities to ensure a quality ~~day-care~~ *childcare* environment.
- (c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child ~~day-care~~ *daycare* facilities.
- (d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child ~~day-care~~ *daycare* facilities from those facility types administered under Chapter 3 (commencing with Section 1500).
- (e) That good quality ~~child-day-care~~ *childcare* services are an essential service for working parents.
- (f) California has a tremendous shortage of regulated childcare, and only a small fraction of families who need childcare have it. Parents should be able to support their families without having to sacrifice their child's well-being.*
- (g) With childcare, families have more options for jobs and education to improve their prospects. Good, affordable childcare gives children a strong start and creates opportunities for families and communities.*

**SEC. 2.** Section 1596.73 of the Health and Safety Code is amended to read:

**1596.73.** The purposes of this act are to:

- (a) Streamline the administration of ~~child-care~~ *childcare* licensing and thereby increase the efficiency and effectiveness of this system.
- (b) Encourage the development of licensing staff with knowledge and understanding of children and ~~child-care~~ *childcare* needs.
- (c) Provide providers of ~~child-care~~ *childcare* with technical assistance about licensing requirements.
- (d) Enhance consumer awareness of licensing requirements and the benefits of licensed ~~child-care~~ *childcare*.
- (e) Recognize that affordable, quality licensed ~~child-care~~ *childcare* is critical to the well-being of parents and children in this state.
- (f) Promote the development and expansion of regulated childcare.*

**SEC. 3.** Section 1596.78 of the Health and Safety Code is amended to read:

EXHIBIT 3

**1596.78.** (a) "Family ~~day-care- daycare~~ home" means a ~~home facility~~ that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family ~~day-care- daycare~~ home or a small family ~~day-care- daycare~~ home.

(b) "Large family ~~day-care- daycare~~ home" means a ~~home facility~~ that provides ~~family-day-care- care, protection, and supervision~~ for 7 to 14 children, inclusive, including children under ~~the-age-of-~~ 10 years ~~of age~~ who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family ~~day-care- daycare~~ home" means a ~~home facility~~ that provides ~~family-day-care- care, protection, and supervision~~ for eight or fewer children, including children under ~~the-age-of-~~ 10 years ~~of age~~ who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

*(d) A small family daycare home or large family daycare home includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A small family daycare home or large family daycare home is where the daycare provider resides, and includes a dwelling or a dwelling unit that is rented, leased, or owned.*

**SEC. 4.** Section 1597.30 of the Health and Safety Code is amended to read:

**1597.30.** The Legislature finds and ~~declares:~~ *declares all of the following:*

(a) ~~It- The Legislature~~ has a responsibility to ensure the health and safety of children in family homes that provide ~~day-care- daycare~~.

(b) ~~That there are insufficient numbers~~ *There is an extreme shortage* of regulated family ~~day-care homes in California- daycare homes in California, and the number has decreased significantly since 2008.~~

(c) There ~~will- continues to~~ be a growing need for child ~~day-care- daycare~~ facilities due to the ~~increase-in working-parents- increased number of working parents. Parents need childcare so they can work and attend school, and so their children can thrive.~~

(d) Many parents prefer ~~child-day-care- childcare~~ located in their neighborhoods in family homes.

(e) There should be a variety of ~~child-care- childcare~~ settings, including regulated family ~~day-care- daycare~~ homes, as suitable ~~alternatives~~ *choices* for parents.

(f) ~~That the~~ *The licensing* program to be operated by the state should be cost effective, streamlined, and simple to administer in order to ensure adequate care for children placed in family ~~day-care- daycare~~ homes, while not placing undue burdens on the providers.

(g) ~~That the~~ *The* state should maintain an efficient program of regulating family ~~day-care- daycare~~ homes that ensures the provision of adequate protection, supervision, and guidance to children in their homes.

*(h) The state has a responsibility to promote the development and expansion of regulated family daycare homes to care for children in residential settings.*

**SEC. 5.** Section 1597.40 of the Health and Safety Code is repealed.

~~1597.40. (a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.~~

~~The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single family residences for family day care homes for children except as provided by this chapter.~~

~~(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.~~

~~(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.~~

~~(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.~~

~~(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.~~

~~(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.~~

~~(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.~~

~~(5) Section 1596.890 shall not apply to this subdivision.~~

**SEC. 6.** *Section 1597.40 is added to the Health and Safety Code, to read:*

**1597.40.** *(a) It is the intent of the Legislature that family daycare homes for children should be situated in normal residential surroundings so as to give children the home environment that is conducive to healthy and safe development. It is the public policy of this state to provide children in a family daycare home the same home environment as provided in a traditional home setting.*

*(b) The Legislature declares this policy to be of statewide concern with the purpose of occupying the field. This act, the state building code, and the fire code, and regulations promulgated pursuant to those provisions, shall preempt local laws, regulations, and rules governing the use and occupancy of family daycare homes. Local laws, regulations, or rules shall not directly or indirectly prohibit or restrict the use of a facility as a family daycare home, including, but not limited to, precluding the operation of a family daycare home.*

**SEC. 7.** *Section 1597.41 is added to the Health and Safety Code, to read:*

**1597.41.** *(a) Every provision in a written instrument relating to real property that purports to restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family daycare home is void, and every restriction in that written instrument as to the use or occupancy of the property as a family daycare home is void.*

*(b) An attempt to deny, restrict, or encumber the conveyance, leasing, or mortgaging of real property for use or occupancy as a family daycare home is void. A restriction related to the use or occupancy of the property as a family daycare home is void. A property owner or manager shall not refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential use to a person because that person is a family daycare provider.*

*(c) Except as provided in subdivision (d), a restriction, whether by way of covenant, contract, condition upon use or occupancy, or by transfer of title to real property, that restricts directly or indirectly limits the acquisition, use, or occupancy of a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential use as a family daycare home is void.*

*(d) (1) A prospective family daycare home provider who resides in a rental property shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the*



family daycare home.

(2) A family daycare home provider who has relocated an existing licensed family daycare home program to a rental property on or after January 1, 1997, may provide less than 30 days' written notice when the department approves the operation of the new location of the family daycare home in less than 30 days, or the home is licensed in less than 30 days, so that service to the children served in the former location not be interrupted.

(3) A family daycare home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other law, upon commencement of, or knowledge of, the operation of a family daycare home on an individual's property, the landlord or property owner may require the family daycare home provider to pay an increased security deposit for operation of the family daycare home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family daycare homes. The total security deposit charged shall not exceed the maximum allowable under existing law.

(5) Section 1596.890 does not apply to this subdivision.

(e) During the license application process for a small or large family daycare home, the department shall notify the applicant that the remedies and procedures in Article 2 (commencing with Section 12980) of Chapter 7 of Part 2.8 of Division 3 of Title 2 of the Government Code relating to fair housing are available to family daycare home providers, family daycare home provider applicants, and individuals who claim that any of the protections provided by this section or Section 1597.40, 1597.42, 1597.43, 1597.45, 1597.455, or 1597.46 have been denied.

(f) For the purpose of this section, "restriction" means a restriction imposed orally, in writing, or by conduct and includes prohibition.

(g) This section does not alter the existing rights of landlords and tenants with respect to addressing and resolving issues related to noise, lease violations, nuisances, or conflicts between landlords and tenants.

**SEC. 8.** Section 1597.42 is added to the Health and Safety Code, to read:

**1597.42.** The use of a home as a family daycare home, operated under the standards of state law, in a residentially zoned area shall be considered a residential use of property for the purposes of all local ordinances, regulations, and rules, and shall not fundamentally alter the nature of the underlying residential use.

**SEC. 9.** Section 1597.45 of the Health and Safety Code is amended to read:

**1597.45.** ~~All of the following shall apply to small family day care homes:~~

(a) The use of a ~~single-family residence- home~~ as a small ~~family-day-care- or large family daycare~~ home shall be considered a residential use of property ~~and a use by right~~ for the purposes of all local ~~ordinances, including, but not limited to, zoning~~ ordinances.

(b) ~~No A~~ local jurisdiction shall ~~not~~ impose a business license, fee, or tax for the privilege of operating a small ~~family-day-care- or large family daycare~~ home.

(c) Use of a ~~single-family dwelling for purposes of- home as~~ a small ~~family-day-care- or large family daycare~~ home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.

(d) A small ~~family-day-care- or large family daycare~~ home shall not be subject to ~~Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2 of Division 12, except that a small family-day-care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal and one or more functioning carbon monoxide detectors that meet the requirements of Chapter 8 the provisions of Division 13 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of the carbon monoxide detectors during inspections. 21000)~~ of the Public Resources Code.

(e) The provisions of this chapter do not preclude a city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family daycare home, as long as those restrictions are identical to those applied to all other residences with the same zoning designation as the family



daycare home. This chapter does not preclude a local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity, as long as the local ordinance is identical to those applied to all other residences with the same zoning designation as the family daycare home. This chapter also does not prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, the ordinance or nuisance abatement shall not distinguish family daycare homes from other homes with the same zoning designation, except as otherwise provided in this chapter.

(f) For purposes of this chapter, "small family daycare home or large family daycare home" includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses. A small family daycare home or large family daycare home is where the family daycare provider resides, and includes a dwelling or dwelling unit that is rented, leased, or owned.

**SEC. 10.** Section 1597.455 is added to the Health and Safety Code, to read:

**1597.455.** (a) A small family daycare home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2 of Division 12, except that a small family daycare home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

(b) A small family daycare home for children shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.

**SEC. 11.** Section 1597.46 of the Health and Safety Code is repealed.

~~**1597.46.** All of the following shall apply to large family day care homes:~~

~~(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:~~

~~(1) Classify these homes as a permitted use of residential property for zoning purposes;~~

~~(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to a large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (c) and regulations adopted by the State Fire Marshal pursuant to that subdivision. Noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator or, if there is no zoning administrator, by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing;~~

~~(3) Require a large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator or, if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (c) and regulations adopted by the State Fire Marshal pursuant to that subdivision. Noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process a required permit as economically as possible.~~

~~Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.~~

~~Not less than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. A hearing on the application for a permit issued pursuant to this paragraph shall not be held before a decision is made unless a hearing is~~

~~requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any, of the appeal.~~

~~(b) In connection with an action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:~~

~~(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of an applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.~~

~~(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.~~

~~(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.~~

~~(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.~~

~~(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.~~

~~(e) A large family day care home shall have one or more functioning carbon monoxide detectors that meet the requirements of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of the carbon monoxide detectors during inspections.~~

~~(f) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes, which shall be published in Title 24 of the California Code of Regulations. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, that meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce a building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes that is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.~~

~~(g) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.~~

**SEC. 12.** *Section 1597.46 is added to the Health and Safety Code, to read:*

**1597.46.** *(a) A large family daycare home shall abide by all standards, in addition to the requirements of the State Uniform Building Standards Code, that are specifically designed to promote fire and life safety in large family daycare homes. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in family daycare homes, which shall be published in Title 24 of the California Code of Regulations. These standards shall apply uniformly throughout the state and shall include, but not be limited to, all of the following:*

*(1) The requirement that a large family daycare home contain a fire extinguisher or smoke detector device, or both, that meets childcare standards established by the State Fire Marshal.*

*(2) Specification as to the number of required exits from the home.*

*(3) Specification as to the floor or floors on which childcare may be provided and the number of required exits on each floor.*

*(b) A large family daycare home for children shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.*

*(c) Enforcement of this section shall be in accordance with Sections 13145 and 13146. A city, county, city and county, or district shall not adopt or enforce a building ordinance or local rule or regulation relating to the subject of fire and life safety in large family daycare homes that is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to all residences with the same zoning designation in which childcare is provided.*

**SEC. 13.** Section 1597.47 of the Health and Safety Code is repealed.

~~1597.47. The provisions of this chapter shall not be construed to preclude any city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family day care facility as long as such restrictions are identical to those applied to other single family residences. The provisions of this chapter shall not be construed to preclude the application to a family day care facility for children of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. The provisions of this chapter also shall not be construed to prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, such ordinance or nuisance abatement shall not distinguish family day care facilities from other single family dwellings, except as otherwise provided in this chapter.~~

**SEC. 14.** Section 1597.54 of the Health and Safety Code is amended to read:

**1597.54. (a)** All family ~~day-care~~ *daycare* homes for children, shall apply for a license under this chapter, except that any home ~~which that~~, on June 28, 1981, had a valid and unexpired license to operate as a family ~~day-care~~ *daycare* home for children under other provisions of law shall be deemed to have a license under this chapter for the unexpired term of the ~~license~~ *license*, at which time a new license may be issued upon fulfilling the requirements of this chapter.

*(b)* An applicant for licensure as a family ~~day-care~~ *daycare* home for children shall file with the department, pursuant to its regulations, an application on forms furnished by the department, which shall include, but not be limited to, all of the following:

~~(a)~~ *(1)* A brief statement confirming that the applicant is financially secure to operate a family ~~day-care~~ *daycare* home for children. The department shall not require any other specific or detailed financial disclosure.

~~(b)~~ *(2)* ~~(A)~~ Evidence that the small family ~~day-care~~ *daycare* home contains a fire extinguisher or smoke detector device, or both, ~~which that~~ meets standards established by the State Fire Marshal under ~~subdivision (d) of Section 1597.45, Section 1597.455,~~ or evidence that the large family ~~day-care~~ *daycare* home meets the standards established by the State Fire Marshal under subdivision ~~(d)~~ *(a)* of Section 1597.46.

~~(2)~~ *(B)* Evidence satisfactory to the department that there is a fire escape and disaster plan for the facility and that fire drills and disaster drills will be conducted at least once every six months. The documentation of these drills shall be maintained at the facility on a form prepared by the department and shall include the date and time of the drills.

~~(c)~~ *(3)* The fingerprints of any applicant of a family ~~day-care~~ *daycare* home license, and any other adult, as required under subdivision (b) of Section 1596.871.

~~(d)~~ *(4)* Evidence of a current tuberculosis clearance, as defined in regulations that the department shall adopt, for any adult in the home during the time that children are under care. This requirement may be satisfied by a current certificate, as defined in subdivision (f) of Section 121525, that indicates freedom from infectious tuberculosis as set forth in Section 121525.

~~(e)~~ *(5)* Commencing September 1, 2016, evidence of current immunity or exemption from immunity, as described in Section 1597.622, for the applicant and any other person who provides care and supervision to the children.

~~(f)~~ *(6)* Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and Chapter 3.4 (commencing with Section 1596.70) and the regulations adopted pursuant to those chapters.

~~(g)~~ (7) Evidence satisfactory to the department that the applicant and all other persons residing in the home are of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1596.871, employment history, and character references.

*(8) Other information as required by the department for the proper administration and enforcement of the act.*

~~(h)~~ (c) Failure of the applicant to cooperate with the licensing agency in the completion of the application shall result in the denial of the application. Failure to cooperate means that the information described in this section and in regulations of the department has not been provided, or not provided in the form requested by the licensing agency, or both.

~~(i) Other information as may be required by the department for the proper administration and enforcement of the act.~~

**SEC. 15.** Section 1597.543 of the Health and Safety Code is repealed.

~~1597.543. Every family day care home for children shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.~~

**SEC. 16.** Section 1597.543 is added to the Health and Safety Code, to read:

*1597.543. (a) The State Fire Marshal shall update the building and fire standards necessary to implement the sections of this chapter relating to life and fire safety, including, but not limited to, Sections 1597.455 and 1597.46, and shall publish the updates in the California Code of Regulations (CCR) in the next Title 19 and Title 24 CCR adoption cycle.*

*(b) Prior to the publication of the updates required by subdivision (a), but not later than January 1, 2021, the State Fire Marshal shall issue guidance on implementing the sections listed in subdivision (a).*

*(c) The State Fire Marshal shall update the regulations at least every three years to conform to changes in this chapter. The State Fire Marshal may issue guidance on implementing this chapter annually in the years in which the regulations are not updated in Title 19 and Title 24 of the CCR.*





**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 02/26/2020

ITEM NO: 4

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DATE: February 21, 2020  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units, Town Wide. Town Code Amendment Application A-20-001. Applicant: Town of Los Gatos.

**RECOMMENDATION:**

Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units.

**CEQA:**

The project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3); in that it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment.

**FINDINGS:**

- The project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3); and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

**BACKGROUND:**

In October of 2019, Governor Newsom signed new State law, including Senate Bill 13, Assembly Bill 68, and Assembly Bill 881, further amending land use regulations regarding accessory dwelling units. Changes to California Government Code Section 65852 expanded the ability of California homeowners to construct accessory dwelling units and junior accessory dwelling

**PREPARED BY:** Sally Zarnowitz, AIA, LEED AP  
Planning Manager

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Reviewed by: Planning Manager and Community Development Director

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BACKGROUND (continued):

units on their properties. The new State law includes substantive changes related to the minimum number, size, and location of accessory dwelling units required to be allowed on a lot. A local ordinance that does not wholly conform to the minimum requirements of the new State law for the creation of accessory dwelling units is superseded until amendments to the local ordinance are adopted; however, the new State law does not limit the authority of jurisdictions to adopt less restrictive regulations for the creation of accessory dwelling units.

Below is a discussion of a draft Ordinance incorporating amendments to Chapter 29 of the Town Code (Zoning Regulations), Sections 29.10.305 – 29.10.400 (Accessory Dwelling Units), which are required to conform to the new State law. The discussion includes options to adopt less restrictive regulations for the creation of accessory dwelling units.

DISCUSSION:

A. Town Code Amendments

**Section 29.10.310. - Definitions**

The Zoning Regulations currently define accessory dwelling units in Section 29.10.020. The draft Ordinance would relocate the accessory dwelling unit definition from Section 29.10.020 (Definitions) to Section 29.10.310 (Accessory Dwelling Units - Definitions) of the Town Code.

The Zoning Regulations do not currently allow junior accessory dwelling units; however, the new State law requires jurisdictions to allow junior accessory dwelling units. State law defines a junior accessory dwelling unit as a dwelling unit that does not exceed a floor area of 500 square feet and is contained within the space of a proposed or existing primary dwelling. A junior accessory dwelling unit must include a small food preparation area; however, it may share sanitation facilities with the primary dwelling. The draft Ordinance (Exhibit 2) includes a junior accessory dwelling unit definition to conform to the new State law.

**Section 29.10.320.(b) – Design and development standards**

***Subsection (1) Number***

The Zoning Regulations currently state that only one accessory dwelling unit may be permitted on a lot. On single- or two-family lots, the new State law requires at least one junior accessory dwelling unit and one detached accessory dwelling unit to be allowed. On multi-family lots, the new State law requires at least a number equal to 25 percent of the existing multi-family dwelling units rounded-up to the next whole number, within the portions of an existing multi-family dwelling not used as livable space, and two detached



DISCUSSION (continued):

accessory dwelling units to be allowed. These requirements have been incorporated into the draft Ordinance (Exhibit 2) to conform to the new State law.

*Option*

On single- or two-family lots, the new State law does not require a junior accessory dwelling unit to be allowed with an attached accessory dwelling unit; nor does the new State law require a junior accessory dwelling unit to be allowed within a detached accessory structure or accessory dwelling unit. The Planning Commission may recommend allowing these options for the creation of junior accessory dwelling units with attached accessory dwelling units or within detached accessory structures or accessory dwelling units.

***Subsection (3) Setbacks***

*Option*

A standard has been included in the draft Ordinance clarifying that no accessory dwelling unit may be constructed in front of a primary dwelling that is a historic resource, to prevent adverse impacts on historic resources.

The Planning Commission may recommend allowing this option for the creation of accessory dwelling units in front of historic resources.

New attached accessory dwelling units in all residential zones and detached accessory structures that exceed a floor area of 800 square feet in the HR and RC zones would continue to be required to comply with the setbacks of the zone for a primary dwelling. However, notwithstanding other standards, the new State law [Section 65852.2(e)] allows at least one detached accessory dwelling unit that does not exceed a floor area of 800 square feet and a height of 16 feet, with minimum rear and side setbacks of four feet. The current Zoning Regulations have minimum detached accessory dwelling unit rear and side setback standards of five feet. The draft Ordinance (Exhibit 2) revises the minimum detached accessory dwelling unit rear and side setback standards to four feet to conform to the new State law.

*Option*

The new State law does not require attached accessory dwelling units to be allowed minimum rear and side setback standards of four feet. The Planning Commission may recommend allowing this option for the creation of attached accessory dwelling units with minimum rear and side setback standards of four feet.

DISCUSSION (continued):

***Subsection (4) Height***

*Option*

A standard has been included in the draft Ordinance clarifying that an accessory dwelling unit may not be added to an existing second story of a primary dwelling that is a historic resource, to prevent adverse impacts on historic resources. The Planning Commission may recommend allowing this option for the creation of second story accessory dwelling units on historic resources.

The Zoning Regulations currently limit the height of detached accessory dwelling units to 15 feet. The new State law allows a detached accessory dwelling unit that does not exceed a floor area of 800 square feet to have a maximum height of 16 feet. The draft Ordinance (Exhibit 2) revises the maximum height standard for detached accessory dwelling units to 16 feet to conform to the new State law.

***Subsections (5) Maximum unit size, (6) Floor area (FAR) standards, and (7) Lot coverage***

The proposed amendments would continue to regulate the size of accessory dwelling units up to a maximum of 1,200 square feet through floor area ratio (FAR) and maintain lot coverage standards. However, notwithstanding FAR and lot coverage standards, on a single- or two-family lot, the new State law allows at least an attached accessory dwelling unit that does not exceed a floor area of 800 square feet, or a junior accessory dwelling unit that does not exceed a floor area of 500 square feet; or a detached accessory dwelling unit that does not exceed a floor area of 800 square feet, and a junior accessory dwelling unit that does not exceed 500 square feet. On a multi-family lot, the new State law allows at least two detached accessory dwelling units that do not exceed a floor area of 800 square feet; and an accessory dwelling unit that does not exceed a floor area of 800 square feet that is contained within the portions of an existing multi-family dwelling that are not used as livable space. The draft Ordinance (Exhibit 2) incorporates these minimums to conform to the new State law.

***Subsection (8) Parking***

The Zoning Regulations currently address parking for accessory dwelling units in Section 29.10.150 (Number of off-street spaces required) and Section 29.10.320. The draft Ordinance would remove parking for accessory dwelling units from Section 29.10.150 (Number of off-street spaces required) and they would only be located in Section 29.10.320 of the Town Code.

The new State law allows that when a garage is demolished, or rebuilt in the same location, in conjunction with the construction of an accessory dwelling unit, replacement spaces cannot be required. The draft Ordinance (Exhibit 2) will remove the requirement for replacement spaces to conform to the new State law.

DISCUSSION (continued):

***Subsection (13) Conversion of existing floor area***

The current State law allows an accessory dwelling unit to be contained within the space of an existing structure. The new State law also allows an accessory dwelling unit to be contained within the space of a structure that is reconstructed in the same location and to the same dimensions as an existing structure. The new State law further allows an expansion of 150 square feet beyond the physical dimensions of the existing structure, to accommodate ingress and egress. The draft Ordinance (Exhibit 2) incorporates these provisions to conform to the new State law.

B. Public Outreach

Public input has been requested through the following media and social media resources:

- A poster at the Planning counter at Town Hall;
- 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 Next Door page.

PUBLIC COMMENTS:

At the time of this report's writing, the Town has not received any public comment.

CONCLUSION:

A. Recommendation

Staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft Ordinance. The Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

1. Make the finding that the project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3) (Exhibit 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code in the draft Ordinance are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the draft Ordinance (Exhibit 2).

PAGE 6 OF 6

SUBJECT: Accessory Dwelling Units

DATE: February 21, 2020

CONCLUSION (continued):

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft Ordinance with modifications; or
2. Forward a recommendation to the Town Council for denial of the draft Ordinance; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Findings
2. Draft Ordinance
3. California Government Code Section 65852

**PLANNING COMMISSION – February 26, 2020**  
**REQUIRED FINDINGS FOR:**

**Town Code Amendment Application A-20-001**

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units.

**FINDINGS**

**Required Findings for CEQA:**

- It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3).

**Required Findings for General Plan:**

- The proposed amendments to Chapter 29 of the Town Code regarding accessory dwelling units are consistent with the General Plan.

**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE  
REGARDING ACCESSORY DWELLING UNITS**

**WHEREAS**, effective January 1, 2020, Assembly Bill 881, Assembly Bill 68, and Senate Bill 13 amended Government Code Section 65852 regarding accessory dwelling unit and junior accessory dwelling unit regulations, to further address barriers to the development of accessory dwelling units and junior accessory dwelling units; and

**WHEREAS**, the Town of Los Gatos 2015-2023 Housing Element Enhanced Second Unit Program identified amending the Town Code to allow new second units to be affordable to lower income households on nonconforming residential lots and in the Hillside Residential Zone (Action HOU-1.2) as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

**WHEREAS**, the Town Council wishes to amend the Town Code to comply with State law and to address Action HOU-1.2 of the Town of Los Gatos 2015-2023 Housing Element; and

**WHEREAS**, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding accessory dwelling units; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on February 26, 2020; and

**WHEREAS**, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding accessory dwelling units and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and come before the Town Council for public hearing on \_\_\_\_\_, \_\_\_\_\_; and

**WHEREAS**, on \_\_\_\_\_, \_\_\_\_\_, the Town Council reviewed and commented on the proposed amendments regarding family daycare home regulations and the Town Council voted to introduce the Ordinance.



**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES  
HEREBY ORDAIN AS FOLLOWS:**

**SECTION I**

Chapter 29 of the Town Code is hereby amended to read as follows:

**ARTICLE I. DIVISION 1. MISCELLANEOUS**

**Sec. 29.10.020. - Definitions.**

.....

~~Accessory dwelling unit means a detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as the primary dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.~~

~~(1) A detached accessory dwelling unit is physically separate from the primary dwelling unit.~~

~~(2) An attached accessory dwelling unit is physically attached to the primary dwelling unit.~~

.....

**ARTICLE I. DIVISION 4. PARKING**

**Sec. 29.10.150 (c). Number of off-street spaces required.**

.....

~~(2) Accessory dwelling units . One parking space per unit or bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling unit. These spaces may be provided in a front setback on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.~~

~~When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary residence may be located in any configuration on the same lot as the accessory dwelling unit, including as tandem spaces, or by the use of mechanical automobile parking lifts.~~

~~a. Exceptions. No parking spaces shall be required if the accessory dwelling unit meets any of the following criteria:~~

~~1. The accessory dwelling unit is located within one-half mile of a public transit stop.~~

- ~~2. The accessory dwelling unit is located within an architecturally and historically significant historic district.~~
- ~~3. The accessory dwelling unit is within the existing space of a primary residence or an existing accessory structure.~~
- ~~4. When on street parking permits are required but not offered to the occupant of the accessory dwelling unit.~~
- ~~5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.~~
- ~~6. When the Director finds that the lot does not have adequate area to provide parking.~~

.....

## ARTICLE I. DIVISION 7. ACCESSORY DWELLING UNITS

### Sec. 29.10.305. Intent and authority.

This division is adopted to comply with amendments to State Law § 65852.2 and 65852.22 which mandates that applications for accessory dwelling units be considered ministerially without a public hearing; and sets Town standards for the development of accessory dwelling units in order to increase the supply of affordable housing in a manner that is compatible with existing neighborhoods.

### Sec. 29.10.310. Definitions.

*Accessory dwelling unit.* An accessory dwelling unit is a detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as a proposed or existing primary dwelling. An accessory dwelling unit also includes efficiency units and manufactured homes.

(1) A detached accessory dwelling unit is physically separate from a primary dwelling.

(2) An attached accessory dwelling unit is contained within the space of and/or physically attached to a proposed or existing primary dwelling.

.....

*Junior accessory dwelling unit.* A junior accessory dwelling unit is a dwelling unit that does not exceed a floor area of 500 square feet and is contained within the space of a proposed or existing single-family or two-family primary dwelling. It shall include a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. It may include separate sanitation facilities or may share sanitation facilities with the primary dwelling.

.....

~~*New accessory dwelling unit.* A new accessory dwelling unit is an attached (with either an interior or exterior entrance) or a detached unit, created after December 31, 1987, which includes permanent provisions for living, sleeping, eating, cooking, and sanitation, and is generally smaller and located on the same parcel as the dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.~~

**Sec. 29.10.315. Reserved.**

**Sec. 29.10.320. New accessory dwelling units.**

(a) *Incentive program.* Any accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A deed restriction shall be recorded specifying that the accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than 80 percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling unit.

(b) *Design and development standards.*

- (1) *Number.* ~~Only~~ Not more than either one (1) attached accessory dwelling unit or one (1) junior accessory dwelling unit; or a combination of one (1) detached accessory dwelling unit and one (1) junior accessory dwelling unit; may be permitted on a lot with a proposed or existing primary dwelling.

Not more than a number equal to 25 percent of the existing multi-family dwelling units rounded-up to the next whole number, within the portions of an existing multi-family dwelling not used as livable space, and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling. ~~No additional accessory dwelling unit is allowed upon a lot with an existing accessory dwelling unit.~~

- (2) *Permitted zones.* Accessory dwelling units are allowed on lots in the R-1, R-D, R-M, R-1D, RMH, HR, and RC zones, or include an existing primary dwelling.
- (3) *Setbacks.* Attached accessory dwelling units shall comply with the setbacks of the zone for a primary dwelling ~~unit~~.

No accessory dwelling unit may be constructed in front of a primary dwelling that is a historic resource.

No detached accessory dwelling unit may be placed in front of the primary dwelling ~~unit~~ in the R-1, R-D, R-M, RMH, and R-1D zones.

Detached accessory dwelling units shall comply with the following minimum setbacks:

- a. Front and side setbacks abutting a street of the zone for a primary dwelling ~~unit~~.
- b. Rear and side setbacks of ~~five (5)~~ four (4) feet in the R-1, R-D, R-M, RMH, and R-1D zones.
- c. Setbacks from any other structure located on the same lot of five (5) feet.
- d. Setbacks for a primary dwelling and located within the Least Restrictive Development Area (LRDA), in the HR and RC zones.

(4) *Height.* Accessory dwelling units shall not exceed one (1) story ~~in height~~, and shall not exceed ~~fifteen (15)~~ sixteen (16) feet in height, unless the accessory dwelling unit is contained within the existing ~~two-second~~ story space of a primary dwelling ~~unit~~ or accessory structure; added to an existing ~~two-second~~ story ~~of a primary dwelling unit that is not a historic resource~~; or added directly above an existing one-story accessory structure on a property with an existing two-story primary dwelling ~~unit~~ in the R-1, R-D, R-M, RMH, and R-1D zones.

(5) *Maximum unit size and maximum number of bedrooms.* The maximum floor area of an accessory dwelling unit is 1,200 square feet. The maximum number of bedrooms is two (2).

Detached accessory dwelling units exceeding a combined square footage of 450 square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of 600 or 1,000 square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

(6) *Floor area ratio (FAR) standards.* All accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages; except, notwithstanding the FAR standards in this subsection, an accessory dwelling unit that does not exceed a floor area of 800 square feet shall be permitted.

(7) *Lot coverage.* Accessory dwelling units must comply with lot coverage maximums for the zone; ~~except, with regard to the.~~ notwithstanding the lot coverage standards in this subsection, an accessory dwelling unit that does not exceed a floor area of 800 square feet shall be permitted.

- (8) *Parking.* One (1) accessory dwelling unit parking space per unit or bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling. These spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.

In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary dwelling ~~unit~~ shall be provided prior to the issuance of a building permit or final inspection, for a new accessory dwelling unit. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling shall not be required to be replaced. ~~may be located in any configuration on the same lot as the accessory dwelling unit, including as tandem spaces, or by the use of mechanical automobile parking lifts.~~

- a. *Exceptions.* No parking spaces shall be required if the accessory dwelling unit meets any of the following criteria:

1. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop.
2. The accessory dwelling unit is located within an architecturally and historically significant historic district.
3. The accessory dwelling unit is within the existing space of a primary dwelling or an existing accessory structure.
4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.
6. When the Director finds that the lot does not have adequate area to provide parking.

- (9) *Design, form, materials, and color.* The design, form, roof pitch, materials, and color of a new accessory dwelling unit shall be compatible with the primary dwelling ~~unit~~ and the neighborhood. Entrances serving the accessory dwelling unit shall not be constructed on any elevation facing a public street. Accessory dwelling units shall retain the ~~single-family~~ residential appearance of the property.

- (10) *Town codes and ordinances.* All accessory dwelling units shall comply with all the provisions of this chapter and other applicable Town codes.

- (11) *Building codes.* The accessory dwelling unit shall comply with applicable building, health and fire codes. The accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the primary dwelling unit.
- (12) *Denial.* An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:
- a. Adverse impacts on health, safety, and/or welfare of the public.
- (13) *Conversion of existing floor area .* An attached accessory dwelling unit or a junior accessory dwelling unit shall be permitted if the ~~accessory dwelling unit~~ is contained within the existing space of a primary dwelling, or constructed in substantially the same location and manner as an existing primary dwelling unit or. A detached accessory dwelling unit shall be permitted if contained within the existing space of an accessory structure, or constructed in substantially the same location and manner as an existing accessory structure. The following provisions shall apply:
- a. The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential ~~within a zone for a single family~~ use.
  - b. The accessory dwelling unit shall have separate entrance from the primary dwelling unit.
  - c. The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.
  - d. No parking spaces shall be required for the accessory dwelling unit.
  - e. An expansion of 150 square feet beyond the physical dimensions of the existing structure, limited to accommodating ingress and egress, shall be permitted.
  - f. When an existing structure is non-conforming as to setback standards and converted to an accessory dwelling unit, any expansion of that structure may not be nearer to a property line than the existing building in accordance with section 29.10.245.

.....



## **SECTION II**

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

## **SECTION III**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

## **SECTION IV**

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

## **SECTION V**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_\_ day of \_\_\_\_\_ 2020, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_\_ day of \_\_\_\_\_ 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

## **GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2**

### **(AB 881, AB 68 and SB 13 Accessory Dwelling Units)**

(Changes noted in strikeout, underline/italics)

Effective January 1, 2020, Section 65852.2 of the Government Code is amended to read:

#### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on ~~criteria that may include, but are not limited to,~~ the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, ~~lot coverage,~~ landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, ~~buy~~ but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing ~~single-family~~ dwelling.

(iii) The accessory dwelling unit is either attached to, or located ~~within the living area of the~~ within, the proposed or existing primary dwelling or dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) ~~The total area of floorspace of. If there is an existing primary dwelling, the total floor area of~~ an attached accessory dwelling unit shall not exceed 50 percent of the ~~proposed or existing primary dwelling living area or 1,200 square feet.~~ existing primary dwelling.

(v) The total floor area ~~of floorspace~~ for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than ~~five~~ four feet from the side and rear lot lines shall be required for an accessory dwelling

unit that is constructed above a garage, not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, ~~and the local agency requires~~ shall not require that those ~~offstreet~~ offstreet parking spaces be replaced, ~~the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).~~ replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application~~ A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, ~~within 120 days after receiving the application.~~ permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs that it incurs ~~as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature,~~ incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency ~~subsequent to the effective date of the act adding this paragraph~~ shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. ~~In the event that~~ If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void ~~upon the effective date of the act adding this paragraph~~ and that agency shall thereafter apply the standards established in this

subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the *delay or* denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot ~~zoned for residential use~~ that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be ~~utilized~~ *used* or imposed, *including any owner-occupant requirement*, except that a local agency may require ~~an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or~~ that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision ~~(a)~~ *within 120 days after receiving the application.* *(a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.*

*(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.*

*(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:*

*(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.*

*(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:*

*(i) 850 square feet.*

*(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.*

~~(c) (C)~~ *A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum* *Any other minimum* *or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance or limits on lot coverage, floor area ratio, open space, and minimum lot size,* for either attached or detached dwellings that does not permit at least an *efficiency-unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. 800 square*



foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) ~~Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process. within a residential or mixed-use zone to create any of the following:~~

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) ~~Accessory-~~ An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer ~~service-~~ service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

~~(A)~~ (4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge- charge, unless the accessory dwelling unit was constructed with a new single-family home.

~~(B)~~ (5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size-square feet or the number of its plumbing fixtures- drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) ~~Local (1) -agencies-~~ A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. ~~The department may review and comment on this submitted ordinance.~~ After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time,

no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) (1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which ~~that~~ provides complete independent living facilities for one or more persons. persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(A) (3) ~~An efficiency unit.~~ "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(B) (4) ~~A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~ "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(5) (8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

~~(6)~~ (11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(j) (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in strikeout, underline/italics) (AB 68 (Ting)):

**65852.22.**

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence ~~already built~~ built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the ~~existing~~ walls of the structure, and ~~require the inclusion of an existing bedroom.~~ proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, ~~with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.~~ proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

~~(A) A sink with a maximum waste line diameter of 1.5 inches.~~

~~(B) (A) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.~~ appliances.

~~(C) (B)~~ (B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine ~~whether if~~ if the junior accessory dwelling unit ~~is in compliance~~ complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. ~~A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section.~~ The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the

applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For ~~the~~ purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For ~~the~~ purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

~~(g)~~ (h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within ~~an existing~~ a single-family structure. residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.



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**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 02/26/2020

ITEM NO: 4

DESK ITEM

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DATE: February 26, 2020  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units, Town Wide. Town Code Amendment Application A-20-001. Applicant: Town of Los Gatos.

REMARKS:

Exhibit 4 includes additional public comments received between 11:01 a.m., Friday, February 21, 2020 and 11:00 a.m., Wednesday, February 26, 2020.

Exhibits:

Previously received with February 26, 2020 Staff Report:

1. Findings
2. Draft Ordinance
3. California Government Code Section 65852

Received with this Desk Item:

4. Public comments received between 11:01 a.m., February 21, 2020 and 11:00 a.m., February 26, 2020

PREPARED BY: Sally Zarnowitz, AIA, LEED AP  
Planning Manager

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Reviewed by: Planning Manager and Community Development Director

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## Sally Zarnowitz

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**From:** Bonnie Noehr <bbnoehr@gmail.com>  
**Sent:** Wednesday, February 26, 2020 9:08 AM  
**To:** Sally Zarnowitz  
**Subject:** ADU discission

Hi Sally,

I'm not sure that my comments are relevant for tonight's meeting as I live in Monte Sereno. Nevertheless, I am very interested in this subject as we have lived here since 1983 and, now that we are retired and on a fixed income, we do not want to leave this expensive area. An ADU would allow us space for a caregiver should that need arise. In the meantime, we could provide a low rent option to someone working in the community. We have worked (18 years at Los Gatos Saratoga HS District for me) and volunteered in this community for a long time and do not like facing the prospect of having to leave. I would hope that the fees to obtain a permit would not be prohibitive.

Sincerely,  
Bonnie (and Rolf) Noehr  
17445 Pleasant View Avenue  
Monte Sereno, CA 95030

408 354-3223