TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
NOVEMBER 07, 2023
110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
LOS GATOS, CA
7:00 PM

PARTICIPATION IN THE PUBLIC PROCESS

Maria Ristow, Mayor
Mary Badame, Vice Mayor
Matthew Hudes, Council Member
Rob Moore, Council Member
Rob Rennie, Council Member

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 follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the "Verbal Communications" period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Town Council meeting.

Effective Proceedings: The purpose of the Town Council 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 Town Council 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 Town Council without first being recognized; interrupting speakers, Town Council 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 Clerk's Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
  - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
  - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
  - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.
Rebroadcast of Town Council Meetings on the 2nd and 4th Tuesdays at 7:00 p.m.
Live & Archived Council Meetings can be viewed by going to:
www.LosGatosCA.gov/TownYouTube

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]

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NOVEMBER 07, 2023
110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
7:00 PM
IMPORTANT NOTICE

This is a hybrid meeting and will be held in-person at the Town Council Chambers at 110 E. Main Street and virtually through the Zoom webinar application (log-in information provided below). Members of the public may provide public comments for agenda items in-person or virtually through the Zoom webinar by following the instructions listed below. The live stream of the meeting may be viewed on television and/or online at www.LosGatosCA.gov/TownYouTube.

PARTICIPATION

To provide oral comments in real-time during the meeting:

- Zoom webinar: Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: https://losgatosca-gov.zoom.us/j/87922005778?pwd=RnNadElXWEVQd290dDJJVzEwaEw3Zz09
  Passcode: 771495. You can also type in 879 2200 5778 in the "Join a Meeting" page on the Zoom website at https://zoom.us/join.
  When the Mayor announces the item for which you wish to speak, click the "raise hand" feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand.
- Join by telephone: Join by Telephone: Dial: USA 877 336 1839 US Toll-free or 636 651 0008 US Toll. Conference code: 686100
  If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- In-Person: If you wish to speak during the meeting, please complete a "speaker's card" located on the back of the chamber benches and return it to the Town Clerk. If you wish to speak to an item on the agenda, please list the item number. If you wish to speak on an item NOT on the agenda, please list the subject and you may speak during the "Verbal Communications" period. The time allocated to speakers may change to better facilitate the Town Council meeting.

When called to speak, you may be asked to provide your full name and your town/city of residence. This identifying information is optional and not a requirement for participation. Please limit your comments to three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for speakers at a Council meeting. If you wish to speak to an item or items on the Consent Calendar, please state which item number(s) you are commenting on at the beginning of your time.

If you are unable to participate in real-time, you may email to Clerk@losgatosca.gov the subject line "Public Comment Item #__ " (insert the item number relevant to your comment) or "Verbal Communications – Non-Agenda Item." Comments received by 11:00 a.m. the day of the meeting will be reviewed and distributed before the meeting. All comments received will become part of the record.

MEETING CALL TO ORDER

ROLL CALL

APPROVE REMOTE PARTICIPATION *(This item is listed on the agenda in the event there is an emergency circumstance requiring a Council Member to participate remotely under AB 2449 (Government Code 54953)).*

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT

COUNCIL / MANAGER MATTERS

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Council may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Mayor asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 2 of this agenda. If an item is removed, the Mayor has the sole discretion to determine when the item will be heard.)*

1. Approve the Council Study Session Meeting Minutes of October 10, 2023.
2. Approve the Closed Session Council Meeting Minutes of October 17, 2023.
3. Approve the Council Meeting Minutes of October 17, 2023.
4. Approve the Closed Session Town Council Meeting Minutes of October 30, 2023.
5. Authorize Revenue and Expenditure Budget Adjustments in the Total Amount of $19,672 to Recognize Receipt and Expenditure of Grant Funding Received by the Library.
6. Adopt an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for Property Located at 15810 Los Gatos Boulevard." APN: 523-01-001. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendment for the Property Located at 15810 Los Gatos Boulevard. No Further Environmental Analysis is Required. Zone Change Application Z-23-001. PROPERTY OWNER/APPLICANT: Jesus Ching and Kathleen Ban. PROJECT PLANNER: Jocelyn Shoopman.
7. Adopt a Resolution Accepting Funds from the California Supplemental Law Enforcement Service Fund (SLESF).
8. Adopt a Resolution Acknowledging the Completion of Public Right-of-Way Improvements by Chang 2003 Family Trust for the Subdivision Located at 16940 Roberts Road and Authorizing the Town Manager to Execute and Record a Notice of Completion and Certificate of Acceptance.
9. Adopt a Resolution Approving Changes to the Town's Comprehensive Fine Schedule Amending the Fines for Violations of the E-Bike Ordinance and Tobacco Retailing Ordinance and Correcting Outdated References to Town Code Sections for Other Violations.

10. Adopt a Resolution to Seek Membership in the American Association of Retired People (AARP) Network of Age-Friendly Communities.
11. Authorize the Town Manager to Execute an Updated Agreement Between the Town of Los Gatos and the County of Santa Clara for Administration of the Town's Tobacco Retail Permit Program.
12. Approve a Side Letter of Agreement Between the Town of Los Gatos and the Town Employee Association (TEA) to establish a "Retention and Recruitment Bonus" for Dispatch Classifications Beginning July 9, 2023 and Ending June 30, 2024, Authorize the Town Manager to Execute the Side Letter, and Authorize a FY 2023/24 Expenditure Budget Adjustment in the Amount of $103,100 from the Capital/Special Projects Reserve.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda and is within the subject matter jurisdiction of the Town Council. To ensure all agenda items are heard, this portion of the agenda is limited to 30 minutes. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment. Each speaker is limited to no more than three (3) minutes or such time as authorized by the Mayor.)*

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 Council's consent at the meeting.)*

13. Adopt an Enabling Resolution to Change the Name of the Parks Commission to the Parks and Sustainability Commission and Add Appropriate Powers and Duties and Rescind Resolution 2016-057; and Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Town Code Section 19.20.010, 'Parks and Recreation – Created' and Section 26.10.070, 'Trees and Shrubs – Appeals' to Update Reference to Parks Commission to Parks and Sustainability Commission."

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

14. Discuss and Provide Any Requested Modifications to the Proposed Joint Powers Agreement to Create the Cities Association of Santa Clara County Joint Powers Agency.

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 Council's consent at the meeting.)*

15. Hear Protests and Adopt a Resolution Making Determinations and Approving the Reorganization of an Uninhabited Area Designated as Los Gatos Boulevard No. 20, Approximately 0.521 Acres on Property Pre-Zoned R-1:8. APN 523-01-001. Annexation

Application AN22-001. Project Location: 15810 Los Gatos Boulevard. Property Owner/Applicant: Jesus Ching and Kathleen Ban.

16. Approve a Recommendation of the Planning Commission to Adopt a Resolution to Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Replace the Affordable Housing Overlay Zone Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,' With the Housing Element Overlay Zone As Division 5 of Article VIII, 'Overlay Zones and Historic Preservation.'" An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Town Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. Applicant: Town of Los Gatos. Project Planners: Jocelyn Shoopman and Erin Walters.

17. Approve a Recommendation of the Planning Commission to Adopt a Resolution to Amend the General Plan Land Use Designation of 16492 Los Gatos Boulevard and Assessor Parcel Number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial; Amend the General Plan Land Use Designation of Caltrans Right-of-Way Adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential; and Introduce an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 (Single-Family Residential) to R-M (Multiple-Family Residential) for a Caltrans Right-of-Way Property Located Adjacent to 14685 Oka Road; and Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element:
APN's 424-06-116, 424-07-116, 424-08-029, 424-08-058, 424-08-059, 424-08-060, 424-08-074, and 532-07-085; 620 and 14000 Blossom Hill Road; 16210, 16240, 16245, 16250, 16260, 16270, and 16392 Burton Road; Cal Trans Right-of-Way Adjacent to 14685 Oka Road; 110 and 206 Knowles Drive; 445 Leigh Avenue; 440 Los Gatos Almaden Road; 16603 Lark Avenue; 14823, 14831, 14849, 14859, 14917, 14925, 15795, 16151, 16203, and 16492 Los Gatos Boulevard; 165 Los Gatos Saratoga Road; and 14800 and 14840 Oka Road."
An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003 and General Plan Amendment Application GP-23-003. Applicant: Town of Los Gatos.

18. Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Site Inventory Analysis of the 2023-2031 Housing Element: 401 through 409 Alberto Way, 50 Los Gatos-Saratoga Road, 529-24-001, and 529-24-003." An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No

further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

19. Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 15300, 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard." An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.
20. Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Site Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 101 South Santa Cruz Avenue." An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.
21. Introduce an Ordinance Titled "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 and Correcting Outdated References in Town Code Sections Pertaining to Termination of Nonconforming Use Status, Requirements for a Two-Unit Development Under Senate Bill 9 (SB 9), and Civil Penalties." The Environmental Impacts of the Proposed Amendments to the Town Code were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3). Town Code Amendment Application A-23-002. Project Location: Town Wide. Applicant: Town of Los Gatos.

ADJOURNMENT *(Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time.)*

Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.

Note: In accordance with Code of Civil Procedure §1094.6; litigation challenging a quasi-adjudicatory decision of the Town Council must be brought within 90 days after the decision is final unless a shorter time is required by State or Federal law.

DRAFT
Minutes of the Town Council Study Session
Tuesday, October 10, 2023

The Town Council of the Town of Los Gatos conducted a special meeting in person and utilizing teleconferencing means on Tuesday, October 10, 2023, at 5:00 p.m. to discuss an update to the Traffic Impact Fee and a Proposed Vehicle Miles Traveled Impact Fee.

MEETING CALLED TO ORDER AT 5:00 P.M.

ROLL CALL

Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, and Council Member Rob Rennie.

VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)

No one spoke.

OTHER BUSINESS

1. Receive the Report and Provide Direction for an Updated Traffic Impact Fee and a Proposed Vehicle Miles Traveled Impact Fee.

Nicholle Burnham, Public Works Director, presented the staff report.

The Town Council Members asked preliminary questions.

Mayor Ristow opened public comment.

No one spoke.

Mayor Ristow closed public comment.

The Town Council Members asked questions and discussed the information.

MOTION: Motion by **Council Member Rennie** to keep the Highway 17 Corridor Congestion Relief project on the list. **Seconded** by **Vice Mayor Badame.**

VOTE: Motion passed unanimously.

MOTION: Motion by **Vice Mayor Badame** to accept the project list as presented in the staff report. **Seconded** by **Council Member Moore**.

VOTE: Motion passed unanimously.

MOTION: Motion by **Vice Mayor Badame** to retain the trip length factor in the calculations and adopting a reduced fee rate for specific land uses based on the Town's goals for development. **Seconded** by **Council Member Moore**.

VOTE: Motion passed unanimously.

MOTION: Motion by **Vice Mayor Badame** to develop custom calculations of impact fees where a proposed land use's trip generation characteristics differ substantially from those of the basic land use categories and understanding that calculations would be based on the adopted basic fee per dwelling unit equivalent or single-family dwelling unit hoping that this approach would provide for a different fee rate for medical office uses. **Seconded** by **Council Member Moore**.

VOTE: Motion passed unanimously.

MOTION: Motion by **Council Member Hudes** to use 3,660 square feet as the basis for the single-family residential fee and 1,649 square feet as the basis for the multi-family fee per square foot fee calculation. **Seconded** by **Mayor Ristow**.

VOTE: Motion passed unanimously.

MOTION: Motion by **Council Member Rennie** to include the Accessory Dwelling Units (ADUs) over 750 with the Traffic Impact Fee (TIF) and Vehicle Miles Traveled (VMT) fee and include it in the multi-family category. **Seconded** by **Council Member Moore**.

VOTE: Motion passed unanimously.

MOTION: Motion by **Mayor Ristow** to adopt the fully calculated fees for multi-family housing developments and consider credit programs to offset certain categories of units. **Seconded** by **Council Member Moore**.

VOTE: Motion passed unanimously.

MOTION: Motion by **Council Member Rennie** to not reduce fees for moderate or low-income categories and waive or give a credit for extremely low and very low-income categories. **Seconded** by **Council Member Moore**.

VOTE: Motion passed unanimously.

ADJOURNMENT
The meeting adjourned at 6:26 p.m.

Respectfully Submitted:

_____

Wendy Wood, Town Clerk

DRAFT
Minutes of the Town Council Special Meeting – Closed Session
Tuesday, October 17, 2023

The Town Council of the Town of Los Gatos conducted a Special Meeting in person and utilizing teleconferencing means on Tuesday, October 17, 2023, at 5:30 p.m. to hold a Closed Session.

MEETING CALLED TO ORDER AT 5:30 P.M.

ROLL CALL
Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, and Council Member Rob Rennie.
Absent: None

VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)
None.

THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:
1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
   Significant exposure to litigation pursuant to subsection (e)(3) of Government Code Section 54956.9: 1 case.
   (E-mail from Ben Eilenberg threatening litigation is available in the Town Attorney's office.)
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
   Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: 1 case.

The Town Council reconvened in open session. The Town Attorney stated there was no reportable action under the Brown Act with regard to Item #1 on the agenda and that Council authorized litigation with regard for Item #2 on the agenda.

ADJOURNMENT
The meeting adjourned at 6:44 p.m.

Attest:

_____
Jenna De Long, Deputy Town Clerk

Submitted by:

_____
Laurel Prevetti, Town Manager

DRAFT
Minutes of the Town Council Meeting
Tuesday, October 17, 2023

The Town Council of the Town of Los Gatos conducted a regular meeting in person and utilizing teleconferencing means on Tuesday, October 17, 2023, at 7:00 p.m.

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

ROLL CALL
Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie.
Absent: None

PLEDGE OF ALLEGIANCE
Victoria Basilico led the Pledge of Allegiance. The audience was invited to participate.

CLOSED SESSION
Gabrielle Whelan, Town Attorney, stated the Town Council met in closed session regarding two items of potential litigation. Regarding the first item, there was no reportable action. Regarding the second item, the Town Council authorized litigation and the details will be provided in the event that litigation commences so long as it would not jeopardize service of process or settlement negotiations.

PRESENTATIONS
Mayor Ristow read a commendation commending Los Gatos resident Justin Liu, Silicon Valley Clean Energy Electric Showcase Award Winner.

COUNCIL/TOWN MANAGER REPORTS
Council Matters
- Council Member Hudes stated he met with a member of the Foundation for Older Adults to Thrive and Tylor Taylor of the Successful Aging Solutions and Community Consulting (SASCC); attended the opening of Domus; met with Margaret Smith the Owner of Domus and with the Community Health and Senior Service Committee Chair; and attended the Jewish Community Center Solidarity Event.
- Council Member Rennie stated he attended the Joint Venture Silicon Valley Poll, the Silicon Valley Clean Energy Authority (SVCEA) Risk Oversight Committee meeting, the Valley Transportation Authority (VTA) Board meeting, the Finance Commission meeting, the West Valley Sanitation District Board meeting, the Silicon Valley Clean Energy Board meeting, the VTA Policy Advisory Committee, the Highway 9 Los Gatos Creek Trail Connector Groundbreaking Event, and the SVCEA CEO Search Committee meeting.

- Vice Mayor Badame stated she attended the Finance Commission as an observer and a Plant Based Advocates presentation; and met with residents regarding the Housing Element and other concerns.
- Council Member Moore stated he held his Council Member Community Coffee event; met with high school students; attended a Youth Commission meeting; participated in a conversation about addressing mental health in cities; met with a variety of community members to discuss several topics; acknowledged the situation in Israel and Palestine; and attended the Jewish Community Center Solidarity Event.
- Mayor Ristow stated she attended the Joint Venture Silicon Valley Poll, a Leadership Los Gatos class, the Cities League Mental Health Forum, the Domus Ribbon Cutting, and the Inaugural Veteran's Gala; worked with the Los Gatos Beautification Committee on Pageant Park; attended the Highway 9 Los Gatos Creek Trail Connector Groundbreaking Event; volunteered at the Wine Walk; and attended a Plant Based Advocates presentation and the Jewish Community Center Solidarity Event.

Manager Matters

- No report.

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

1. Approve Closed Session Council Meeting Minutes of October 3, 2023.
2. Approve Minutes of the October 3, 2023, Town Council Meeting.
3. Reschedule to December 5, 2023, the Consideration of the Adoption of a Resolution Modifying the Height Pole and Netting Policy for Additions and New Construction. The Proposed Modifications to Town Policy are Not Considered a Project Under the California Environmental Quality Act. Project Location: Town Wide. Applicant: Town of Los Gatos.
4. Receive the Monthly Financial and Investment Report for August 2023.
5. Rescind Resolution 2021-006 and Adopt a Revised Enabling Resolution for the Policy Committee. **RESOLUTION 2023-055**
6. Authorize the Town Manager to Execute a Fourth Amendment to a Special Services Agreement with Liebert Cassidy Whitmore (LCW) to Increase Compensation in the Amount of $150,000 for a Total Contract Amount Not to Exceed $430,000; and Authorize an Expenditure Budget Adjustment in the Amount of $117,283 from the Available General Fund Capital/Special Projects Reserve.
7. Authorize Revenue and Expenditure Budget Adjustments in the Total Amount of $40,000 to Recognize Receipt and Expenditure of the California Automated Permit Processing (CalAPP) Grant Administered by the California Energy Commission.
8. Authorize the Town Manager to Execute an Agreement for Services with Bay Area Tree Specialists for Tree Removal and Stump Grinding of Eighteen Eucalyptus Trees Located on Overlook Road for a Total Agreement Amount not to Exceed $186,300.
9. Adopt a Resolution to Set a Date for Consideration of the Reorganization of an Uninhabited Area Designated as Los Gatos Boulevard No. 20, Approximately 0.521 Acres on Property Pre-Zoned R-1:8. APN 523-01-001. Annexation Application AN22-001. Project Location:

15810 Los Gatos Boulevard. Property Owner/Applicant: Jesus Ching and Kathleen Ban. **RESOLUTION 2023-056**

10. Adopt an Ordinance Titled, "An Ordinance of the Town Council of the Town of Los Gatos Amending Section 18.60.020, 'Permits for Retailers of Tobacco Products' of Article VI, 'Smoking Regulations' of Chapter 18, 'Offenses and Miscellaneous Provisions,' of the Town Code to Increase Fine Amounts and Amend the Definition of 'Tobacco Products' to Align with the Santa Clara County Ordinance." **ORDINANCE 2344**
11. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Fiscal Year 2022/23 Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921) Completed by Spencon Construction and Authorize the Town Clerk to File for Recordation.
12. Authorize Revenue and Expenditure Budget Adjustments in the Amount of $76,700 to Recognize Receipt and Expenditure for State of California Office of Traffic Safety (OTS) Grant Funds.

Mayor Ristow opened public comment.

No one spoke.

Mayor Ristow closed public comment.

MOTION: **Motion** by **Council Member Moore** to approve the consent items. **Seconded** by **Council Member Hudes.**

VOTE: **Motion passed unanimously.**

VERBAL COMMUNICATIONS

Lynley Fenchel
- Commented on religion and racism.

Linda Swenberg
- Commented on concerns with the infrastructure changes made to Blossom Hill Road.

Erica Osman
- Requested the Town's objective guidelines be strengthened.

Allan Bayless
- Commented on unhoused residents being displaced by CalTrans and strategies to assist unhoused residents.

Ron Meyer
- Commented on concerns with accountability.

OTHER BUSINESS

13. Receive and Provide Direction for the Youth Commission Work Plan for School Year 2023/24.

Laurel Prevetti, Town Manager, introduced the Youth Commission Chair. Taj Chunawala, Youth Commission Chair, presented the staff report and a presentation.

Mayor Ristow opened public comment.

No one spoke.

Mayor Ristow closed public comment.

Council discussed the item and provided feedback.

PUBLIC HEARINGS

14. Consider a Resolution to Amend the General Plan Land Use Designation of 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial and Introduce an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for Property Located at 15810 Los Gatos Boulevard." APN: 523-01-001. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendment for the Property Located at 15810 Los Gatos Boulevard. No Further Environmental Analysis is Required. Zone Change Application Z-23-001 and General Plan Amendment Application GP-23-001. PROPERTY OWNER/APPLICANT: Jesus Ching and Kathleen Ban. PROJECT PLANNER: Jocelyn Shoopman. **RESOLUTION 2023-057 ORDINANCE 2346**

Jocelyn Shoopman, Associate Planner, presented the staff report.

Mayor Ristow opened public comment.

Roger Shanks, Applicant Representative
- Commented in support of the item.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: **Motion** by **Council Member Rennie** to accept the staff recommendation to adopt a resolution (Attachment 3 to the staff report) to amend the General Plan land use

designation of 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial and introduce an ordinance (Attachment 4 to the staff report) titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for property located at 15810 Los Gatos Boulevard." **Seconded** by **Council Member Moore.**

VOTE: Motion passed unanimously.

OTHER BUSINESS

15. Authorize the Town Manager to Execute an Agreement for Revenue Ballot Measure Consultant Services with NBS in an Amount Not to Exceed $105,000 and Authorize an Expenditure Budget Adjustment in an Amount of $105,000 from the Available General Fund Capital/Special Projects Reserve.

Katy Nomura, Assistant Town Manager, presented the staff report.

Mayor Ristow opened public comment.

Ron Meyer
- Commented on the Town's budgeting priorities and concerns with transparency.

Jak Van Nada
- Commented on forecast revenue estimates, Town budgets, and concerns with this item.

Lynda Swenberg
- Commented on the item and concerns with studying a specific use tax.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: Motion by **Council Member Moore** to authorize the Town Manager to execute an agreement for Revenue Ballot Measure Consultant Services with NBS in an amount not to exceed $44,600 and authorize an expenditure budget adjustment in the amount of $44,600 from the General Fund, with the understanding that staff and the consultant will return to Council with the revenue models and any other pieces that have been completed before moving forward in the next step of public polling. **AMENDMENT**: concurrently develop the stakeholder outreach and public engagement messaging. **Seconded** by **Mayor Ristow.**

VOTE: Motion passed 4-1. Vice Mayor Badame voted no.

Mayor Ristow called a recess at 9:05 p.m.
Mayor Ristow reconvened the meeting at 9:15 p.m.

16. Discuss and Provide Direction Regarding Potential Changes to the Town's Boards, Commissions, and Committees.

Laurel Prevetti, Town Manager, presented the staff report.

Mayor Ristow opened public comment.

No one spoke.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: **Motion** by **Mayor Ristow** to return to Council with a redlined enabling resolution for the Parks Commission, change the name of the Parks Commission to the Parks and Sustainability Commission, and modify the language in the scope to address sustainability issues. **Seconded** by **Council Member Rennie.**

VOTE: Motion passed unanimously.

MOTION: **Motion** by **Council Member Moore** to direct staff to research ways for Building Board of Appeals members could serve on other Town Commissions as appropriate and where an overlap or conflicts do not exist. **Seconded** by **Mayor Ristow.**

VOTE: Motion passed 3-2. Vice Mayor Badame and Council Member Hudes voted no.

17. Accept the Diversity, Equity, and Inclusion (DEI) Plan and Identify First Year Priorities for the DEI Commission.

Holly Young, Management Analyst, presented the staff report.

Mayor Ristow opened public comment.

Susan Burnett
- Inquired if the DEI goals can be achieved without the use of staff and fiscal resources.

Linda Swenberg
- Commented on the DEI plan and stated Los Gatos should be a welcoming place for residents and businesses.

Johanes Swenberg
- Inquired about the outcome of the DEI plan, specific action items, and the fiscal impact.

Ron Meyer
- Commented on concerns with the DEI plan, specific action items, and the fiscal impact.

Ali Miano
- Commented in support of the item.

Mayor Ristow closed public comment.

Council discussed the item and provided direction below:

Council Member Rennie commented on concerns with the following items listed in the DEI Plan:

1. Goal C, Section 2, Subsection a - Town staff/School Districts/Youth to identify needs for both community-based and school-based programming.
2. Goal E, Section 1, Subsection a, Subparagraph i. - Education about affordable housing residents and the services they receive.
3. Goal E, Section 1, Subsection c. - Town staff to create a program to ensure that all rental multifamily housing is inspected on a three to five-year cycle to ensure compliance with all building, housing, and other codes for safe and sanitary housing.

Council Member Rennie commented in support of the following items listed in the DEI Plan:

1. Goal A, Section 1, Subsection a – In partnership with other Commissions, DEI Commission to review the community grants rubric for the community grant distribution process through an equity lens.
2. Goal A, Section 1, Subsection b - DEI Commission to create an annual review process and evaluation of the DEI Work Plan action items.
3. Goal B, Section 2, Subsection d – Town staff to explore the possibility of film festivals/benefit events at the Los Gatos Theatre.
4. Goal B, Section 3, Subsection a - Town staff/DEI Commission/Community Partners to develop a community learning opportunity focused on historical inequities and the history of the 3 Town of Los Gatos. Focused on but not limited to: Indigenous communities; redlining practices; and other items as identified through community partners.
5. Goal B, Section 4, Subsection a – Town staff in the Police Department to continue to offer a Community Police Academy, or similar program, to educate community members on law enforcement policies, practices, and problem solving, as well as promoting the opportunity for one-on-one interaction with Department members in a relaxed environment.

6. Goal C, Section 1, Subsection a, Subparagraph ii – Focus on collaborative projects that promote healing.
7. Goal C, Section 3, Subsection b – Town staff to explore opportunities for collaborating with other municipalities on DEI work.
8. Goal F, Section 1, Subsection b – Town staff to create a defined set of criteria that measures and prioritizes equitable distribution of Capital Improvement (CI) Projects Town-wide.
9. Goal F, Section 4, Subsection c – Town staff to continue to evaluate the annual proposed Capital Improvement Budget and any service expansion/contraction in the Operating Budget to ensure that all neighborhoods are treated equitably in the availability of services and infrastructure investment.
10. Goal F, Section 4, Subsection h – Town staff to continue to provide Biannual Reports to review progress at Town Council meetings on Police Reforms, including independent investigations, mental health/homeless support, traffic stop data, and options for nonemergency calls.
11. Goal F, Section 4, Subsection i – Town staff to continue to strengthen the Police Department relationship with County Behavioral Health and Crisis Response Teams.
12. Goal F, Section 4, Subsection j - Town staff to work toward the Police Chief's goal for all Department personnel to exceed the minimum number of hours of training in de-escalation and crisis intervention.
13. Goal F, Section 4, Subsection k- Town staff to continuously review and update Town policies and procedures to ensure that it is employing the best practices for hiring, training, eliminating bias, and ensuring the public's safety.
14. Goal E, Section 1, Subsection b – Town staff to investigate ways to attract affordable housing developers to the Town of Los Gatos.

Council Member Hudes commented on concerns with the following items listed in the DEI Plan:

1. Goal B, Section 1, Subsection b – Town staff/DEI Commission to evaluate heritage/holiday celebrations and recognitions in the Holiday and Recognition Work Plan.
2. Goal B, Section 2, Subsection b – Town staff/DEI Commission/Community Partners to work with other Boards, Commissions, and Committees to curate safe and engaging learning, dialogue and advocacy spaces for all community members.
3. Goal B, Section 2, Subsection e, Subparagraph i – Consider a Park Stewardship Program to develop meaningful relationships between different groups (example: seniors) and each park.
4. Goal B, Section 3, Subsection b – Town staff to develop diversity, sensitivity, and awareness training courses and curriculum for residents, business owners, and local organizations to take part in.
5. Goal D, Section 2, Subsection b, Subparagraph i – Develop a local business pledge about belonging and unwillingness to tolerate discrimination.

Council Member Hudes commented in support of the following items listed in the DEI Plan:

1. Goal B, Section 2, Subsection e – Town staff/Commissions to explore options for bringing diversity and incorporating equity into Town parks, open space, and the community garden (create a garden and food-based programs and identify additional spaces for a community garden).
2. Goal B, Section 2, Subsection d – Town staff to explore the possibility of film festivals/benefit events at the Los Gatos Theatre.

Council Member Hudes suggested the following items:

1. Explore cultural food festivals, cooking demos, dancing, street fairs.
2. Promoting and possible subsidizing adult school multicultural offerings such as languages and music classes.
3. Organizing community cultural participation in local schools
4. Aggressively pursue funding opportunities for actual affordable housing construction rather than luxury development projects.

Council Member Moore commented in support of the following items listed in the DEI Plan:

1. Goal E, Section 1, Subsection b – Town staff to investigate ways to attract affordable housing developers to the Town of Los Gatos.
2. Goal B, Section 1, Subsection b - Town staff/DEI Commission to evaluate heritage/holiday celebrations and recognitions in the Holiday and Recognition Work Plan making sure all faith groups are brought into the holiday discussions and events.
3. Goal F, Section 1, Subsection b - Town staff to create a defined set of criteria that measures and prioritizes equitable distribution of Capital Improvement (CI) Projects Town-wide.
4. Goal C, Section 1, Subsection a, Subparagraph ii - Focus on collaborative projects that promote healing.
5. Goal B, Section 4, Subsection a - Town staff in the Police Department to continue to offer a Community Police Academy, or similar program, to educate community members on law enforcement policies, practices, and problem solving, as well as promoting the opportunity for one-on-one interaction with Department members in a relaxed environment (add Police Department to work with community members to talk about how hate interacts with community).
6. Goal A, Section 2, Subsection a – DEI Commission to recommend additional action items to the Town Council to make visible the equity issues that matter to the larger community.
7. Goal C, Section 1, Subsection a, Subparagraph **i** – Meet with community partners to determine how they would like to manifest equity learning in the community. Focused on, but not limited to, the following local groups: local businesses; community-based organizations; nonprofits; education partners; faith-based partners; Town Departments; and other Town Commissions.

8. Goal D, Section 1, Subsection a – Town staff/DEI Commission/Community Partners to create a yearly communications campaign centered around equity education and promotion of community events. Include in this process: visible signage/banners, local art, and art displays.

Council Member Moore suggested the following items:

1. Consider working with additional schools in the area regarding DEI programming.

Vice Mayor Badame commented in support of the following items in the DEI Plan and stated she would trust the DEI Commission to advise the Town Council on action items of their deliberation:

1. Action items relating to safety.
2. Goal F, Section 4, Subsection b - Town staff to update the Town's Anti-Harassment Policy to meet current best practices, including anti-bullying.

Mayor Ristow commented in support of the following items listed in the DEI Plan:

1. Goal A, Section 1, Subsection a – In partnership with other Commissions, DEI Commission to review the community grants rubric for the community grant distribution process through an equity lens.
2. Goal B, Section 1, Subsection a – Town staff/DEI Commission to review the Town's four events (Spring into Green, 4th of July Symphony in the Park, Screen on the Green, and Winter Celebration) with an equity lens and requested broadening the events to be more expansive or adding new events such as a food culture event.
3. Goal B, Section 2, Subsection d – Town staff to explore the possibility of film festivals/benefit events at the Los Gatos Theatre.
4. Goal B, Section 4, Subsection a – Town staff in the Police Department to continue to offer a Community Police Academy, or similar program, to educate community members on law enforcement policies, practices, and problem solving, as well as promoting the opportunity for one-on-one interaction with Department members in a relaxed environment.
5. Goal B, Section 4, Subsection e – Town staff to continue to enhance awareness of DEI through expanded Library programing for both adults and children.
6. Goal D, Section 1, Subsection a – Town staff/DEI Commission/Community Partners to create a yearly communications campaign centered around equity education and promotion of community events. Include in this process: visible signage/banners, local art, and art displays.
7. Goal D, Section 2, Subsection a - Town staff/DEI Commission/Community Partners to create a new Town tagline, in concert with the mission statement that involves the spirit of 'belonging', as a north star for ongoing work and make a request to have the commission reevaluate the commission name.
8. Goal F, Section 4, Subsection h – Town staff to continue to provide Biannual Reports to review progress at Town Council meetings on Police Reforms, including independent

investigations, mental health/homeless support, traffic stop data, and options for non-emergency calls.

5. Goal F, Section 4, Subsection i - Town staff to continue to strengthen the Police Department relationship with County Behavioral Health and Crisis Response Teams.
6. Goal F, Section 4, Subsection j - Town staff to work toward the Police Chief's goal for all Department personnel to exceed the minimum number of hours of training in de-escalation and crisis intervention.

MOTION: **Motion** by **Council Member Moore** to accept the Diversity, Equity, and Inclusion (DEI) Plan. **AMENDMENT**: Accept the DEI Plan and add a more refined memo or addendum with the direction received from Council and to provide that direction to the DEI Commission in January and add the five-question Government Alliance on Race and Equity (GARE) (five questions: what is your timelines, how will you evaluate and report progress overtime, how will you know when an action is complete, can you retain stakeholder participation, does it ensure internal meaning government and public accountability) as a suggested framework to accomplish tangibility to be part of the addendum. **Seconded** by **Mayor Ristow.**

VOTE: **Motion passed 3-2. Vice Mayor Badame and Council Member Hudes voted no.**

ADJOURNMENT
The meeting adjourned at 11:40 p.m.

Respectfully Submitted:

_____
Jenna De Long, Deputy Town Clerk

DRAFT
Minutes of the Town Council Special Meeting – Closed Session
Tuesday, October 30, 2023

The Town Council of the Town of Los Gatos conducted a Special Meeting in person and utilizing teleconferencing means on Tuesday, October 30, 2023, at 5:00 p.m. to hold a Closed Session.

MEETING CALLED TO ORDER AT 5:01 P.M.

ROLL CALL
Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, and Council Member Rob Rennie.
Absent: None

VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)
None.

THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:

1. Public Employee Appointment, Employment, Evaluation of Performance, Discipline, and Dismissal
   [Government Code Section 54957(b)(1)]
   Titles: Town Manager and Town Attorney

2. Conference with Legal Counsel - Anticipated Litigation
   Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2): One case
   (E-mail from Ben Eilenberg threatening litigation is available in the Town Attorney's office.)

The Town Council reconvened in open session. The Town Attorney stated there was no reportable action under the Brown Act.

ADJOURNMENT
The meeting adjourned at 7:24 p.m.

Attest:

_____
Jenna De Long, Deputy Town Clerk

Submitted by:

_____
Laurel Prevetti, Town Manager

DATE: October 20, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Authorize Revenue and Expenditure Budget Adjustments in the Total Amount of $19,672 to Recognize Receipt and Expenditure of Grant Funding Received by the Library

RECOMMENDATION:

Authorize revenue and expenditure budget adjustments in the total amount of $19,672 to recognize receipt and expenditure of grant funding received by the Library.

REMARKS:

The Library has been successful in obtaining two grants:

1. A grant in the amount of $12,000 from the Pacific Library Partnership for Unhoused Community Care and Comfort. This will allow the library to create and stock a "Comfort Cabinet" that will contain free personal care items (e.g., socks, underwear, tampons, toothbrushes, personal cleaning and hygiene items, and bandages) that will be available to unhoused community members seven days a week. Through the grant, we will also be able to provide pre-loaded one-day VTA/Clipper Card passes as well as fund Lyft rides for unhoused community members when necessary to connect them with transportation directly to a point of service, shelter, or nearby hotel.

2. A grant in the amount of $7,672 from the California State Library to continue funding of the Zipbook program which provides additional books to the collection by allowing the Library to ship requested books through Amazon directly to a Library user's home. While all community members may utilize this program, it most directly benefits community members with limited mobility or fewer transportation options.

PREPARED BY: Ryan Baker
Library Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

FISCAL IMPACT:

Grant revenues totaling $12,000 will be recorded to account 7801-43343 and be expended from account 7801-61172.

Grant revenues totaling $7,672 will be recorded to account 7801-43343 and be expended from account 7801-61171.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

DATE: November 2, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for Property **Located at 15810 Los Gatos Boulevard**." APN: 523-01-001. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendment for the Property Located at 15810 Los Gatos Boulevard. No Further Environmental Analysis is Required. Zone Change Application Z-23-001. PROPERTY OWNER/APPLICANT: Jesus Ching and Kathleen Ban. PROJECT PLANNER: Jocelyn Shoopman.

RECOMMENDATION:

Adopt an ordinance titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for property located at 15810 Los Gatos Boulevard."

REMARKS:

On October 17, 2023, the Council considered and voted to introduce an Ordinance to effect a zone change from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway), for property located at 15810 Los Gatos Boulevard. Adoption of the attached Ordinance (Attachment 1) would finalize that decision.

Attachment:
1. Draft Ordinance for the Zone Change, with Exhibit A

PREPARED BY: Jocelyn Shoopman
Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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Draft Ordinance, subject to modification by Town Council based on deliberations and direction.

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING THE ZONING CODE FROM R-1:8 PREZONE (SINGLE-FAMILY RESIDENTIAL, MINIMUM LOT SIZE OF 8,000 SQUARE FEET) TO CH (RESTRICTED COMMERCIAL HIGHWAY) FOR PROPERTY LOCATED AT 15810 LOS GATOS BOULEVARD

WHEREAS, the Planning Commission recommended approval of the Zoning Code amendment at its regularly noticed public hearing on July 12, 2023; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on October 17, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Zoning Code amendment; and

WHEREAS, the Town Council considered all facts and information related to a request to change the Zoning for the above mentioned property as shown in Exhibit A.

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

SECTION I

The Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments; and

B. The zone change is consistent with the General Plan and its elements in that the proposed zoning is consistent with the proposed General Plan land use designation; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and

D. The Town Council considered all facts and information related to the proposal to rezone the site from Prezone R-1:8 to CH as shown in Exhibit A.

ATTACHMENT 1

SECTION II

The Town Code of the Town of Los Gatos is hereby amended to change the zoning of the property at 15810 Los Gatos Boulevard (Santa Clara County Assessor Parcel Number 523-01-001) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway).

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 17th day of October 2023, 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 7th day of November 2023. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

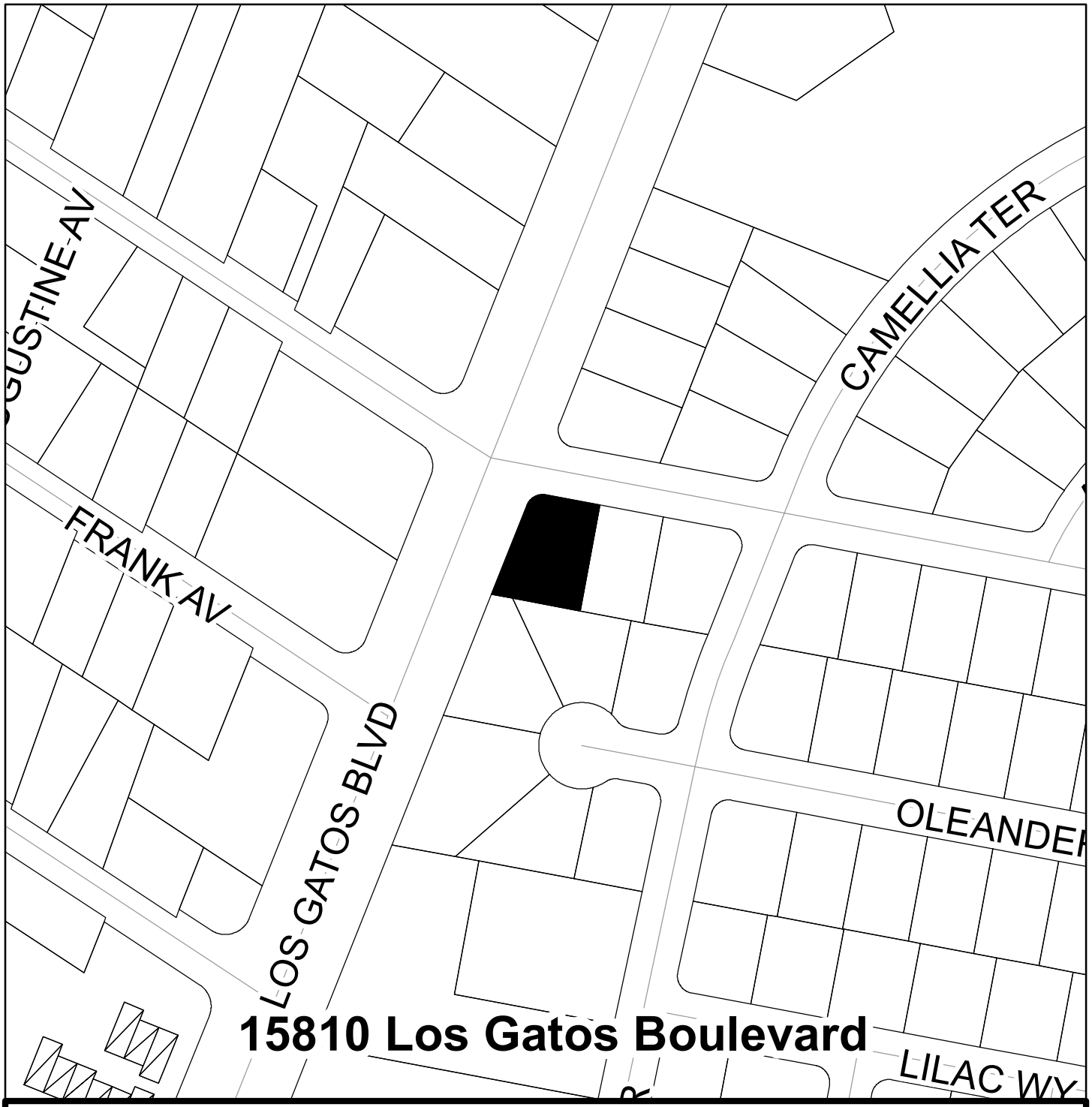
DATE: _____

ATTEST:

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

DATE: _____

DRAFT



TOWN OF LOS GATOS

Application No. Z-23-001 **A.P.N. #** 523-01-001

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: R-1:8 Prezone** **To: CH**

☐ **Prezoning**

N

Forwarded by Planning Commission **Date: July 12, 2023**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**

EXHIBIT A

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DATE: October 24, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt a Resolution Accepting Funds from the California Supplemental Law Enforcement Service Fund (SLESF)

RECOMMENDATION:

Adopt a Resolution accepting funds from the California Supplemental Law Enforcement Service Fund (SLESF).

BACKGROUND:

In 1996, California legislation (Assembly Bill 3229) created the Citizens Options for Public Safety (COPS) program allocating $100,000,000 to local governments yearly for front-line law enforcement. These funds are to be distributed through an established local Supplemental Law Enforcement Services Fund (SLESF). State General Fund distribution to local law enforcement agencies are specifically intended for "front-line municipal police services." COPS funds must be spent on personnel, equipment, or supplies and are not approved for public safety capital improvement or construction projects.

Other COPS funds requirements and restrictions include:

- COPS funds shall be used to supplement, not supplant existing funding for law enforcement services.
- COPS funds shall be deposited into a separate fund, not intermingled with other monies.
- The Town Council shall approve the appropriation of COPS funds pursuant to a recommendation by the Chief of Police.
- Each county shall establish a Supplemental Law Enforcement Services Fund for deposit of State COPS funds and distribution to municipalities.

PREPARED BY: Heather St. John
Senior Administrative Analyst

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

Pursuant to AB 3229, the City of Monte Sereno also receives a share of the state SLESF funds ($100,000). The City of Monte Sereno is required by contractual agreement for law enforcement services to transfer those funds to the Town of Los Gatos within 30 days of receipt of the monies from the State of California. The contract stipulates that the Los Gatos-Monte Sereno Police Department will provide additional hours of traffic enforcement within the city limits of Monte Sereno in exchange for its portion of SLESF funds.

DISCUSSION:

This report recommends the use of SLESF funds consistent with the intent of the COPS program. The Police Department proposes utilizing the Los Gatos portion ($100,000) of SLESF funds in Fiscal Year (FY) 2023/24 for frontline Police operational equipment and services, which includes but is not limited to data management and storage of secure digital evidence, technology equipment which increase operational efficiencies and crime reduction strategies; and ($100,000) of SLESF funds be directed toward the contractually required traffic enforcement within the city limits of Monte Sereno.

CONCLUSION:

Staff recommends approval of a resolution (Attachment 1) to use the SLESF funds as follows:

- $100,000 of SLESF funds will be directed to frontline police operations and services, and
- $100,000 of SLESF funds will be directed toward the contractually required traffic enforcement within the city limits of Monte Sereno

FISCAL IMPACT:

If Council approves the proposed recommendation, the Town will continue to receive a combined total of $200,000 in SLESF funding. Per contract stipulation with the City of Monte Sereno, $100,000 of SLESF funds will continue being directed toward additional traffic enforcement within the city limits of Monte Sereno. The remaining $100,000 of Town SLESF funds will be redirected toward frontline Police operations and services as described above and as stated in the Adopted Operating Budget.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:
1. Draft resolution authorizing the use of SLESF funds

DRAFT RESOLUTION

RESOLUTION OF THE TOWN OF LOS GATOS ACCEPTING SUPPLEMENTAL LAW ENFORCEMENT SERVICE FUNDS (SLESF) GRANT ALLOCATION FOR FY 2023-24 AND APPROVE USE OF THE FUNDS

WHEREAS, Government Code Section 30061(b)3 was amended with the Governor's approval of Assembly Bill 3229; and

WHEREAS, the Town of Los Gatos is entitled to receive approximately $100,000 under the terms of the Supplemental Law Enforcement Services Fund if specified requirements are met as well as $100,000 from the City of Monte Sereno under the terms of the fund; and

WHEREAS, the State funding cannot be used to supplant current Town costs for law enforcement and must be expended exclusively for front-line police services; and

WHEREAS, the Town Council has considered the written request separate and apart from the allocation of general funds for police services;

NOW, THEREFORE, BE IT RESOLVED: by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, that the Town of Los Gatos authorize the continued expenditure of funds from the Supplemental Law Enforcement Services Fund for 416 hours of traffic enforcement within the city limits of Monte Sereno; and has determined an expenditure plan that supports police operations and services for the Town of Los Gatos.

BE IT FURTHER RESOLVED,

1. The Town Manager is directed to continue the Supplemental Law Enforcement Services Fund (SLESF) within the Town for receipt and disbursement of money received from the County Supplemental Law Enforcement Services Fund.

2. The Town Manager is directed to promptly remit to the General Fund all funding deposited in such SLESF fund.

DRAFT

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of November, 2023, by the following vote:

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: _____

DRAFT

DATE: November 1, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt a Resolution Acknowledging the Completion of Public Right-of-Way Improvements by Chang 2003 Family Trust for the Subdivision Located at 16940 Roberts Road and Authorizing the Town Manager to Execute and Record a Notice of Completion and Certificate of Acceptance

RECOMMENDATION:

Adopt a Resolution (Attachment 1) acknowledging the completion of public right-of-way improvements by Chang 2003 Family Trust ("Subdivider") for the subdivision located at 16940 Roberts Road and authorizing the Town Manager to execute and record a notice of completion and certificate of acceptance (Attachment 2).

BACKGROUND:

On June 7, 2022, Town Council accepted a dedication of public right-of-way located on the northwest corner of intersection of Fisher Avenue and Roberts Road as part of a subdivision application. The required mapping to support the dedication was filed with the County of Santa Clara on July 14, 2022.

The Town issued Conditions of Approval to the subdivision application that obligated the Subdivider to enter into a Subdivision Improvement Agreement and a Landscape Maintenance Agreement.

The Town Manager executed a Subdivision Improvement Agreement (Attachment 3) with the Subdivider on July 13, 2022 to construct various off-site public improvements including streets, sidewalks, curbs, gutters, and street signs acceptable to all in accordance with the approved plans and specifications.

PREPARED BY: James Watson
Senior Civil Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

BACKGROUND (continued):

Faithful performance and labor and materials bonds were collected from the Subdivider to ensure completion of the improvements.

The Town Manager executed a Landscape Maintenance Agreement (Attachment 4) with the Subdivider on June 21, 2022 to maintain the landscaping and irrigation system within the planting strip in the public right-of-way along Roberts Road.

DISCUSSION:

The Subdivider has completed the work for the public improvements per the conditions of the Subdivision Improvement Agreement, and staff is recommending that Town Council accept the project as complete. Ten percent of the faithful performance bond shall be retained for a period of two years as a guaranty from any defective materials and workmanship. The execution and recordation of the Notice of Completion and Certificate of Acceptance is required to finalize the Town's acceptance of the public right-of-way improvements.

CONCLUSION:

Construction of the required improvements is complete, and staff is recommending acceptance of the public improvements at the intersection of Fisher Avenue and Roberts Road and execution of the required supporting documents.

FISCAL IMPACT:

The property owner and its successors shall be responsible for the maintenance of all vegetated areas adjacent to the property along Fisher Avenue and Roberts Road located within the street dedication. The public improvements associated with the Subdivision Improvement Agreement are not anticipated to increase maintenance costs of the Town’s infrastructure.

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is Categorically Exempt (Section 15303: New Construction or Conversion of Small Structures). A Notice of Exemption will not be filed.

SUBJECT: Adopt a Resolution Acknowledging the Completion of Public Right-of-Way Improvements by Chang 2003 Family Trust for the Subdivision Located at 16940 Roberts Road and Authorizing the Town Manager to Execute and Record a Notice of Completion and Certificate of Acceptance
DATE: November 1, 2023

Attachments:
1. Resolution
2. Certificate of Acceptance and Notice of Completion
3. Subdivision Improvement Agreement
4. Landscape Maintenance Agreement

DRAFT RESOLUTION 2023-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ACCEPTING PUBLIC IMPROVEMENTS CONSTRUCTED BY CHANG 2003 FAMILY TRUST AT 16940 ROBERTS ROAD AND AUTHORIZING EXECUTION AND RECORDATION OF A NOTICE OF COMPLETION AND CERTIFICATE OF ACCEPTANCE

WHEREAS, The County recorded a parcel map on July 14, 2022 indicating a dedication of public right-of-way located on the northwest corner of intersection of Fisher Avenue and Roberts Road to the Town of Los Gatos; and

WHEREAS, The Town issued Conditions of Approval of the subdivision that obligated the Subdivider to enter into a Landscape Maintenance Agreement and a Subdivision Improvement Agreement; and

WHEREAS, The Town Manager executed a Subdivision Improvement Agreement with the Subdivider on July 13, 2022 to construct various off-site public improvements including streets, sidewalks, curbs, gutters, and street signs. Faithful performance and labor and materials bonds were collected from the Subdivider to ensure completion of the improvements.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY RESOLVE:

1. The Subdivider has completed the work for the public improvements per the conditions of the Subdivision Improvement Agreement, and
2. The Town Manager is authorized to execute and record with the County a Notice of Completion and Certificate of Acceptance.

DRAFT

PASSED AND ADOPTED at a regular meeting of the Town Council held on the _____ day of _____, 2023 by the following vote:

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: _____

DRAFT

Recording Requested by:
TOWN OF LOS GATOS

WHEN RECORDED MAIL TO:

TOWN CLERK
TOWN OF LOS GATOS
110 E MAIN ST
LOS GATOS, CA 95030

_____

(SPACE ABOVE BAR FOR RECORDER'S USE)

(RECORD WITHOUT FEE UNDER GOVERNMENT CODE SECTIONS 27383 AND 6103)

TYPE OF RECORDING
NOTICE OF COMPLETION AND CERTIFICATE OF ACCEPTANCE
16940 ROBERTS ROAD, LOS GATOS, CA

TO WHOM IT MAY CONCERN:

I do hereby certify that **Chang 2003 Family Trust** has completed the work called for in the Subdivision Improvement Agreement for work located at 16940 Roberts Road in the TOWN OF LOS GATOS, County of Santa Clara, State of California executed July 13, 2022. The work was completed in October 2023, and approved and accepted on **November 7, 2023.**

Bond No.: 4452099
Date: December 21, 2021

SURETEC INSURANCE COMPANY
Mary Collins, Attorney-in-Fact
2103 Citywest Boulevard, Suite 1300
Houston, TX 77042

TOWN OF LOS GATOS

By: _____
Laurel Prevetti, Town Manager

Acknowledgement Required

ATTACHMENT 2

DocuSign Envelope ID: 83FA2ABD-6CB1-4DAA-9E65-BA89F247C3FB

SUBDIVISION IMPROVEMENT AGREEMENT BETWEEN THE TOWN OF LOS GATOS AND CHANG 2003 FAMILY TRUST

LOS GATOS, CALIFORNIA

This agreement, made and entered into, effective upon the last date this document is signed by the parties hereto, by and between the TOWN OF LOS GATOS, a municipal corporation of the State of California, hereinafter "TOWN," and **CHANG 2003 FAMILY TRUST, after this called "SUBDIVIDER,"** whose mailing address is **P.O. BOX 33097, LOS GATOS, CA 95031.**

WITNESSETH

WHEREAS, a Parcel Map (hereinafter "MAP") of **LANDS OF CHANG 2003 FAMILY TRUST (the "Subdivision")**, has been filed with the TOWN, which MAP is incorporated herein by reference; and **WHEREAS**, the Conditions of Approval of the Subdivision Application (M-19-002) and Architecture and Site Application S-19-008 requires the SUBDIVIDER to construct and complete certain off-site public improvements including but not limited to streets, sidewalks, curbs, gutters, street signs, acceptable to all according to the plans and specifications for all or any of said improvements in or appurtenant to 16490 Roberts Road, Off-Site Improvement Plans, Public Improvement Application Number EN20-082 dated April 21, 2022. The foregoing improvements are hereinafter referred to as ("REQUIRED IMPROVEMENTS").

WHEREAS, the SUBDIVIDER has prepared, and the TOWN Engineer has approved, Improvement Plans for the completion of the REQUIRED IMPROVEMENTS in connection with the Subdivision. The Improvement Plans ("PLANS") are on file in the Office of the Town Engineer and are incorporated into this Agreement by this reference, along with any changes or modifications

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as may be required by the Town Engineer or designee ("ENGINEER") due to errors, omissions, or changes in conditions.

WHEREAS, SUBDIVIDER recognizes that by approval of the MAP for Subdivision, TOWN has conferred substantial rights upon SUBDIVIDER, including the right to sell, lease, or finance lots within the Subdivision. As a result, TOWN will be damaged to the extent of the cost of installation of the improvements by SUBDIVIDER's failure to perform its obligations to commence construction of the improvements by the time established in this Agreement. The TOWN shall be entitled to all remedies available to it pursuant to this Agreement and law in the event of default by SUBDIVIDER.

WHEREAS, SUBDIVIDER has asked TOWN to review and approve the MAP and accept the dedications therein offered, subject to and on condition that the SUBDIVIDER, prior to issuance of a building permit for the REQUIRED IMPROVEMENTS, enter into this Agreement with the TOWN, and provide the TOWN with such security for performance and insurance and all other things as required by this Agreement;

NOW, THEREFORE, to insure satisfactory performance by SUBDIVIDER of these obligations, and in consideration of the approval of the MAP, the parties now agree as follows:

1. **PERFORMANCE OF WORK**

   SUBDIVIDER agrees to furnish, construct and install at SUBDIVIDER'S own expense the REQUIRED IMPROVEMENTS. The PLANS and specification of the REQUIRED IMPROVEMENTS may be modified by the SUBDIVIDER as the development progresses, subject to prior written approval of the Town ENGINEER.

2. **WORK; SATISFACTION OF TOWN ENGINEER**

   All the work on the REQUIRED IMPROVEMENTS is to be done at the places, of the materials, and in the manner and at the grades, all as shown upon approved PLANS and specifications and the Town's Ordinances, Improvement Standards and Specifications, to the satisfaction

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of the Town Engineer. Work shall be completed within two (2) years from the date of this Agreement.

3. INSPECTION BY TOWN

SUBDIVIDER shall at all times provide safe access for inspection by the Town to all parts of the REQUIRED IMPROVEMENTS and to all places where the REQUIRED IMPROVEMENTS are in preparation.

4. DEDICATION OF EASEMENTS OR RIGHT-OF-WAY

The Town acknowledges that SUBDIVIDER has offered to the Town to dedicate fee title to all streets and portions shown on the MAP dated April 2022.

5. IMPROVEMENT SECURITY

Concurrently with the execution of this Agreement, the SUBDIVIDER shall furnish the TOWN:

a. **Faithful Performance Security:** Pursuant to California Government Code 66499.3(a) SUBDIVIDER shall, before the release of the MAP by the TOWN, for filing for record and as a condition precedent to the recordation of it, furnish to the TOWN and file with the Town Clerk cash, an instrument of credit, or a bond as provided by the Subdivision Map Act, in a form approved by the Town Attorney, securing performance by SUBDIVIDER of all work shown on the PLANS, and completion within the agreed time. The security shall be in the amount of one hundred percent (100%) of the total estimated cost of the REQUIRED IMPROVEMENTS, as determined by the Director. The amount of cash, instrument of credit or bond shall be **One Hundred Forty-One Thousand, Two Hundred Twenty-Six Dollars and Fifty-Five Cents ($141,226.55)**.

b. **Payment Security:** SUBDIVIDER shall furnish to the TOWN and file with the Town Clerk cash, an instrument of credit, or a bond as provided by the Subdivision Map Act, in a form approved by the Town Attorney, secure the obligations for payment to the contractor, subcontractors and to persons renting equipment or furnishing labor or materials to the for the completion of the REQUIRED IMPROVEMENTS. The security

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shall be in the amount of one hundred percent (100%) of the total estimated cost of the REQUIRED IMPROVEMENTS, as determined by the Director. The amount of cash, instrument of credit or bond shall be **One Hundred Forty-One Thousand, Two Hundred Twenty-Six Dollars and Fifty-Five Cents ($141,226.55)**.

c. **Guarantee and Warranty Security:** It is further agreed that a "guarantee and warranty security" in the amount of ten (10%) percent of the total estimated cost of the REQUIRED IMPROVEMENTS for a period of two (2) years following their completion and acceptance by the TOWN against any defective work or labor done, or defective materials furnished, or done by the SUBDIVIDER. This limitation on the security does not shorten any time during which the TOWN may act to enforce the SUBDIVIDER's obligations under the terms of this agreement, nor shorten any time during which TOWN or any other person may bring an action in an appropriate court regarding the subject or performance of this agreement.

d. Any bonds submitted as security pursuant to this section shall be executed by a surety company authorized to transact a surety business in the State of California.

e. No change, alteration, or addition to the terms of this Agreement or the PLANS and specifications incorporated herein shall in any manner affect the obligation of the sureties, except as otherwise provided by the Subdivision Map Act.

f. The securities shall be irrevocable, shall not limited as to time (except as to the two (2) year guarantee and warranty period) and shall provide that they may be released, in whole or part, only upon the written approval of the Director and as provided in Section 7-Release of Security. All securities provided pursuant to this Agreement shall expressly obligate the surety for any extension authorized by the Town for SUBDIVIDER's completion of the REQUIRED IMPROVEMENTS, whether or not the surety is given notice of such an extension by the Town.

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6. RELEASE OF SECURITY

a. **Guarantee and Warranty Security:** Any unused portion of the guarantee and warranty security shall be released two (2) years after acceptance of the REQUIRED IMPROVEMENTS by the Town Council. The amount to be released shall first be reduced by the amount deemed necessary by the Town to correct any defects in the REQUIRED IMPROVEMENTS that are known or believed by the Town to exist at the end of the guarantee and warranty period.

b. **Payment Security:** Security securing the payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, after acceptance of the work, be reduced to an amount equal to the total claimed by all claimants for whom claims of lien have been recorded and notice thereof given in writing to the legislative body, and if no such claims have been recorded, the security shall be release in full.

c. **Faithful Performance Security:** The faithful performance security may be released upon acceptance of the REQUIRED IMPROVEMENTS by the Town Council.

7. HOLD HARMLESS

SUBDIVIDER does expressly agree to protect, defend, indemnify and hold harmless the TOWN, its Town Council Members, Boards, Commissions, employees and agents, from any and all loss or damage, and from any and all liability, including cost of defense, for any and all loss or damage, and from any and all suits, actions or claims filed or brought by any or all persons or person because of or resulting from the acts by SUBDIVIDER of any and all things required of SUBDIVIDER by this Agreement, or because of or arising or resulting from the failure or omission by SUBDIVIDER to do any and all things necessary to and required by this Agreement or by law, or arising or resulting from the negligent acts by SUBDIVIDER, SUBDIVIDER's agents, employees or subcontractors of any and all things required to be done by this Agreement, or arising or resulting from any dangerous or defective condition

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arising or resulting from any of the above said acts or omissions of SUBDIVIDER, SUBDIVIDER's agents or employees.

8. INSURANCE

SUBDIVIDER shall furnish to the TOWN and file with the Town Clerk evidence of, and at all times during the performance of its obligations under this Agreement maintain, the insurance described in Exhibit A.

9. TIME EXTENSIONS

a. If performance of this Agreement should be delayed in the work actually caused by inclement weather, riots, strikes, lockouts, fires, earthquakes, floods and conditions resulting therefrom, or for other reason beyond the control of the SUBDIVIDER, the time for the construction of same may be extended by the Town Engineer for such period of time as is reasonable delay.

b. Requests for extension of the commencement and/or completion date shall be in writing and delivered to the Town in the manner hereinafter specified for service of notices. An extension of time, if any, shall be granted only in writing.

c. In the event the Town extends the time of commencement and/or completion of the REQUIRED IMPROVEMENTS, such extension may be granted without notice by the Town to the SUBDIVIDER pursuant to this Agreement, or relieve or release those providing an improvement security pursuant to this Agreement. The surety or sureties, if any, in executing the securities shall be deemed to have expressly agreed to any such extension of time.

d. In granting any extension of time, the Town may require new or amended improvement security in amounts increased to reflect increases in the costs of constructing the REQUIRED IMPROVEMENTS or impose other conditions to protect its interests and ensure the timely completion of the REQUIRED IMPROVEMENTS.

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10. MAINTENANCE OF PUBLIC INFRASTRUCTURE

The SUBDIVIDER shall maintain all public infrastructure (streets, sidewalks, right-of-way, street light, storm drainage facility, sanitary sewer, etc.) in a safe and usable condition at all times during construction. Should any public infrastructure become unsafe, unusable or inoperable because of the SUBDIVIDER's activities, the SUBDIVIDER shall immediately cease all work on the project until the public infrastructure is made safe and usable, for which the SUBDIVIDER shall be solely responsible. Additionally, notwithstanding acceptance by Town, SUBDIVIDER shall maintain and perform or cause to be performed repairs, additions, or corrective work necessitated by SUBDIVIDER's omission or deficient performance for two (2) years after acceptance. If the SUBDIVIDER fails to act promptly or in accordance with this agreement, or if the exigencies of the situation require repairs or replacements to be made before the SUBDIVIDER can be notified, then the TOWN may, at its options, make the necessary repairs or replacements or perform the necessary work, and SUBDIVIDER shall pay the Town the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by TOWN.

11. DEFAULT BY SUBDIVIDER.

a. Default of SUBDIVIDER shall include, but not be limited to:

(1) SUBDIVIDER's failure to timely commence construction of Public Improvements under this Agreement;

(2) SUBDIVIDER's failure to complete construction of the Public Improvements within the time period provided by this Agreement or any extensions thereof;

(3) SUBDIVIDER's failure to timely cure any defect in the Public Improvements during the two (2) year guaranty and warranty period where such failure continues beyond thirty (30) days after written notice thereof from the TOWN, or if such failure is not susceptible to cure within such 30-day period, SUBDIVIDER has not commenced to cure within such 30-day period and does not thereafter continue to diligently proceed to cure;

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(4) SUBDIVIDER's failure to perform substantial construction work for a period of 30 consecutive calendar days after commencement of the work, for reasons other than force majeure events;

(5) SUBDIVIDER's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which SUBDIVIDER fails to discharge within 30 days;

(6) The commencement of a foreclosure action against the subdivision or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or

(7) SUBDIVIDER's failure to perform any other obligation under this Agreement within thirty (30) days after written notice thereof from the TOWN, or if such failure is not susceptible to cure within such 30-day period, SUBDIVIDER has not commenced to cure within such 30-day period and does not thereafter continue to diligently proceed to cure.

b. The TOWN reserves all remedies available to it at law or in equity for breach of SUBDIVIDER's obligations under this Agreement. The TOWN shall have the right, subject to this Section, to draw upon or use the appropriate security to mitigate the TOWN's damages in the event of default by SUBDIVIDER. The TOWN's right to draw upon or use the security is in addition to any other remedy available to TOWN. The parties acknowledge that the estimated costs and security amounts may not reflect the actual cost of construction of the improvements and, therefore, TOWN's damages for SUBDIVIDER's default shall be measured by the cost of completing the REQUIRED IMPROVEMENTS. The TOWN may use the sums provided by the securities for the completion of the Public Improvements in accordance with the PLANS and Specifications contained herein. In the event SUBDIVIDER fails to cure any default under this Agreement within twenty (20) days after the TOWN mails written notice of such default to the SUBDIVIDER and the SUBDIVIDER's surety, SUBDIVIDER authorizes TOWN to perform the obligation for which SUBDIVIDER is in default and agrees to pay

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the entire cost of such performance by the TOWN. The TOWN may take over the work and complete the Public Improvements, by contract or by any other method the TOWN deems appropriate, at the expense of SUBDIVIDER. In such event, the TOWN, without liability for so doing, may complete the Public Improvements using any of SUBDIVIDER'S materials, appliances, PLANS and other property that are at the work site and that are necessary to complete the Public Improvements.

12. NOTICES

Notices regarding this Agreement shall be given as follows and shall be considered effective upon either personal delivery or five (5) days following deposit in the U.S. Mail:

To SUBDIVIDER: Chang 2003 Family Trust
P.O. Box 33097
Los Gatos, CA 95031

To TOWN: Parks and Public Works Department
Town of Los Gatos
41 Miles Avenue
Los Gatos, California 95030

Any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

13. WAIVER

Waiver of a breach of default under this Agreement shall not form a continuing waiver or a waiver of a subsequent breach of the same or any other provision of the Agreement.

14. SEVERABILITY

If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.

15. ENTIRE AGREEMENT AND AMENDMENT

This Agreement constitutes the complete and exclusive statement of this agreement between the TOWN and SUBDIVIDER. No verbal agreement or conversation with any

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officer, agent, or employee of the TOWN, either before, during or after the execution of this Agreement, shall affect or modify any of the terms or obligations contained in the Agreement.

16. PAYMENT OF OUTSTANDING FEES

Prior to acceptance of public improvements for permanent maintenance by the TOWN, SUBDIVIDER shall pay all outstanding fees which are due in accordance with this Agreement and the Town Code of the Town of Los Gatos.

17. ACTIONS TO ENFORCE

If any action at law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, expert witness fees and costs, in addition to any other relief to which they may be entitled.

18. REIMBURSEMENT OF ATTORNEYS FEES

In the event of any third party claim or legal challenging any action taken by the TOWN with regard to any procedure or aspect of this Agreement, including approval or environmental review process, if the TOWN chooses to defend the claim or action, the SUBDIVIDER agrees to reimburse the TOWN for attorneys' fees, expert witness fees, and any other costs the TOWN may incur in connection with its retention of legal counsel, and for any award of court costs of fees against the TOWN.

19. AGREEMENT BINDS SUCCESSORS

This Agreement pertains to and runs with the land benefited by the privileges it grants and binds the successors in interest of the parties to this Agreement.

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TOWN OF LOS GATOS

DocuSigned by:
Laurel Prevetti
853FEEA2EB39470...

DATE: 7/13/2022

LAUREL PREVETTI
Town Manager

ATTEST:

DocuSigned by:
Shelley Neis
B9666F65B1F34F6...

DATE: 7/13/2022

SHELLEY NEIS
Town Clerk

APPROVED AS TO FORM:

DocuSigned by:
Gabrielle Whelan
EFD6738A5534428...

DATE: 7/12/2022

GABRIELLE WHELAN
Town Attorney

RECOMMENDED BY:

DocuSigned by:
Timm Borden
9AC05166650A487...

DATE: 6/20/2022

Director of Parks and Public Works

SUBDIVIDER

DATE: 5-20-2022

Iyan-Ping Lily-Chang, Trustee

See Attached Notary Certificate

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FAITHFUL PERFORMANCE BOND

BOND NUMBER: 4452099
PREMIUM: $3,325.00

WHEREAS, the Town of Los Gatos, State of California (hereinafter called "TOWN"), and Chang 2003 Family Trust (herein designated as "PRINCIPAL") have entered an agreement by which PRINCIPAL agrees to install and complete certain designated public improvements, which said agreement, dated 7/13/2022, and identified as the Subdivision Improvement Agreement, is hereby referred to and made a part hereof; and

WHEREAS, said PRINCIPAL is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

NOW, THEREFORE, we, the PRINCIPAL and Suretec Insurance Company, as Surety, are held and firmly bound unto the TOWN, in the penal sum of **One Hundred Forty-One Thousand, Two Hundred Twenty-Six Dollars and Fifty-Five Cents ($141,226.55)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, formally by these presents.

The condition of this obligation is such that if the above bounded PRINCIPAL, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless TOWN, its officers, agents and employees, as therein stipulated, and this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

PRINCIPAL and Surety further agree that upon TOWN's final approval of the work, five percent (5%) of this bond shall remain in effect to guarantee the repair and/or replacement of defective materials and/or construction, two (2) years after TOWN's final acceptance of the work.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by TOWN in successfully enforcing such obligation, all to be taxed as costs and included in any judgement rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the PRINCIPAL and Surety above named, on December 21, 2021.

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PRINCIPAL:	**SURETY:**
Chang 2003 Family Trust	Suretec Insurance Company
Jyan-Ping Lily Chang	Mary Collins, Attorney-in-Fact
P.O. Box 33097	2103 Citywest Boulevard, Suite 1300
Los Gatos, CA 95031	Houston, TX 77042

Notary Acknowledgment Required

DocuSign Envelope ID: 83FA2ABD-6CB1-4DAA-9E65-BA89F247C3FB

LABOR AND MATERIALS BOND

BOND NUMBER: 4452099
PREMIUM: Included with Performance Bond

WHEREAS, the Town of Los Gatos, State of California (hereinafter called "TOWN"), and Chang 2003 Family Trust (hereinafter designated as "PRINCIPAL") have entered an agreement whereby PRINCIPAL agrees to install and complete certain designated public improvements, which said agreement, dated 7/13/2022, and identified as the Subdivision Improvement Agreement, is hereby referred to and made a part hereof; and

WHEREAS, under the terms of said agreement, PRINCIPAL is required before entering upon the performance of the work, to file a good and sufficient payment bond with the TOWN to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, said PRINCIPAL and the undersigned as Corporate Surety, are held firmly bound unto the TOWN and all contractors, subcontractors, laborers, material suppliers and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure in the sum of **One Hundred Forty-One Thousand, Two Hundred Twenty-Six Dollars and Fifty-Five Cents ($141,226.55)** for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the TOWN in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the PRINCIPAL and Surety above named, on December 21, 2021.

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PRINCIPAL:	**SURETY:**
Chang 2003 Family Trust	Suretec Insurance Company
Jyan-Ping Lily Chang	Mary Collins, Attorney-in-Fact
P.O. Box 33097	2103 Citywest Boulevard, Suite 1300
Los Gatos, CA 95031	Houston, TX 77042

Notary Acknowledgment Required

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EXHIBIT A

INSURANCE REQUIREMENTS

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Offices form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form GC 0001).

2. Insurance Services Office form number CA 0001(Ed. 1/78) covering Automobile Liability, code 1 "any auto" and endorsement CA 0025.

3. Worker's Compensation insurance as required by the Labor Code of the State of California and Employers Liability Insurance.

B. BEGINNING OF WORK

SUBDIVIDER shall maintain limits no less than:

1. General Liability: $1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage.

3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of $1,000,000 per accident.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the TOWN. At the option of the TOWN, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the TOWN, its officers, official, employees and volunteers; or the SUBDIVIDER shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

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D. OTHER INSURANCE PROVISION

The policies are to contain, or be endorsed to contain the following provision:

1. General Liability and Automobile Liability Coverages

   a. The TOWN, its officers, official, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the SUBDIVIDER, products and completed operation of the Contracts, premises owned, occupied or used by the SUBDIVIDER, or automobiles owned, leased, hired or borrowed by the SUBDIVIDER. The coverage shall contain no special limitation on the scope of protection afforded to the TOWN, its officers, officials, employees, or volunteers.

   b. The SUBDIVIDER's insurance coverage shall be primary insurance as respects the TOWN, its officer, officials, employees, and volunteers. Any insurance or self-insurance maintained by the TOWN, its officers, officials, employees, or volunteers shall be excess of the SUBDIVIDER's insurance and shall not contribute with it.

   c. Any failure to comply with reporting provision of the policies shall not affect coverage provided to the TOWN, its officers, officials, employees, or volunteers.

   d. The SUBDIVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage

   The insurer shall agree to waive all rights of subrogation against the TOWN, its officers, officials, employees, or volunteers for losses arising from work performed by the SUBDIVIDER for the TOWN.

3. All Coverages

   Each insurance policy required by this clause shall be endorsed to state that the coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail return receipt required, has been given to the TOWN.

   SUBDIVIDER is satisfying its insurance requirement with insurance provided by its concrete contractor. If SUBDIVIDER'S concrete contractor changes, SUBDIVIDER will immediately provide the TOWN with an updated insurance certificate and endorsement.

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E. ACCEPTABILITY OF INSURERS

Insurance is to be place with insurers with a Best's rating of no less than **B+**.

F. VERIFICATION OF COVERAGE

SUBDIVIDER shall furnish the TOWN with certificates of insurance and with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a persona authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by the TOWN. Where by statute, the TOWN's workers' compensation-related forms cannot be used, equivalent forms approved by the State Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by the TOWN before work commences. The TOWN reserves the right to require complete, certified copies of all required insurance policies, at any time.

G. SUBCONTRACTORS

SUBDIVIDER shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On May 20TH, 2022 before me, Ellen Mulberg, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Jyan-Ping Lily Chang, Trustee
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

ELLEN MULBERG
Notary Public - California
Santa Clara County
Commission # 2388940
My Comm. Expires Jan 28, 2026

Signature Ellen Mulberg
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Subdivision Improvement Agreement
Document Date: 05/20/2022 Number of Pages: 11
Signer(s) Other Than Named Above: Yes

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jyan-Ping Lily Chang	Signer's Name:
☐ Corporate Officer — Title(s):	☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☑ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer Is Representing:	Signer Is Representing:

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DocuSign Envelope ID: 83FA2ABD-6CB1-4DAA-9E65-BA89F247C3FB

PRINCIPAL:

Chang 2003 Family Trust

Jyan-Ping Lily Chang

P.O. Box 33097

Los Gatos, CA 95032

SURETY:

SureTec Insurance Company

Mary Collins, Attorney-In-Fact

2103 CityWest Boulevard, Suite 1300

Houston, TX 77042

Notary Acknowledgment Required

DocuSign Envelope ID: 83FA2ABD-6CB1-4DAA-9E65-BA89F247C3FB

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sacramento)

On December 21, 2021 before me, Kathleen Le, Notary Public
(insert name and title of the officer)

personally appeared Mary Collins,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Kathleen Le (Seal)

KATHLEEN LE
COMM. # 2380925
NOTARY PUBLIC CALIFORNIA
COUNTY OF SACRAMENTO
Comm. Expires OCT 31, 2025

DocuSign Envelope ID: 83FA2ABD-6CB1-4DAA-9E65-BA89F247C3FB

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On May 20th, 2022 before me, Ellen Mulberg, Notary Public
Date *Here Insert Name and Title of the Officer*

personally appeared Jyan-Ping Lily Chang
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

ELLEN MULBERG
Notary Public - California
Santa Clara County
Commission # 2388940
My Comm. Expires Jan 28, 2026

Signature Ellen Mulberg
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Faithful Performance Bond
Document Date: None Number of Pages: 4
Signer(s) Other Than Named Above: Yes

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jyan-Ping Lily Chang	Signer's Name:
☐ Corporate Officer — Title(s):	☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☒ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer Is Representing:	Signer Is Representing:

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DocuSign Envelope ID: 83FA2ABD-6CB1-4DAA-9E65-BA89F247C3FB

POA# 510038

JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

John Hopkins, Elizabeth Collodi, Sara Walliser, Renee Ramsey, Marissa Robinson, Deanna Quintero, K. Corey Ward, John J. Weber, Joseph H. Weber, Claudine Gordon, Kristie Phillips, Michael K. Feeney, Bill Rapp, Matthew Foster, Tony Clark, Jason March, Samantha Watkins, Mary Collins, Pamela Sey, Paula Senna, Bradley Espinosa

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifteen Million and 00/100 Dollars ($15,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 13th day of July , 2021 .

SureTec Insurance Company

By: _____
Michael C. Keimig, President

SURETEC INSURANCE COMPANY

MARKEL INSURANCE CORPORATE SEAL COMPANY ILLINOIS

Markel Insurance Company

By: _____
Robin Russo, Senior Vice President

Commonwealth of Virginia
County of Henrico SS:

On this 13th day of July , 2021 A. D., before me, a Notary Public of the Commonwealth of Virginia, in and for the County of Henrico, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Henrico, the day and year first above written.

DONNA DONAVANT NOTARY PUBLIC MY COMMISSION NUMBER 7083968 COMMONWEALTH OF VIRGINIA

By: _____
Donna Donavant, Notary Public
My commission expires 1/31/2023

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 21st day of December , 2021 .

SureTec Insurance Company

By: _____
M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By: _____
Richard R. Grinnan, Vice President and Secretary

Any Instrument Issued in excess of the penalty stated above is totally void and without any validity. **510038**
For verification of the authority of this Power you may call (713)812-0800 on any business day between 8:30 AM and 5:00 PM CST.

Recording Requested by:
TOWN OF LOS GATOS

WHEN RECORDED MAIL TO:
CLERK
TOWN OF LOS GATOS
110 E. MAIN STREET
LOS GATOS, CA 95030

25326439
Regina Alcomendras
Santa Clara County - Clerk-Recorder
06/27/2022 01:19 PM
CONFORMED COPY
Copy of document recorded.
Has not been compared with original.

(SPACE ABOVE BAR FOR RECORDER'S USE)

(RECORD WITHOUT FEE UNDER GOVERNMENT CODE SECTIONS 27383 and 6103)

LANDSCAPE MAINTENANCE AGREEMENT

16940 Roberts Rd.
Los Gatos, CA 95032
APN: 529-18-053

Landscape Maintenance Agreement Town of Los Gatos (REVISED)
16940 Roberts Rd., Los Gatos (Unit 3 of Fisher Villas Association)

This Landscape Maintenance Agreement (the "Agreement"), dated 6/21, 2022 rescinds the Landscape Maintenance Agreement dated January 26, 2022 (Document #25243138, Recorded on 2/17/22 in Santa Clara County)

This Landscape Maintenance Agreement (the "Agreement"), dated 6/21, 2022 is executed by the TOWN OF LOS GATOS, a municipal corporation (the "Town"), with an address of c/o Parks and Public Works Department, 41 Miles Avenue, Los Gatos, California 95030, and California 95030, and Jyan-Ping Lily Chang as Trustee of the Chang 2003 Family Trust, ("Property Owner") with reference to the following facts:

A. Property Owner owns that certain real property located in the Town of Los Gatos, Santa Clara County, California, more particularly described as Unit 3 of Exhibit A attached hereto and incorporated herein.
B. The Landscape Improvements (as defined below) have been or will be constructed within the public rights-of-way ("ROW") along Roberts Rd. as shown on the Landscape Maintenance Exhibit attached hereto as Exhibit B.
C. Pursuant to the conditions of approval relevant to 16940 Roberts Rd., the Property Owner is to be responsible for maintaining the landscaping and irrigation system within the planting strip in the public ROW along Roberts Rd. frontage. The purpose of this Agreement is to set forth the rights and obligations of Property Owner and any transferees and the Town with respect to the maintenance of said Landscape Improvements.
D. The Property Owner recognizes that the Town's approval of the Parcel Map is based on the Property owner's commitment to the long-term maintenance, repair, care and if and when necessary, replacement of the Improvements, and that the Parcel Map would not have been approved without the assurance that this Agreement would be executed by the Property Owner for recordation prior to any acceptance of public improvements by the Town.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1
Definitions

Unless the context indicates otherwise, the following terms shall have the following definitions:

1.1 Agreement. This Landscape Maintenance Agreement and any modifications thereto.
1.2 Development. The development of 3 residential condominiums, commonly known as "Fisher Villas."
1.3 Landscape Improvements. The landscaping and irrigation system that provides irrigation to the improvements situated within the public ROW along Roberts Rd. adjacent to the Development. The Landscape Improvements do not include any utility lines or equipment to any other property outside the ROW.
1.4 Maintain, Maintained, Maintaining or Maintenance. Unless expressly stated otherwise, "maintain", "maintained", "maintaining" or "maintenance" as used in this Agreement includes inspection, cleaning, maintenance, repair, upgrades and/or replacement and shall include, but not limited to: watering/irrigation; fertilization; periodic trimming, mowing, and/or edging of grass and lawn areas; pruning of trees, shrubs, and other vegetation; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance, safe road conditions and visibility, and irrigation coverage; removal and replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

1.5 Person. Any individual, corporation, partnership, limited liability company, trust or other legal entity
1.6 Town. The Town of Los Gatos, California.

ARTICLE 2

Maintenance, Repair, and Insurance

2.1 Maintenance. The Property Owner shall maintain the Landscape Improvements in good condition and repair at all times, reasonable wear and tear excepted, subject to Section 2.2 below. If the maintenance of the Landscape Improvements will materially interfere with or temporarily suspend the ability to use a ROW, the Property Owner shall give the Town as much prior notice as is reasonable under the circumstances and no fewer than fifteen (15) calendar days, except in the case of an emergency. The Property Owner shall use all reasonable efforts to complete the work as soon as possible and to minimize any interference in the use of the ROW.

2.2 Utility Repair or Replacement. If the Property Owner must repair any Landscape Improvements located within a ROW, Property Owner shall provide notice to the Town as is reasonable under the circumstances and no less than fifteen (15) calendar days' prior notice, except in the case of an emergency, describe the work that must be performed, and the impact on the use of the ROW during the period in which the work is being performed. Except in an emergency situation in which immediate work must be performed to prevent injury to any Person or material damage to any property, no work shall commence until the following conditions are satisfied: (1) the work is performed by contractors duly licensed in the State of California; (2) the work is performed in compliance with all applicable laws and ordinances, including permits required; and (3) liability insurance with policy limits no less than $500,000 is provided insuring the Property Owner and the Town against any liability arising out of the work. The work, once commenced, shall be diligently pursued until completion in order to minimize any interruption or interference with the use of the ROW. On completion of the work, the Property Owner immediately shall repair the ROW to the condition it was in immediately preceding the work. The Property Owner shall defend, indemnify, and hold the Town harmless against any claims, demands, liabilities, causes of action, judgements and costs, including reasonable attorneys' fees, resulting from the Property Owner's work.

2.3 Failure to Maintain. If the Property Owner fails to maintain the Landscape Improvements in good condition and repair, reasonable wear and tear excepted, the Town may notify the Property Owner of the need for maintenance, which notice shall contain an itemized description of the required maintenance (the "Repair Demand"). If the Property Owner fails to take appropriate action to commence the maintenance described in the Repair Demand within thirty (30) days of receipt of the Repair Demand, the Town may have the appropriate maintenance performed. The cost shall be allocated pursuant to Section 2.9 and, if applicable, the Property Owner shall reimburse the Town for its share of the cost on receipt of written demand. If the Property Owner fails to tender the payment within thirty (30) days after the receipt of the written demand, the Town shall be entitled to recover the reasonable costs of collection, including reasonable attorneys' fees, a late charge not exceeding 10% of the delinquent payment, and interest on the delinquent payment at 10% per annum or the maximum rate authorized by law, whichever is greater, commencing thirty (30) days after the payment due date. The Town may bring an action in any court of competent jurisdiction to collect the amount due.

2.4 Emergency Repairs. Notwithstanding anything herein to the contrary, either party may make such emergency repairs as that party, in the exercise of its reasonable business judgement, considers

necessary in order to render the Town property or the Development safe for its intended use (the "Repairing Party"). The Repairing Party immediately shall notify the other (the "Non-Repairing Party") in writing of the reason for the cost of the repairs, together with appropriate supporting documentation (such as invoices) evidencing the costs spent on the repairs (the "Repair Notice"). On receipt of the Repair Notice, the Non-Repairing Party shall reimburse the Repairing Party for the Non-Repairing Party's share of the cost, if applicable. If, within thirty (30) days after the receipt of the written demand, the Non-Repairing Party fails to: tender payment, the Repairing Party shall be entitled to recover the reasonable costs of collection, including reasonable attorneys' fees, a late charge not exceeding 10% of the delinquent payment, and interest on the delinquent payment at 10% per annum or the maximum rate authorized by law, whichever is greater, commencing thirty (30) days after the payment due date. The Repairing Party may bring an action in any court of competent jurisdiction to collect the amount due.

2.5 Insurance. The Property Owner shall supply proof of General Liability (GL insurance and Automobile Liability (AL) insurance from an insurance company licensed to do business in the State of California and having a financial rating in Best's Insurance Guide of not less than AA. Both the GL and AL insurance will provide "occurrence" coverage against liabilities for death, personal injury or property damage arising out of or in any way connected with the Events. Both the GL and AL insurance will be in the minimum amount of $1,000,000.00 combined single limit, and will name the Town and the Town officers, employees, agents, and registered volunteers as additional insured under the coverage afforded. Such insurance will be primary and noncontributing with respect to any other insurance available to the Town and will include a severability of interest (cross-liability) clause.

Each insurance policy required in this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk. A copy of the policy or a certificate of insurance along with an additional endorsement naming the Town as an Additional Insured must be filed in the Town Clerk's Office. The Additional Insured Endorsement, effective for ongoing and completed operations, must be approved by the Town.

In addition to these policies, if the Property Owner provides labor to maintain the ROW they shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, the Property Owner shall ensure that all subcontractors employed by the Property Owner provide the required Workers' Compensation insurance for their respective employees.

A copy of the policy or a certificate of insurance along with an additional endorsement naming the Town as an Additional Insured must be filed in the Town Clerk's Office. The Additional Insured Endorsement, effective for ongoing and completed operations, must be approved by the Town.

Property Owner is satisfying its insurance requirement with insurance provided by its landscape contractor. If Property Owner's landscape contractor changes, Property Owner will immediately provide the Town with an updated insurance certificate and endorsement.

2.6 Indemnification. The Property Owner shall be solely responsible for maintaining the Landscape Improvements in a good and safe manner. Property Owner shall indemnify, defend, and hold harmless the Town, its officers, officials, agents, volunteers, employees and attorneys from any and all claims, actions, losses, liabilities and costs (including reasonably incurred attorney's fees) arising out of or

connected with, or alleged to arise out of or be connected with, the installation, design or condition of the Landscape Improvements, except for any claims, actions, losses, liabilities and costs proximately caused by the negligence or willful misconduct of the Town, its officers, officials, agents, volunteers, employees or attorneys. This provision is intended to be the dispositive of all rights of indemnity and contribution between the parties, and the Property Owner waives and releases any and all rights to indemnity or contribution from the Town, in law or equity, arising out of or connected with any and all claims, actions, losses, liabilities and costs (including reasonably incurred attorney's fees) for which the Property Owner is obligated under this paragraph to provide indemnity or defense to the Town, its officers, officials, volunteers, employees, or attorneys.

2.8 Transfer of Responsibility. This Agreement shall serve as the signed statement by the Property Owner accepting responsibility for maintenance of the Landscape Improvements as set forth in this Agreement until the responsibility is legally transferred to another entity, including a developer, property owners association, or similar entity, as described in Section 3.5. Prior to transferring maintenance responsibility of the Landscape Improvements to another developer or property owner, the Property Owner shall provide written notice of the Agreement to the transferee and provide the Town a copy of such notice.

2.9 Maintenance Costs. The Property Owner shall be responsible for the costs to maintain the Landscape Improvements, provided that if the Town or any Person acting under the authority of a party damages any Landscape Improvement, the responsible party shall pay all costs to repair or replace the damaged Landscape Improvement to the same or better condition as before the damage occurred.

ARTICLE 3
Miscellaneous

3.1 Term of Agreement. This Agreement shall be effective in perpetuity unless terminated by operation of law or agreement of the parties.

3.2 Notice. Each party covenants to provide the other party with a current address for purposes of receiving notices. Any notice or demand permitted or required herein shall be conclusively considered received by a party when personally delivered to the owner, or seventy-two (72) hours after the notice has been deposited in the United States mail, certified or a return receipt requested, postage-prepaid, and addressed to such address as that the party has provided the other party for purposes of receiving notice hereunder. If no address has been provided, notice shall be considered received ninety-six (96) hours after notice is posted in a conspicuous place on the party's property and a copy mailed to the last known address of the party.

The initial addresses for notice are as follows:

Property Owner:	Chang 2003 Family Trust P.O. Box 33097 Los Gatos, CA 95031
Town:	Town of Los Gatos 110 E. Main Street Los Gatos, CA 95030 Attention: Director of Parks and Public Works

Notwithstanding the prescribed method of delivery set forth above, actual receipt of written notice shall constitute notice given in accordance with this Agreement on the date received, unless receipt is deemed earlier in accordance with delivery made under one of the prescribed methods.

3.3 Mortgagee Protection. No breach of this Agreement shall defeat or render invalid the lien of any deed of trust or mortgage recorded against all or any portion of the Development. No lender taking title to all or any portion of the Development through foreclosure or deed-in-lieu of foreclosure shall be liable for any defaults or monetary obligations of Developer arising prior to acquisition of possession of such property by such lender. The foreclosing lender shall have the right to find a substitute developer to assume the obligations of the Property Owner, which substitute shall be considered for approval by Town pursuant to this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed. Town agrees to provide any lender who has recorded a deed of trust or mortgage against all or any portion of the Development of which Town has been given notice (each, a "Lender") with written notice of any default relating to the Property Owner and/or the Development given by Town to the Property Owner. Town agrees that, notwithstanding anything to the contrary contained in this Agreement, Lender shall have an additional sixty (60) das from the date Lender receives notice of a default to cure any such default, provided that Lender shall not have any obligation to cure any such default.

3.4 Attorney's Fees. If any action is commenced regarding the rights or duties of the parties hereto, the prevailing party in such action shall be entitled to recover the costs of such action and reasonable attorneys' fees.

3.5 Recordation; Covenants Running with the Land and Equitable Servitudes. This Agreement shall be recorded in the records of Santa Clara County, California. The rights and duties described herein shall constitute covenants running with the land and equitable servitudes that benefit and bind the Development and the ROW and each owner and successive owner thereto. Owners of any property bound by this Agreement shall be liable for any defaults under this Agreement only during the period the owner held an ownership interest in the property and shall not be liable for any defaults committed by any predecessor or successor owner unless assumed in writing. If there are multiple owners of the property bound by this Agreement at any given time, each owner shall be jointly and severally liable of the duties contained herein.

3.6 Amendments. This Agreement may be amended from time to time by written agreement by the Property Owner and the Town.

3.7 Effective Date. This Agreement shall be effective as of the date this document is recorded in the records of Santa Clara County, California.

TOWN OF LOS GATOS, CALIFORNIA,
A California municipal corporation

Laurel Prevetti

Laurel Prevetti
Town Manager
110 East Main Street
Los Gatos, CA 95030
Telephone: 408-354-6874
Fax Number: 408-354-7593

APPROVED AS TO FORM:

Gabrielle Whelan
Town Attorney

APPROVED AS TO CONTENT:

Parks and Public Works Director

Attest:

Shelley Neis 6/21/2022
Shelley Neis
Town Clerk

DEVELOPER: Chang 2003 Family Trust

5-20-2022

Name: Jyan-Ping Lily Chang
Title: Trustee
Address: P.O. Box 33097, Los Gatos, CA 95032
Telephone: 408-356-1185
Fax Number: 408-402-9618 See Attached Notary Certificate

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara }

On June 21, 2022 before me, Jackie D. Rose, Notary Public
Date *Here Insert Name and Title of the Officer*

personally appeared Laurel Prevetti
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

JACKIE D. ROSE
Notary Public - California
Santa Clara County
Commission # 2284380
My Comm. Expires Apr 28, 2023

Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jackie D. Rose
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Landscape maint. AGR

Document Date: 6/21/22 Number of Pages: 1

Signer(s) Other Than Named Above: none

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On May 20TH, 2022 before me, Ellen Mulberg, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Jyan-Ping Lily Chang
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

ELLEN MULBERG
Notary Public - California
Santa Clara County
Commission # 2388940
My Comm. Expires Jan 28, 2026

Signature Ellen Mulberg
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Landscape Maintenance Agreement
Document Date: None Number of Pages: 6
Signer(s) Other Than Named Above: Yes

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jyan-Ping Lily Chang	Signer's Name:
☐ Corporate Officer — Title(s):	☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☒ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer Is Representing:	Signer Is Representing:

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DATA TABLE

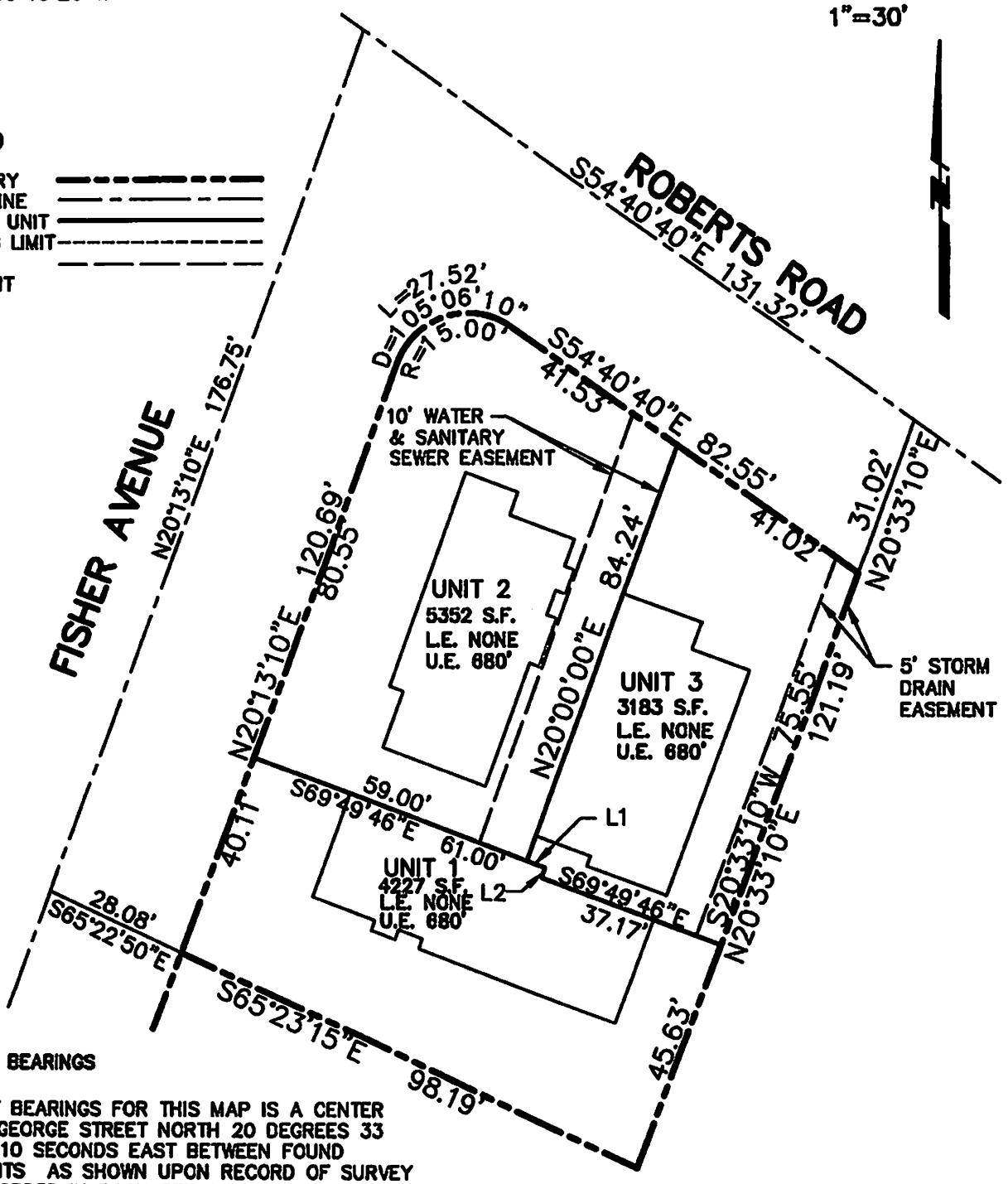
L1	N20°10'34"E	2.00'
L2	N69°49'26"W	2.00'

0 20 40

1"=30'

LEGEND

BOUNDARY
CENTERLINE
LIMIT OF UNIT
BUILDING LIMIT
LIMIT OF EASEMENT



BASIS OF BEARINGS

BASIS OF BEARINGS FOR THIS MAP IS A CENTER LINE OF GEORGE STREET NORTH 20 DEGREES 33 MINUTES 10 SECONDS EAST BETWEEN FOUND MONUMENTS AS SHOWN UPON RECORD OF SURVEY MAP RECORDED IN BOOK 377 OF MAPS AT PAGE 28 SANTA CLARA COUNTY RECORDS.

EXHIBIT "A"

WESTFALL ENGINEERS, INC.

2018-069

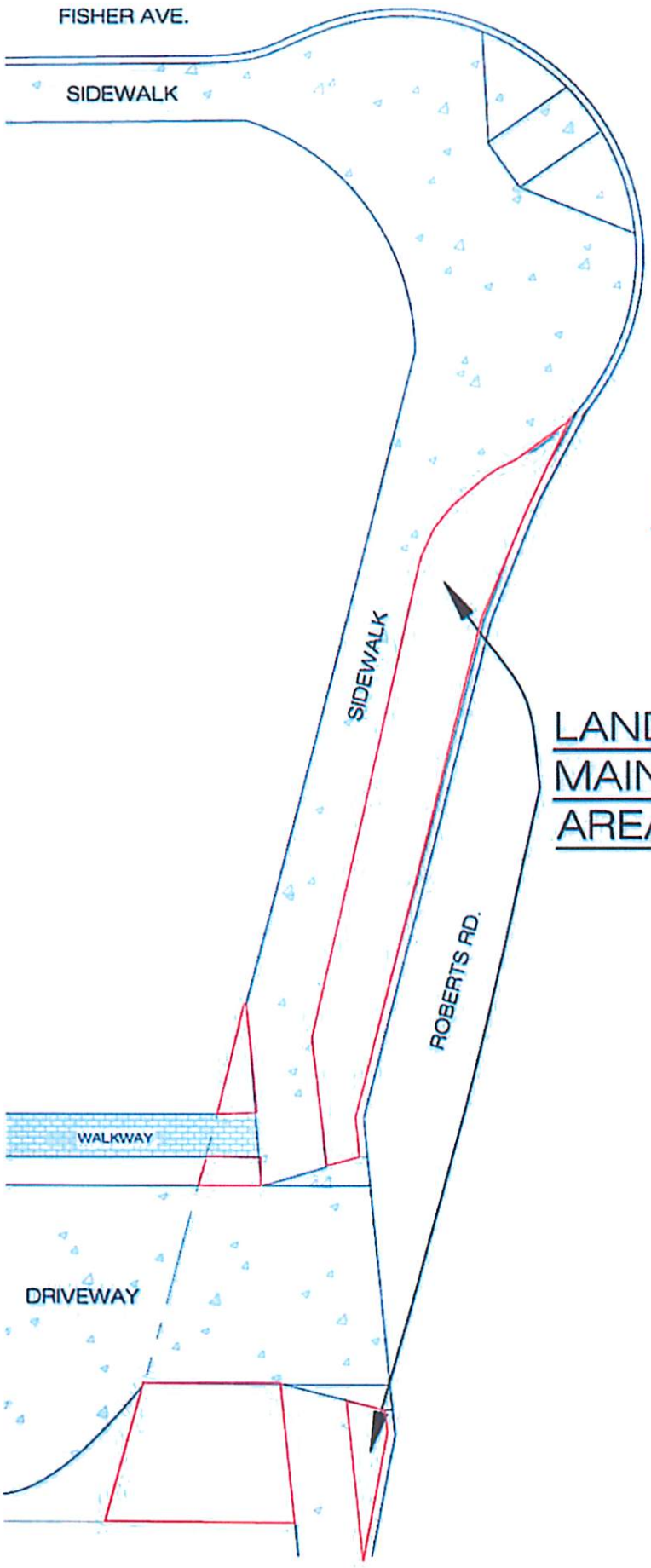


EXHIBIT B

LANDSCAPE MAINTENANCE AREAS (OUTLINED IN RED)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/12/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Tammie Pereira
Tammie Pereira Insurance Services 1606 S El Camino Real San Mateo CA 94402	PHONE (A/C, No, Ext): (650) 655-2022 FAX (A/C, No): (650) 286-1773 E-MAIL ADDRESS: insurance@tammiepereira.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: SECURITY NATIONAL INSURANCE CO	
INSURER B: PROGRESSIVE (United Financial Cas Co)	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED: CELY'S GARDEN MAINTENANCE, INC.
2606 GLADE DR
SANTA CLARA CA 95051-1149

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC OTHER:	X		C6980789921	07/16/2021	07/16/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY [X] SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X		01316448-8	01/29/2022	01/29/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [Y] If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		SWC1345738	07/16/2021	07/16/2022	[X] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project address: 16940 Robert Rd., Los Gatos, CA 95032

The Town of Los Gatos and the Chang 2003 Family Trust are named as Additional Insured. The Town of Los Gatos Officers, Employees, Agents, & Registered Volunteers. This policy is primary and Noncontributory with respect to the Additional Insured.

CERTIFICATE HOLDER

The Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

A. Tammie Pereira

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY	NAMED INSURED
Tammie Pereira Insurance Services	CELY'S GARDEN MAINTENANCE, INC.
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

A/I: Chang 2003 Family Trust, PO Box 33097, Los Gatos, CA 95032

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CNA	BEST CHOICE CONTRACTOR PROGRAM Blanket Additional Insured - Owners, Lessees or Contractors

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Policy Number: C6980789921	Endorsement Effective: 05/10/2022 at 12:01 a. m.
Named Insured: CELY'S GARDEN MAINTENANCE, INC.	Authorized Representative:

SCHEDULE

Name of Additional Insured Person(s) or Organization(s): (Blanket)	(Specific)
Any person or organization that the Named Insured is obligated by virtue of a written contract or written agreement to make an additional insured on this Coverage Part, provided such contract or agreement: • **Is currently in effect or becomes effective during the policy period; and** • **Was executed prior to:** **a. the "bodily injury," or "property damage"; or** **b. the offense that caused the "personal and advertising injury";** **for which the additional insured seeks coverage.**	The Contractor's insurance is being provided to satisfy Property Owner's obligations pursuant to Property Owner's landscape maintenance agreement with the Town of Los Gatos.
Location(s) of Covered Operations:	
Any location in the "coverage territory" that is subject to the contract or agreement specified above.	

A. **Section II – Who Is An Insured** is amended to include as an insured the person or organization shown in the Schedule, but only to the extent that the person or organization shown in the Schedule is held liable for your acts or omissions arising out of your ongoing operations performed for that insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to **"bodily injury"** or **"property damage"** occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of **"your work"** out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as part of the same project.

C. With respect to the insurance afforded to these additional insureds, this insurance also does not apply to **"bodily injury"**, **"property damage"** or **"personal and advertising injury"** arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

D. **Primary and Noncontributory Insurance**

If so required by a written contract or written agreement, this insurance will be primary to, and will not seek contribution from, other insurance under which the additional insured is a named insured. But in all other

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instances, and notwithstanding anything to the contrary in the condition entitled **Other Insurance**, this insurance will be excess of any other insurance available to the additional insured.

E. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended to add the following to the condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit:**

Any additional insured pursuant to this Coverage Part will, as soon as possible:

1. Give us written notice of any claim, or of any **"occurrence"** or offense that may result in a claim;
2. Send us copies of all legal papers received and otherwise cooperate with us in the investigation, defense or settlement of the claim; and
3. Make available any other insurance and tender the defense and indemnity of any claim to any other insurer or self-insurer whose policy or program applies to a loss that we cover under this Coverage Part. However, if the written contract requires this insurance to be primary and non-contributory, this paragraph **3.** does not apply to insurance on which the additional insured is a named insured.

F. Solely with respect to the insurance granted by this endorsement:

1. The words "you" and "your" refer to the Named Insured shown in the Declarations.
2. **"Your work"** means work or operations performed by you or on your behalf, and materials parts or equipment furnished in connection with such work or operations.

G. Blanket Waiver of Subrogation

We waive any right of recovery we may have against an entity that is an additional insured under the terms of this endorsement with respect to payments we make for injury or damage arising out of **"your work"** done under a written contract or written agreement with that person or organization, provided such contract or agreement:

1. Requires such a waiver of our rights;
2. Is currently in effect or becomes effective during the policy period; and
3. Was executed prior the **"bodily injury"**, **"property damage"** or **"personal and advertising injury"** that gave rise to the claim.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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DATE: October 26, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt a Resolution Approving Changes to the Town's Comprehensive Fine Schedule Amending the Fines for Violations of the E-Bike Ordinance and Tobacco Retailing Ordinance and Correcting Outdated References to Town Code Sections for Other Violations

RECOMMENDATION:

Adopt a resolution (Attachment 1) approving changes to the Town's Comprehensive Fine Schedule amending the fines for violations of the e-bike ordinance and tobacco retailing ordinance and correcting outdated references to Town Code sections for other violations.

BACKGROUND:

"Fines" are the amounts of the penalties for Town Code violations imposed pursuant to Section 1.30.025 of the Los Gatos Town Code. The Town's FY 2023/24 Comprehensive Fine Schedule was presented and approved at the March 21, 2023, Town Council meeting. The Town establishes fines to monitor and discourage the behavior, not as a significate revenue generator.

DISCUSSION:

Tobacco Retailing Ordinance Fines

At the October 3, 2023 Town Council meeting, Council introduced an Ordinance titled, "An Ordinance of the Town Council of the Town of Los Gatos amending Section 18.60.020, 'Permits for Retailers of Tobacco Products,' of Article VI, 'Smoking Regulations,' of Chapter 18, 'Miscellaneous Provisions,' of the Town Code to increase fine amounts and amend the definition of 'Tobacco Products' to align with the Santa Clara County Ordinance."

PREPARED BY: Melissa Ynegas
Finance Administrative Analyst

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

The existing Ordinance requires tobacco retailers to obtain permits, prohibits the sale of flavored and electronic cigarette products, prohibits the sale of tobacco to minors, and provides for periodic monitoring to detect sales to minors. To align with the County's current Tobacco Retailing Ordinance and the introduced Town Ordinance, the Fine Schedule should be amended as follows:

1) Increase the dollar amount of fines for violations of the Ordinance by a retailer with a permit from:
    a. $100 to $1,000 for violation of first instance;
    b. $200 to $2,500 for a second violation within a 60-month period; and
    c. $500 to $5,000 for a third violation within a 60-month period.

2) Increase the dollar amount of the fine for retailing tobacco products without a tobacco retailing permit from:
    a. $100 to $2,500 for violation of first instance;
    b. $200 to $5,000 for a second violation within a 60-month period; and
    c. $500 to $10,000 for a third violation within a 60-month period.

E-Bike Ordinance Fines

Earlier this year, the Town Council adopted an e-bike ordinance and the following fines associated with violations of the e-bike ordinance should be included in the Comprehensive Fine Schedule:

1) $50 for a first violation
2) $75 for a second violation
3) $100 for a third violation

Outdated References

The fine schedule also needs to be updated to correct several outdated references to Town Code sections for other violations.

Attachments 1 and 2 reflect these changes that would be effective immediately, pending Council consideration of this item.

CONCLUSION:

It is recommended that Town Council approve the resolution to the Comprehensive Fine Schedule. If the Council approves the resolution, the changes become effective immediately.

FISCAL IMPACT:

The Town has an agreement with the County to enforce the tobacco retail regulations and collect fines. The Los Gatos-Monte Sereno Police Department enforces the e-bike ordinance. The fiscal impact will be an increase in revenue if fines are charged.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:
1. Resolution approving Comprehensive Fine Schedule FY 2023/24, including Exhibit A Proposed FY 2023/24 Comprehensive Fine Schedule (Redline)
2. Proposed FY 2023/24 Fine Adjustments, Reclassifications, and Deletions

DRAFT RESOLUTION 2023-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS CONTINUING DEPARTMENT FINES, AND AMENDING CERTAIN FINES AND TOWN CODE REFERENCES FOR FY 2023/24

WHEREAS, per Resolution 2004-97 penalties for violation of the Los Gatos Town Code shall be set forth in a schedule; and

WHEREAS, the last update of the Town of Los Gatos Comprehensive Fine Schedule was adopted on March 21, 2023; and

WHEREAS, those fines currently in effect will remain in effect without interruption; and

WHEREAS, the Town has adopted an e-bike ordnance and updated its tobacco retailer ordinance; and

WHEREAS, fines have been added for e-bike and tobacco retailer Town Code violations; and

WHEREAS, outdated references to Town Code sections have been updated;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY RESOLVE:

1. That Resolution 2023-013, "Resolution of the Town Council of the Town of Los Gatos Continuing Department Fines, and Amending Certain Fines for FY 2023/24" is hereby rescinded;
2. This Resolution is adopted; and
3. The Town of Los Gatos Comprehensive Fine Schedule, attached hereto as Exhibit A, shall become effective immediately.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 7th day of November 2023, by the following vote:

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: _____

DRAFT

TOWN OF LOS GATOS
CALIFORNIA













COMPREHENSIVE FINE SCHEDULE

FISCAL YEAR 2023/24

EXHIBIT A

COVER PHOTOS: NANCY BARRERRA, JEFF JANOFF, JULIAN, KARLAK, AND HUNTER

TABLE OF CONTENTS

Town Code Violations..... 1

Los Gatos California Fire Code..... 5

FINES/PENALTIES – TOWN CODE VIOLATION

Per resolution 2004-97 penalties for violation of the Los Gatos Town Code shall be set forth as the below schedule, except:

The penalties for all violations of the Town Code not specifically set forth in the below schedule and do not involve violations of local building and safety codes shall be:

1. one hundred dollars ($100) for first violation;
2. two hundred and fifty dollars ($250) for second violation;
3. five hundred dollars ($500) for each additional violation within one year.

The penalties for all violations of the Town Code not specifically set forth in the below schedule and that involve violations of local building and safety codes and are not otherwise designated as misdemeanors shall be:

1. one hundred dollars ($100) for first violation;
2. five hundred dollars ($500) for second violation within one year;
3. one thousand dollars ($1,000) for each additional violation within one year.

The penalties for all knowing and willful violations of the Town Code shall be:

1. five hundred dollars ($500) for first violation;
2. one thousand dollars ($1,000) for each additional violation within thirty-six month thereafter.

For all California Vehicle Code violations, please contact the Superior Court of California County of Santa Clara.

FINES/PENALTIES – TOWN CODE VIOLATION

SECTION	OFFENSE	AMOUNT
1.30.025(c)	Late Payment of Fines/Penalties	100% of fine
4.10.030(a)	Animal bites, failure to report	$150.00
4.10.030(c)	Quarantine violation	$500.00
4.10.075	Animals and Vehicles	
	First offense	$100.00
	Second offense within 2 years	$200.00
	Third subsequent offense within 2 years	$500.00
4.40.005	Restraint of Dogs	$100.00
4.40.015	Vaccination of dogs and cats	$250.00
4.40.020	Registration of dangerous dogs	$250.00
4.80.050	Penalty, abatement	$100.00
5.10.030	Riding on sidewalks and pedestrian paths	
	First Offense	$50.00
	Second Offense	$75.00
	Third Offense	$100.00
5.10.040	Riding in groups	
	First Offense	$50.00
	Second Offense	$75.00
	Third Offense	$100.00
5.10.050	Racing	
	First Offense	$50.00
	Second Offense	$75.00
	Third Offense	$100.00
5.10.060	Trick riding	
	First Offense	$50.00
	Second Offense	$75.00
	Third Offense	$100.00
5.10.070	Riding in playgrounds or school grounds	
	First Offense	$50.00
	Second Offense	$75.00
	Third Offense	$100.00
5.10.080	Parking	
	First Offense	$50.00
	Second Offense	$75.00
	Third Offense	$100.00
~~6.20.155~~ 6.30.01	Building permit requirements	$50.00
6.40.010	Order to vacate or abate	$100.00
6.80.010	Order to vacate	$100.00
~~9.30.015~~	~~Storage of certain substances (populated area)~~	~~$100.00~~
~~11.40.060~~ 11.10.055	Illegal dumping (outside park)	$200.00
~~11.40.060~~ 11.40.03	Single use carry-out bags	
	First violation	$100.00
	Second violation within 1year	$200.00
	For each additional violation within 1 year	$500.00

FINES/PENALTIES – TOWN CODE VIOLATION

SECTION	OFFENSE	AMOUNT
~~13.20.010~~ 13.20.02	Improper storage of hazardous material	$100.00
~~13.20.885~~	~~Hazardous material~~	~~$100.00~~
13.20.305	Permit Required for Storage of Hazardous Material	$100.00
14.40.105	Peddlers / Solicitors	$100.00
14.100.020(a)	Special event	$100.00
14.140.085	Short-term rentals	
	First offense	Warning
	Second offense	$250.00
	Third offense within 12-month period incurs fine and immediate revocation of the short-term rental license	$500.00
15.10.025	Roller skating in street	$100.00
15.10.030	Skateboarding or roller skating	$100.00
15.10.035	Driving on private property	$100.00
15.30.035	Entering intersections, etc., without sufficient space on other side	$135.00
15.30.115	Cruising	
	First offense	$100.00
	Second offense	$200.00
	Third or subsequent offense within 2 years	$250.00
15.40.015	Overtime Parking	$42.00
15.40.060	Sleeping in vehicle after being warned	$50.00
15.40.065	Vehicle Storage on Street	$67.00
15.40.070	Commercial Vehicles in Residential Zones	$67.00
15.40.075	For Sale/Non Emergency Repair	$42.00
15.40.080	Preferential Parking	$52.00
15.40.080(b)	Permit Required Area	$52.00
15.40.080(c)	Fraudulent use of Permit	$107.00
15.40.085	Posted no Parking Special Events	$42.00
15.40.090	Parking on Parkway	$42.00
15.40.095	Marked Parking Space	$42.00
15.40.100	Parking on Grade	$42.00
15.40.105	Designated Parking VC22507.8	$292.00
15.40.110	Marked Curb	$42.00
15.40.275	Parking in Alleys Restricted to Loading or Unloading	$42.00
15.50.015	Use of crosswalk by pedestrian	$25.00
15.50.020	Pedestrian other than right angle	$25.00
15.50.025	Standing in roadway	$25.00
16.20.010	Curfew noise disturbance/Noise Limits	$500.00
16.20.015	Exterior noise levels for residential zones	$500.00
16.20.020	Exterior noise levels for multi-family residence	$500.00
16.20.025	Noise levels for commercial / industrial zones	$500.00
16.20.030	Public property noise limits	$500.00
16.20.035	Construction	$500.00
16.20.040	Amplified sound	$500.00
16.20.045	Street sales	$500.00

FINES/PENALTIES – TOWN CODE VIOLATION

SECTION	OFFENSE	AMOUNT
16.20.050	Animals and birds	
	First offense	$50.00
	Second offense within 2 years	$200.00
	Third or subsequent offense within 2 years	$500.00
16.20.055	Motor vehicles	$500.00
16.20.060	Powered equipment	$500.00
~~16.30.010~~ 16.20.010	~~Noise limits~~	~~$500.00~~
18.10.015(a)	Drinking in public	$100.00
18.10.015(b)	Open container in public	$100.00
18.10.020	Meetings (disturbing)	$100.00
~~18.10.025(2)~~	~~Enter / remain in public while intoxicated~~	~~$100.00~~
18.30.040	Violation of the Social Host Ordinance	$1,500.00
	Second or subsequent offense	$3,000.00
18.20.060(m)	Penalties for tobacco retailing violation by a retailer with a permit	
	First Offense	$1,000.00
	Second Offense within a 60-month period	$2,500.00
	Third Offense within a 60-month period	$5,000.00
18.20.060(n)	Penalties for tobacco retailing without a permit	
	First Offense	$2,500.00
	Second Offense within a 60-month period	$5,000.00
	Third Offense within a 60-month period	$10,000.00
18.50.010	Crowds, dispersement	$100.00
18.70.010	Discharge of firearm, etc. in Town	$200.00
18.70.035	Sling shot	$200.00
19.10.020(1)-(5)	Certain acts prohibited within park property	$100.00
19.10.025(1)-(5)	Behavior of persons within park property	$100.00
19.10.025(6)	Possess or ignite explosive, fireworks, rockets, etc	$200.00
19.10.025(7)	Make or kindle a fire except in approved locations	$100.00
19.10.025(8)-(17)	Behavior of persons within park property	$100.00
19.10.027(1)	Animals in Parks – Dogs off leash	$100.00
19.10.027(2)-(6)	Animals in parks – Other provisions	$100.00
19.10.030(1)-(2)	Sanitation requirements	$100.00
19.10.035(1)-(9)	Use of vehicles in parks (not subject to CVC or other Town Codes)	$100.00
19.10.037(1)-(6)	Use of bicycles in parks (not subject to CVC or other Town Codes)	$100.00
~~19.10.037(1)-(6)~~ 19.10.038	Use of skateboards, skates, scooters	$100.00
19.10.040	Swimming or wadings in parks	$100.00
19.10.050(1)-(3)	Advertising, sale of merchandise in parks	$100.00
19.10.055(1)-(2)	Closing hours for parks, overnight activities prohibited	$100.00
19.10.060	Closing sections of park	$100.00
22.30.040	Storm water protections	$100.00
28.20.030	Non-permit fine Taxicabs	$100.00

FINES/PENALTIES – LOS GATOS CALIFORNIA FIRE CODE

SECTION	OFFENSE	AMOUNT
106.2.1	Failure to obtain inspection-new installation	$200.00
109.3.2	Failure to comply with notice / order	$1,000.00
109.3.4	Destruction of signs - Unauthorized Tampering	$200.00
301.1	Fire hazard prohibited (citations)	$100.00
110	Unsafe buildings	$200.00
401.8	Interference with Fire Department	$200.00
105.1. 1	Unlawful to operate institutions without occupancy permit	$200.00
503.2	Plans for access roads	$100.00
507.5	Plans for fire hydrant systems	$100.00
501.4	Access road and fire hydrant installation timing	$100.00
507	Hydrant identification-reflective markers	$100.00
505	Premises identification	$100.00
901.6	Fire protection in recreational vehicle and mobile home parks	$100.00
503.4	Closure of fire roads; obstruction-access road	$200.00
504.2	Posting of signs on exterior doors blocked by storage	$100.00
506.1	Key box	$100.00
901.7	Notification of Fire Department for fire alarm servicing	$100.00
901.8	Tampering with fire equipment	$200.00
901.8	Tampering with fire hydrant or fire equipment	$200.00
901.8.1	Tampering with barriers, etc.	$200.00
507.5.4	Obstructing fire protection equipment	$100.00
507.5.5	Clear space around hydrants	$100.00
509.2	Fire extinguishing equipment obstruction	$100.00
509.2	Fire alarm equipment obstruction	$100.00
509.1	Identification of fire protection equipment	$100.00
906	Sale of defective fire extinguishers	$200.00
907	Fire alarm systems	$200.00
307.1	Open burning	$100.00
307.4.1	Bonfires	$100.00
304.1.1	Accumulation of waste material	$150.00
315.1	Storage and handling of readily combustible materials	$100.00
315.3.4	Combustible storage in attics	$100.00
807.1	Decorative material	$100.00
801	Atrium furnishings	$150.00
603.9	Protection of gas meters	$100.00
603	Heating appliances	$100.00
308	Use of open flame restricted	$100.00
305.2	Discarding burning objects	$100.00
305.2	Hot ashes and other dangerous materials	$100.00
311.1	Vacant building (maintenance)	$100.00
1003.6	Exit obstruction	$200.00

FINES/PENALTIES – LOS GATOS CALIFORNIA FIRE CODE

SECTION	OFFENSE	AMOUNT
1010.1	Exit doors	$200.00
1013	Exit illumination	$200.00
1008.1	Lighting requirements-exit	$200.00
3309	Reporting of fires	$100.00
202	False alarms	$100.00
1018.1	Aisles	$150.00
1024.1	Use of exit ways	$200.00
1013.1	Marking and lighting of exits	$150.00
107.6	Overcrowding	$200.00
308.1	Open flame	$100.00
2311.2	Storage and use of flammable and combustible liquids in repair garages	$100.00
2311.2.3.1	Liquids drained from vehicles	$150.00
2311.3	Source of ignition	$100.00
2311.2.2	Oily waste materials	$100.00
2803.1	Open yard storage	$100.00
2803.2	Dust control	$100.00
3103.8	Location of tents and air-supported structures	$100.00
3103.9	Anchorage required	$100.00
3104.2	Flame-retardant treatment	$200.00
3104.12/13	Fire extinguishers and other fire protection equipment	$100.00
3104.14	Occupant load	$100.00
3103.12	Exits / Means of Egress	$100.00
3103.12.8	Maintenance of exit ways	$100.00
3103.12.7	Exit illumination	$100.00
3104.6	Smoking	$100.00
3104.7	Open Flame	$100.00
3104.15	Heating and cooking equipment	$100.00
3104.17.2	Storage of flammable or combustible liquid	$150.00
3104.19	Generators	$100.00
2108.1	Fire protection	$100.00
2107.3	Solvent storage	$100.00
2105.1.5.4	Public access Customer area	$100.00
2105.1.1	Warning label and signs	$50.00
2403.2.6	Smoking prohibited	$100.00
2403.2.7	Welding warning signs	$100.00
2403.2.1	Electrical wiring and equipment	$100.00
2404.2	Location of spray-finishing operations	$200.00
2404.3.2	Spray booths	$100.00
2404.6.1.2	Dry filters – Drying Apparatus	$100.00
2404.6	Sources of ignition	$150.00

FINES/PENALTIES – LOS GATOS CALIFORNIA FIRE CODE

SECTION	OFFENSE	AMOUNT
2404.7	Ventilation of spray booths and spraying areas	$100.00
2404.9	Limited spraying areas	$50.00
2403.3	Storage and handling of flammable or combustible liquids	$75.00
2404.4	Fire protection equipment	$50.00
2404.5	Operation and maintenance	$50.00
2404.6.1.2	Drying apparatus	$50.00
2405.2	Location of dip tank operations	$150.00
2405.7	Ventilation of vapor areas	$100.00
2405.6	Sources of ignition	$150.00
2405.4.1	Fire extinguishing equipment	$100.00
2405.3.4	Dip tank covers	$100.00
2405.9	Hardening and tempering tanks	$100.00
2405.11	Coating operations	$100.00
2407	Electrostatic apparatus	$150.00
2408	Organic peroxides and dual-component coatings	$100.00
2408.5	Source of ignition	$100.00
5906.5.7	Fire extinguishing materials	$100.00
5906.1	Handling of magnesium fines (fine magnesium scrap)	$100.00
202	Hot work area	$100.00
202	Location of cylinders	$100.00
2905	Process building	$100.00
2909	Storage of raw material and finished products	$100.00
2906	Process mills, mixers and kettles	$100.00
2904.1	Electrical equipment	$100.00
2904.3	Protection against static electricity and lighting	$100.00
2903.4	Fire protection	$100.00
2901.3	Maintenance	$100.00
2703.1	Emergency control station and alarms	$100.00
2703.2.3	Piping and tubing	$100.00
2703.4	Emergency plan	$100.00
2703.13	Gas detection	$100.00
2703.10	Fire protection	$100.00
2703.15.1	Electrical equipment	$100.00
2703.15.2	Ventilation requirements	$100.00
2704	General storage requirements	$100.00
2704.3.1	Inside HPM storage	$100.00
2704.3.3	Separation of HPM	$100.00
2705.3	Handling HPM in existing buildings	$100.00
2705.3	Requirements for HPM gases	$100.00
2705.3.2	Transportation of HPM in service corridors	$100.00
2705.3.4	Design of carts and trucks	$100.00

FINES/PENALTIES – LOS GATOS CALIFORNIA FIRE CODE

SECTION	OFFENSE	AMOUNT
2303.1	Location of dispensing operations	$100.00
2303.1	Installation of dispensing devices	$100.00
2304.1	Supervision of dispensing operations	$100.00
2305.4	Sources of ignition	$100.00
2305.6	Signs	$100.00
2305.5	Fire protection	$100.00
2305.7	Clearance of combustibles	$100.00
2305.2	Maintenance	$100.00
2306.2	Storage of fuel	$100.00
2306.7	Dispensing	$100.00
2301.5	Electrical equipment	$100.00
2301.6	Heating equipment	$100.00
2305.5	Fire protections	$100.00
2306.7.9	Vapor recovery	$100.00
2307.3	Attendants	$100.00
2307.4	LPG dispensing location	$100.00
2307.5	LPG dispensing equipment	$100.00
2308.3	Location for CNG dispensing operations	$100.00
2308.4	Private fueling of vehicles	$100.00
2308.6	Manual shut off valve	$100.00
2308.8	Discharge of CNG from vehicle fuel containers	$100.00
3003.1	Ventilation	$100.00
606.12.5	Ammonia discharge	$100.00
606.7	Emergency signs and labels	$100.00
5303.1	Compressed gas containers, cylinders and tanks	$100.00
5303.4	Marking	$100.00
5303.5	Security	$100.00
5303.6	Valve protection	$100.00
5303.7	Separation from hazardous conditions	$100.00
5303.8	Wiring and equipment	$100.00
5303.9	Service repair	$100.00
5303.10	Unauthorized use	$100.00
5303.11	Exposure to fire	$100.00
5303.12	Leaks, damage or corrosion	$100.00
5303.13	Surface or unprotected storage areas	$100.00
5303.15	Lightning	$100.00
5304	Storage	$100.00
5305	Use and handling	$100.00
5306	Medical gas systems	$100.00
5503.1	Construction of containers	$100.00
5503.1	Containers	$100.00

FINES/PENALTIES – LOS GATOS CALIFORNIA FIRE CODE

SECTION	OFFENSE	AMOUNT
5503.2	Pressure relief devices	$100.00
5503.4	Marking	$100.00
5503.60	Electrical equipment	$100.00
5505.1.2	Piping materials and construction	$100.00
5505.4	Piping materials and construction	$100.00
5505.5	Handling	$100.00
2203.2	Housekeeping	$100.00
2203.1	Smoking and open flames	$100.00
5701.4	Permit and plans for flammable and combustible liquid storage electrical	$100.00
5703.2	Fire protection	$100.00
5703.4	Spill control and secondary containment	$100.00
5703.5	Labeling and signs	$100.00
5704.2.1	Change of tank contents	$100.00
5704.2.3	Labeling and signs	$100.00
5704.2.4	Sources of ignition	$100.00
5704.2.5	Explosion control	$100.00
5704.2.6	Separation from incompatible materials	$100.00
5704.2.7	Design of tanks, containers and equipment	$100.00
5704.2.8	Below grade vaults	$100.00
5704.2.7.6	Inspection, repair, alteration or reconstruction of tanks and piping	$100.00
5704.2.8.2	Seismic design	$100.00
5704.2.7.3	Tank vents for normal venting	$100.00
5704.2.9.6.1	Prohibited locations of above ground tanks	$200.00
5704.2.9.6.2	Separation of tanks	$100.00
5704.2.7.4	Emergency of relief venting for tanks	$100.00
5704.2.7.5	Tank openings other than vents	$100.00
5704.2.10	Drainage control and diking	$100.00
5704.3	Container and portable tank storage outside of buildings	$100.00
5704.2.9.5	Stationary above ground tank storage inside buildings	$100.00
5704.3.3	Container and portable tank storage inside buildings	$100.00
5704.2.11	Underground tank storage	$100.00
5705.2	Liquid transfer	$100.00
5705.3.6	Cleaning with Class I or II liquids	$150.00
5706.2	Storage and dispensing at construction sites	$100.00
5706.2.8	Tank vehicles and vehicle operation	$100.00
5001.5	Permits required for hazardous materials	$200.00
5001.5.1	Hazardous material management	$100.00
5003.2.1	Design of containers, cylinders and tanks	$100.00
5003.2.2	Piping, tubing, valves and fittings	$100.00

5003.2.3	Suitability of equipment	$100.00
5003.2.4	Installation of tanks	$100.00
5003.2.5	Empty containers and tanks	$100.00
5003.2.6	Maintenance	$100.00
5003.3	Release of hazardous material	$1,000.00
5003.4	Material safety data sheets	$100.00
5003.5	Identification signs	$100.00
5003.6	Signs	$100.00
5003.7	Sources of ignition	$100.00
5003.8	Construction requirement	$100.00
5003.9	General safety precautions	$100.00
5003.10	Handling and transportation	$100.00
5001.6	Facility closure	$100.00
5001.4	Retail and wholesale storage and display	$100.00
5001.1	Exempt amounts	$100.00
5004	Storage, general	$100.00
6004	Toxic and highly toxic compressed gases	$100.00
6303	Oxidizers	$100.00
6203	Organic peroxides	$100.00
6403	Pyrophoric materials	$100.00
6703	Water relative solids and liquids	$100.00
6003	Highly toxic and toxic solids and liquids	$100.00
6603	Radioactive materials	$100.00
5403	Corrosives	$100.00
5005.1.1	Separation from hazardous material storage	$100.00
5004.2	Spill control	$100.00
5005.1.5	Emergency power	$100.00
5005.1.6	Supervision	$100.00
5005.1.7	Lighting	$100.00
5005.1.8	Fire extinguishing systems	$100.00
5005.1.9	Ventilation	$100.00
5304.1	Container position for gases	$100.00
NFPA 55	Bulk oxygen systems	$100.00
NFPA 55	Liquid transfer	$100.00
6405.3	Silane	$100.00
5005.2	Indoor dispensing and use	$100.00
5005.3	Outdoor dispensing and use	$100.00
5005.4	Handling	$100.00
3205.2	Ignition sources	$100.00
3205.4	Aisle maintenance	$100.00
3206.3	Separation of high-piled storage areas	$100.00

FINES/PENALTIES – LOS GATOS CALIFORNIA FIRE CODE

3206.4	Fire sprinklers	$100.00
3206.5	Fire detection	$100.00
3206.6	Building access	$100.00
3206.7	Smoke and heat removal	$100.00
3206.8	Hose stations and hose connections	$100.00
3206.9	Aisles	$100.00
3206.10	Portable fire extinguishers	$100.00
3207.2	Fire protection for solid-piled and shelf storage	$100.00
3207.3	Pile dimensions and height limitations	$100.00
3208.2	Fire protection for rack storage	$100.00
3208.3	Flue spaces	$100.00
3208.5	Extra-high rack storage systems	$100.00
6103	Installation of equipment	$100.00
6104	Location of containers	$100.00
6105	Prohibited use of Lp-gas	$100.00
6106	Dispensing	$100.00
6107	Safety devices	$100.00
6107.2	Smoking and other sources of ignition	$100.00
6107.3	Clearance to combustibles	$100.00
6107.4	Protecting containers from vehicles	$100.00
6108	Fire protection	$100.00
6109	Storage of portable containers awaiting use or resale	$100.00
6110	Containers not in service	$100.00
6111	Parking and garaging tank vehicles	$100.00
4811.6	Smoking	$100.00
6504	Film storage	$100.00
605.9	Use of temporary wiring	$100.00
605.1	Abatement of electrical hazards	$100.00
605.8	Electrical motors	$100.00
605.5	Extension cords	$100.00
605.4	Multi plug adaptors	$100.00
605.4.1	Power taps	$100.00
605.3	Access to switchboards and panel boards	$100.00
3301	Fire safety during construction	$100.00
3304	Precautions against fire	$100.00
5104	Storage of aerosol products	$100.00
5106	Retail display of aerosol products	$100.00

FY 2023/24 Fine Adjustments, Reclassifications, Deletions and Additions		
Fine Section and Name	**FY 2023/24 Adopted Effective July 1, 2023**	**FY 2023/24 Proposed Effective Upon Resolution Adoption**
Town Code Violations		
5.10.030 Riding on sidewalks and pedestrian paths	Included in Town Code not Fine Schedule	First Offense: $50.00
		Second Offense: $75.00
		Third Offense: $100.00
5.10.040 Riding in groups	Included in Town Code not Fine Schedule	First Offense: $50.00
		Second Offense: $75.00
		Third Offense: $100.00
5.10.050 Racing	Included in Town Code not Fine Schedule	First Offense: $50.00
		Second Offense: $75.00
		Third Offense: $100.00
5.10.060 Trick Riding	Included in Town Code not Fine Schedule	First Offense: $50.00
		Second Offense: $75.00
		Third Offense: $100.00
5.10.070 Riding in playgrounds or school grounds	Included in Town Code not Fine Schedule	First Offense: $50.00
		Second Offense: $75.00
		Third Offense: $100.00
5.10.080 Parking	Included in Town Code not Fine Schedule	First Offense: $50.00
		Second Offense: $75.00
		Third Offense: $100.00
18.60.020 (m) Penalties for Retailer with a Tobacco Retailer Permit	Included in Town Code not Fine Schedule	First Offense: $1,000.00
		Second Offense within a 60-month period: $2,500.00
		Third Offense within a 60-month period: $5,000.00
18.60.020 (n) Penalties for Retailer without a Tobacco Retailer Permit	Included in Town Code not Fine Schedule	First Offense: $2,500.00
		Second Offense within a 60-month period: $5,000.00
		Third Offense within a 60-month period: $10,000.00
6.20.155 Building permit requirements	6.20.155-Building permit requirements	Section number updated to 6.30.01
9.30.015 Storage of certain substances (populated area)	9.30.015 Storage of certain substances (populated area)	Delete
11.40.060 Illegal dumping (outside park)	11.40.060 Illegal dumping (outside park)	Section number updated to 11.10.055
11.40.060 Single use carry-out bags	11.40.060 Single use carry-out bags	Section number updated to 11.40.03
13.20.010 Improper storage of hazardous material	13.20.010 Improper storage of hazardous material	Section number updated to 13.20.02
13.20.885 Hazardous material	13.20.885 Hazardous material	Delete
13.20.305 Permit Required for Storage of Hazardous Material	N/A	$100.00
16.30.010 Noise Limits	16.30.010 Noise Limits	Section number updated to 16.20.010 and language added to 16.20.010 Curfew Noise Distrubrance
18.10.025(2) Enter/remain in public while intoxicated	18.10.025(2) Enter/remain in public while intoxicated	Delete
19.10.037 (1)-(6) Use of skateboards, skates, scooters	19.10.037 (1)-(6) Use of skateboards, skates, scooters	Section number updated to 19.10.038

DATE: October 26, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt a Resolution to Seek Membership in the American Association of Retired People (AARP) Network of Age-Friendly Communities

RECOMMENDATION:

Adopt a Resolution to seek membership in the AARP Network of Age-Friendly Communities.

REMARKS:

The AARP has a Network of Age-Friendly Communities. Los Gatos was designated an Age-Friendly Community in 2017 by the World Health Organization. Cities can apply to join by filling out an application, including a resolution from the governing body and a letter from the Mayor. This item seeks Council adoption of a Resolution which would be part of the Town's application package.

The advantage of joining AARP's Network includes technical assistance as well as eligibility for possible grant funding. Grant funding could be useful for implementing elements of the Senior Services Roadmap.

COORDINATION:

The preparation of the Resolution was coordinated with the Town Attorney.

FISCAL IMPACT:

There is no fiscal impact associated with the Resolution.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

Attachment:
1. Draft Resolution

DRAFT RESOLUTION 2023-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO SEEK MEMBERSHIP IN THE AMERICAN ASSOCIATION OF RETIRED PEOPLE (AARP) NETWORK OF AGE-FRIENDLY COMMUNITIES

WHEREAS, in 2017, the World Health Organization designated the Town of Los Gatos as a member of the Global Network of Age-Friendly Cities and Communities; and

WHEREAS, the health and safety of community members of all ages is of highest concern to the Los Gatos Town Council as demonstrated in the adopted 2040 General Plan that guides the physical development of the community, including infrastructure investments; and

WHEREAS, on February 7, 2023, the Town Council endorsed the Senior Services Roadmap as a ten-year plan to guide the revitalization of senior services in Los Gatos; and

WHEREAS, on March 7, 2023, the Town Council directed Senior Services Roadmap year one implementation items to appropriate Town Commissions; and

WHEREAS, members of the AARP Network of Age-Friendly Communities become part of a global network of communities that are committed to giving their older residents the opportunity to live rewarding, productive and safe lives; and

WHEREAS, membership in the Network of Age-Friendly Communities includes access to financial assistance and technical expertise that may facilitate the Town's implementation of the Senior Roadmap and other livable communities investments.

NOW, THEREFORE, BE IT RESOLVED, the Town of Los Gatos Town Council is committed to continuing its efforts to ensure Los Gatos is a well-designed, livable community that promotes health and sustained economic growth for residents of all ages, and the Town of Los Gatos seeks to apply to the AARP Network of Age-Friendly Communities.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of November, 2023, by the following vote:

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: _____

DRAFT

DATE: November 7, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt a Resolution to Seek Membership in the American Association of Retired People (AARP) Network of Age-Friendly Communities

REMARKS:

Since the distribution of the staff report, staff has been in communication with AARP. Town staff learned that a jurisdiction does not need to be a member of the Age-Friendly Network to apply for financial assistance. Membership provides access to technical assistance and expertise. The Draft Revised Resolution in Attachment 2 contains this correction and should be the Resolution that Council considers with this agenda item.

Attachment Distributed with Staff Report:
1. Draft Resolution

Attachment Distributed with This Desk Item:
2. Draft Revised Resolution

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DRAFT RESOLUTION 2023-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO SEEK MEMBERSHIP IN THE AMERICAN ASSOCIATION OF RETIRED PEOPLE (AARP) NETWORK OF AGE-FRIENDLY COMMUNITIES

WHEREAS, in 2017, the World Health Organization designated the Town of Los Gatos as a member of the Global Network of Age-Friendly Cities and Communities; and

WHEREAS, the health and safety of community members of all ages is of highest concern to the Los Gatos Town Council as demonstrated in the adopted 2040 General Plan that guides the physical development of the community, including infrastructure investments; and

WHEREAS, on February 7, 2023, the Town Council endorsed the Senior Services Roadmap as a ten-year plan to guide the revitalization of senior services in Los Gatos; and

WHEREAS, on March 7, 2023, the Town Council directed Senior Services Roadmap year one implementation items to appropriate Town Commissions; and

WHEREAS, members of the AARP Network of Age-Friendly Communities become part of a global network of communities that are committed to giving their older residents the opportunity to live rewarding, productive and safe lives; and

WHEREAS, membership in the Network of Age-Friendly Communities includes access to technical assistance and expertise that may facilitate the Town's implementation of the Senior Roadmap and other livable communities investments.

NOW, THEREFORE, BE IT RESOLVED, the Town of Los Gatos Town Council is committed to continuing its efforts to ensure Los Gatos is a well-designed, livable community that promotes health and sustained economic growth for residents of all ages, and the Town of Los Gatos seeks to apply to the AARP Network of Age-Friendly Communities.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of November, 2023, by the following vote:

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: _____

DRAFT

DATE: October 27, 2023

TO: Mayor and Town Council

FROM: Gabrielle Whelan, Town Attorney

SUBJECT: Authorize the Town Manager to Execute an Updated Agreement Between the Town of Los Gatos and the County of Santa Clara for Administration of the Town's Tobacco Retail Permit Program

RECOMMENDATION:

Authorize the Town Manager to execute an updated agreement between the Town of Los Gatos and the County of Santa Clara for Administration of the Town's Tobacco Retail Permit Program.

BACKGROUND:

The Town currently contracts with Santa Clara County to administer the Town's Tobacco Retail Permit Program, which includes enforcement of the Town's tobacco retailer ordinance. The County recently updated its ordinance regulating tobacco retailers. There are approximately 25 vendors in the Town who sell tobacco and tobacco products. In order to continue with County-assisted enforcement of the Town's ordinance, the Town was required to amend its ordinance to conform with the updated County ordinance.

At its October 3, 2023 meeting, the Town Council amended its Ordinance regulating tobacco retailers, which is codified at Town Code Section 18.60.020, to conform with the County ordinance.

Per the Town's contract with Santa Clara County, the County administers the Town's tobacco retailer permit program and enforces the Town's ordinance. This includes the following activities: Handling tobacco retailer permit applications, issuing tobacco retailer permits,

PREPARED BY: Bridgette Falconio
Administrative Technician

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Police Chief, and Finance Director

BACKGROUND (continued):

educating tobacco retailers, inspecting tobacco retailers, conducting compliance checks, and documenting violations.

DISCUSSION:

Minor revisions are proposed to the existing contract between the Town and the County. Language has been added to provide that, in the event that the Town opts to designate a different entity than the County to administer the program or a hearing officer other than the County's hearing officer, the Town will provide the County with 90 days' notice.

The Council is asked to authorize the Town Manager to sign the revised agreement with the County.

CONCLUSION:

Authorize the Town Manager to execute the revised agreement between Town of Los Gatos and the County of Santa Clara for Tobacco Retail Permit Program Administration Services.

COORDINATION:

The Town Attorney's Office has coordinated the terms and conditions of the agreement with the Police Department and Santa Clara County representatives.

FISCAL IMPACT:

There would be no fiscal impact as the proposed revisions require the Town to provide 90 days' notice to the County in the event that the Town opts to make a change in administration of the program.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:
1. Draft First Amended and Reinstated Agreement

FIRST AMENDED AND RESTATED AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND TOWN OF LOS GATOS FOR A TOBACCO RETAIL PERMIT PROGRAM

This First Amended and Restated Agreement ("Agreement") is entered into by and between the County of Santa Clara ("County") and Town of Los Gatos ("Town") relating to administration and enforcement of a tobacco retail permit program in the Town of Los Gatos. County and Town may be referred to in this Agreement individually as a "Party" and collectively as "Parties."

Background / Purpose

In 2010, the County added Chapter XXIII to Division A18 of its Ordinance Code ("Chapter XXIII"), thereby establishing a permit requirement for retailers of tobacco products in the unincorporated areas of the County of Santa Clara. The County has since expanded the scope of Chapter XXIII and modified provisions therein. The Town has adopted Town Code 18.06.020 to mirror the provisions of Chapter XXIII in their entirety, effective January 1, 2018, and intends to continue updating Town Code 18.06.020 to maintain consistency with Chapter XXIII. The Town and County intend for the County to administer and enforce the Town's tobacco retail permit program (as described in Town Code 18.06.020) within the Town, except as otherwise provided in this Agreement. The County intends to cite violators of the Town's Town Code 18.06.020 pursuant to this Agreement. Terms used in this Agreement, such as, but not limited to, "tobacco products" and "retailer," shall be interpreted in accordance with Chapter XXIII and Town Code 18.06.020.

Agreement

The Parties agree as follows:

1. Designation

The Town hereby designates the County to enforce and administer the Town Ordinance. The County shall act as the Town's designee, as defined in section 18.60.020 (b).

2. Scope of Work

Each Party shall perform the work as described in Exhibit A, attached hereto and incorporated herein by this reference.

3. Legislative Consistency

The County's administration and enforcement under this Agreement is contingent upon the Town's adoption and maintenance of a Town Ordinance that is the same as the County Ordinance in all material respects.

3.1 Within 90 days of the County's adoption of any material amendment to the County Ordinance, the City's governing body shall consider and vote upon an amendment to the Town Ordinance that is the same as the County's amendment in all material respects. If the Town does not adopt such an

amendment within 90 days of the County's amendment to the County Ordinance, the County may, in its sole discretion, immediately terminate this Agreement by sending written notice to the Town.

3.2 If the Town wishes to amend the Town Ordinance other than to conform to the County's prior amendment of the County Ordinance as set forth in Paragraph 3.1 above, the Town shall provide the County with the full text of the proposed amendment 120 days prior to adoption of such an amendment. If the Town adopts an amendment to the Town Ordinance other than to conform in all material respects to the County's prior amendment of the County Ordinance, the County may, in its sole discretion, immediately terminate this Agreement by sending written notice to the Town.

3.3 If the Town intends to designate any other agency, entity, or individuals other than the County to act as the Town's designee to administer or enforce any provisions of the Town Ordinance, as defined in section 18.60.020 (b), the Town shall provide the County with notice of the intended designation at least 90 days before the effective date of that designation. If the Town designates another agency, entity, or individuals other than the County pursuant to section 18.60.020 (b), the County may, in its sole discretion, immediately terminate this Agreement by providing written notice to the Town.

3.4 If the Town intends to designate any other agency, entity, or individuals other than the County Hearing Officer to act as the Town's Hearing Officer, as defined in section 18.60.020 (b), the Town shall provide the County with notice of the intended designation at least 90 days before the effective date of that designation. If the Town designates any other agency, entity, or individuals other than the County to act as the Town's Hearing Officer, as defined in section 18.60.020 (b), the County may, in its sole discretion, immediately terminate this Agreement by providing written notice to the Town.

3.5 The County shall have no responsibility for administering or enforcing any provisions of the Town Ordinance that are in addition to or otherwise materially different from the County Ordinance.

4. Relationship of Parties / Independent Contractors

Each Party shall perform all work described herein as an independent contractor and not as an officer, agent, servant or employee of the other Party. None of the provisions of this Agreement are intended to create, nor shall be deemed or construed to create, any relationship between the Parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Agreement. The Parties are not, and shall not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither Party has the authority to make any statements,

representations or commitments of any kind on behalf of the other Party, or to use the name of the other Party in any publications or advertisements, except with the written consent of the other Party or as is explicitly provided herein. Each Party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

5. Term of Agreement

This Agreement is effective from the date that this Agreement is executed by all Parties, until terminated in accordance with this Agreement.

6. Payment

The Town shall adopt, by reference, the County's fee schedule for annual tobacco retail permits and tobacco retail permit applications. All annual permit fees and application fees for the tobacco retail permit program shall be collected and retained by the County.

The County shall advise Town of the initial permit fee and application fee necessary to cover County's anticipated costs under this Agreement. Thereafter, the County shall provide notice to the Town and tobacco retail permit holders in the Town of any increases or decreases in the cost of the County's work under this Agreement and any need to revise permit fees and/or application fees accordingly.

7. Termination

Except as provided in paragraphs 3.1, 3.2, 3.3, and 3.4 above, which allow for immediate termination in the specified circumstances, either Party may terminate this Agreement for any reason upon ninety (90) days' written notice. Upon service of a termination notice, the Parties shall use their best efforts to develop a mutually-agreeable plan for transition of the County's responsibilities to the Town. Upon termination of this Agreement, the Town will be responsible for replacing the County-issued permits.

8. Indemnification and Insurance

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by Party shall not be shared pro rata but, instead, County and Town agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Parties hereto, their officers, board members, employees, or agents, under or in connection with or arising out of any work authority or jurisdiction

delegated to such other Parties under this Agreement.

Without limiting the indemnification both Parties shall maintain or cause to be maintained the following insurance coverage: (1) a policy of commercial general liability with limits of liability not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) annual aggregate; (ii) a policy of workers' compensation providing statutory coverage; (iii) a policy of professional or public officials errors and omissions liability with limits of liability not less than one million dollars ($1,000,000) per occurrence/aggregate; and (iv) such other insurance or self-insurance as shall be necessary to insure it against any claim or claims for damages arising under the Agreement. Each Party's insurance afforded by the commercial general liability policy shall be endorsed to provide coverage to the other Party as an additional insured. A Certificate of Insurance certifying that coverage as required herein has been obtained to the other Party. The requirements of this section may be satisfied by the provision of similar coverage through a self-insurance program.

9. Compliance with All Laws, Rules, Regulations, Policies and Procedures

The Parties shall comply with all applicable federal, state and local laws, rules, regulations, policies and procedures.

10. Monitoring / Records

10.1 Monitoring

Each Party shall permit the other Party to monitor its performance of this Agreement. To the extent permitted by law, such monitoring may include, but not be limited to, audits and review of records related to this Agreement. Upon request, a Party shall provide the other Party with access to facilities, financial and employee records that are related to the purpose of the Agreement, except where prohibited by federal, state or local laws, regulations or rules. Monitoring shall be permitted at any time during normal business hours upon no less than 10 business days advance notice and may occur up to one year following termination of the Agreement.

Each Party shall designate a project director/coordinator responsible for overseeing that Party's performance of this Agreement. Each Party shall notify the other Party in writing of the designation of the project director/coordinator and of any change thereto.

10.2 California Public Records Act

The Parties are public agencies subject to the disclosure requirements of the California Public Records Act ("CPRA"). In the event of a CPRA request for information related to this Agreement, each Party will use its best efforts to notify the other Party before such disclosure.

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11. Representations and Warranties

11.1 Conflict of Interest

Each Party shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by either Party.

11.2 Authority

Each individual executing this Agreement on behalf of a Party represents that he or she is duly authorized to execute and deliver this Agreement on that Party's behalf.

12. Assignment, Delegation, Subcontracting

Neither Party may assign any of its rights, delegate any of its duties or subcontract any portion of its work or business under this Agreement without the prior written consent of the other Party, which such other Party may withhold in its sole and absolute discretion. No assignment, delegation or subcontracting will release a Party from any of its obligations or alter any of its obligations to be performed under the Agreement.

13. Governing Law, Jurisdiction and Venue

This Agreement shall be construed and its performance enforced under California law. In the event that suit shall be brought by either Party to this Agreement, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara or, if federal jurisdiction is appropriate, exclusively in the United States District Court for the Northern District of California, in San Jose, California.

14. Waiver

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing, and shall apply to the specific instance expressly stated.

15. Notice

Any notice required to be given by either Party, or which either Party may wish to give, shall be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows:

If to COUNTY: If to Town:

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County of Santa Clara Public Health Department
Sara H. Cody, MD, Health Officer and Public Health Director
976 Lenzen Avenue
San Jose, CA 95126

Town of Los Gatos
Office of the Town Manager
Laurel Prevetti, Town Manager
110 E. Main St.
Los Gatos, CA 95030

With a copy to:
Count of Santa Clara Public Health Department
Contracts and Compliance Unit
976 Lenzen Avenue, Second Floor
San Jose, CA 95126

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail. Either Party may designate a different person and/or address for the receipt of notices by sending written notice to the other Party.

16. Third Party Beneficiaries

This Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties.

17. Entire Agreement

This document represents the entire Agreement between the Parties with respect to the subject matter hereof. All prior negotiations and written and/or oral Agreements between the Parties with respect to the subject matter of this Agreement are merged into this Agreement.

18. Amendments

This Agreement may only be amended by a written instrument signed by the Parties.

19. Survival

The rights and duties under the following provisions shall survive the termination or expiration of this Agreement: Section 8 – Indemnification and Insurance; Section 10 – Monitoring/ Records; Section 11 – Conflicts of Interest; and Section 13 – Governing Law, Jurisdiction, and Venue, and in any instrument, certificate, exhibit, or other writing attached hereto and incorporated herein.

20. Severability

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

21. Contract Execution

Unless otherwise prohibited by law or Town or County policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the Parties.

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22. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates written below.

Signed:

County of Santa Clara:		Town of Los Gatos	
Gene Clark Chief Procurement Officer	Date	Laura Prevetti Los Gatos Town Manager	Date
Approved as to Form and Legality:		Attest:	
Jessica Mar Deputy County Counsel	Date	Wendy Wood Los Gatos Town Clerk	Date

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Approved:		Approved as to Form:	
Sara H. Cody, MD Health Officer and Public Health Director	Date	Gabrielle Whelan Los Gatos Town Attorney	Date

Approved:

Tina Cordero CSCHS Chief Fiscal Officer	Date

Exhibits to this Agreement:

Exhibit A: Scope of Work

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EXHIBIT A

COUNTY OF SANTA CLARA AND TOWN OF LOS GATOS TOBACCO RETAIL PERMIT PROGRAM – DESCRIPTION OF ROLES BY AGENCY

County of Santa Clara

Department of Environmental Health

1. Provide permit applications to all new retailers selling tobacco products in the Town of Los Gatos and issue permits to eligible applicants.
2. Ensure all existing tobacco retail permits that meet and maintain eligibility requirements are renewed on an annual basis.
3. Maintain database tracking system for all permitted tobacco retailers.
4. Provide list of permitted tobacco retailers to Public Health Department and Town of Los Gatos on an annual basis or more frequently as requested.
5. Collect required permit fees.
6. Meet with all related personnel to: (1) coordinate enforcement strategy; and (2) develop/maintain policy and procedure for enforcement.
7. Conduct at least one annual inspection of tobacco retailers to ensure compliance with local, state, and federal laws (except sales to underage individuals).
8. Meet with all related personnel as necessary to: (1) coordinate post compliance check strategy; and (2) next steps for violations.
9. Conduct follow up inspections, including for complaints received by the public, if necessary, for ensuring compliance with the tobacco retail permit ordinance. Provide and promote a clear process for the public to file and track complaints for potential violations of the tobacco retail permit ordinance.
10. Respond to requests for information from Los Gatos tobacco retailers and the public regarding requirements under the tobacco retail permit ordinance.
11. Keep records of inspection outcomes for each tobacco retailer and provide annual inspection report summaries to a single point of contact at the Public Health Department.
12. Take enforcement action, as appropriate, to address violations.
13. Notify the Town of Los Gatos when Notice of Violations (NOVs) are issued as a result of violations of the ordinance.
14. Issue NOVs per Ordinance and ensure the tobacco retailer corrects violations and executes all required corrections identified in the NOV.
15. Coordinate with the Office of County Hearing Officer as appropriate on hearings, including to supply information on violations where an appeal is requested.

Public Health Department

1. Provide initial list of tobacco retailers to Department of Environmental Health to send out permit applications.
2. Obtain lists from California Department of Tax and Fee Administration and Los Gatos Finance Department to establish current list of tobacco retailers and monitor for any new retailers.
3. Provide on-going technical assistance to Department of Environmental Health on ordinance requirements. This may include trainings for inspectors, research on flavored and emerging products, and development of educational materials for tobacco retailers.
4. Map any new retailers to ensure they meet eligibility requirements related to distance from schools, distance from existing tobacco retailers, and that under the ordinance the retailer meets all other eligibility requirements.

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5. If a business seeking a tobacco retail permit is deemed ineligible by the County due to ordinance requirements, including attaching any relevant documentation supporting the basis for business ineligibility (e.g. maps of business location; documentation of pharmacy license status; copies of 3 or more NOVs issued in a 60-month period.
6. Proactively engage the business community so that they are aware of the TRL ordinance (e.g., effective date, requirements, fines/penalties) as appropriate.
7. Coordinate with the Office of County Hearing Officer and County Counsel as appropriate on appeals hearings.
8. Provide an annual update to appropriate Los Gatos staff on enforcement and compliance activities and outcomes for the program.

Town of Los Gatos

Police Department

1. Conduct undercover decoy operations at tobacco retailers to ensure compliance with laws regarding sales of tobacco products to underage individuals. Prior to performing operations, notify Department of Environmental Health of planned operation dates.
2. Issue citations for any violations of laws regarding sales of tobacco products to underage individuals (e.g. PC § 308(a), Los Gatos Municipal Code Article VI Section 18.60.020, CA Business and Professions Code § 22958).
3. Immediately notify the Department of Environmental Health on outcomes of enforcement operations within 3-5 days of the performed operation. Provide copies of all documentation associated with the violation: a copy of the citation, written reports/records, or any additional evidence of violation (e.g. receipts, photo copies of the tobacco product sold to the underage individual) to the Department of Environmental Health.
4. Coordinate with the Office of County Hearing Officer and County Counsel as appropriate on appeals hearings.

Finance Department

1. Route business licensing applications for any new tobacco retailers to a designated contact at the County Public Health Department to determine permit eligibility. Any business that sells tobacco products is subject to the requirements under the Tobacco Retail Permit ordinance.
2. Route new and renewal business licensing applications to County Public Health and Environmental Health to ensure there has not been changes in ownership at the business.

Town Manager's Office

1. Publish information on the Town of Los Gatos's website on the tobacco retail permit ordinance, for example: where tobacco retailers can get more information on the requirements for selling tobacco in Los Gatos, and how the public can file a complaint or request more information about the tobacco retail permit ordinance.
2. Act as a resource to other cities that may be interested in a similar partnership with the County.
3. Update ordinance as needed in collaboration with Town Attorney and the County Departments.

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DATE: October 30, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Side Letter of Agreement Between the Town of Los Gatos and the Town Employee Association (TEA) to establish a "Retention and Recruitment Bonus" for Dispatch Classifications Beginning July 9, 2023 and Ending June 30, 2024, Authorize the Town Manager to Execute the Side Letter, and Authorize a FY 2023/24 Expenditure Budget Adjustment in the Amount of $103,100 from the Capital/Special Projects Reserve

RECOMMENDATION:

Approve a Side Letter of Agreement between the Town of Los Gatos and the Town Employee Association (TEA) (Attachment 1) to establish a "Retention and Recruitment Bonus" for Dispatch classifications beginning July 9, 2023 and ending June 30, 2024, authorize the Town Manager to execute the Side Letter, and authorize a FY 2023/24 Expenditure budget adjustment in the amount of $103,100 from the Capital/Special Projects Reserve.

BACKGROUND:

Public safety departments throughout the nation and State are experiencing a staffing crisis. The attrition in Police Officers and Dispatchers is attributed to the COVID-19 pandemic, public protests, heightened anti-Police sentiment, reallocation of funding known as "Defund the Police," accelerated resignations and retirements, and a diminished applicant pool.

The Los Gatos-Monte Sereno Police Department (LGMSPD) faces the same challenges. The Town and the Department have implemented innovative recruitment strategies, including the direct involvement of existing staff in outreach and promotion of our opportunities. The Department has also invested in its culture of community policing, wellness, and training to retain qualified personnel. Unfortunately, higher paying public safety agencies are

PREPARED BY: Katy Nomura
Assistant Town Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

incorporating retention pay and other fiscal incentives, while simultaneously emphasizing a healthy organizational culture to prevent loss of personnel.

The LGMSPD is a high-performing agency with an emphasis on maintaining exceptional standards in customer service, both internally and externally. To that extent, the LGMSPD must be able to recruit and retain high quality personnel that exemplify these values.

Dispatch has eight budgeted positions. Currently there are six operational Dispatchers and one in training. In collaboration with the Town's Human Resources Department, the Town is continuously recruiting, interviewing, backgrounding, and offering Dispatch positions.

DISCUSSION:

It is imperative for the Town to incentivize and retain LGMSPD Dispatchers in this ultra-competitive hiring environment, coupled with a historically low pool of qualified applicants. For this reason, the proposed Side Letter offers a modest $577 per pay period retention bonus for full-time Dispatchers that have successfully completed the required Dispatch training program. The bonus is non-PERSable. The proposal is estimated to cost no more than $103,100.

The approval of the Side Letter is expected to incentivize staff to stay with LGMSPD as they may be considering other opportunities with more competitive compensation packages and bonuses. The Side Letter also demonstrates recognition and appreciation of the Dispatchers for their extra duties and overtime to assist the community during this period of staffing shortage. The recommended retention bonus is short-term for the entirety of Fiscal Year 2023-24.

CONCLUSION:

Staff has met its obligation to meet and confer with the Town Employee Association (TEA) on the proposed Side Letter. TEA has indicated support for the proposal. Therefore, it is recommended that the Side Letter of Agreement be approved, and the Town Manager be authorized to execute the Side Letter.

COORDINATION:

The preparation of this report was coordinated with the Human Resources Department, Police Department, Finance Department, Town Attorney's Office, and Town Manager's Office.

FISCAL IMPACT:

To implement the Side Letter, Town Council must also authorize an expenditure budget adjustment in the amount of $103,100 from the Capital/Special Projects Reserve.

The longer-term fiscal benefits include reducing overtime costs and improving retention to provide essential public safety services to the community.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:
1. Side Letter of Agreement Between Town of Los Gatos and Los Gatos-Monte Sereno Police Department Town Employee Association (TEA)

SIDE LETTER OF AGREEMENT
BETWEEN THE
TOWN OF LOS GATOS AND THE TOWN EMPLOYEES' ASSOCIATION

Due to critical and unprecedented retention issues currently faced by the Los Gatos-Monte Sereno Police Department, the Town of Los Gatos (Town) and the Town Employees' Association (TEA), collectively referred to as "parties," having met and conferred in good faith, agree as follows:

1. Retroactive to the first full pay period of July 2023, the Town shall pay full-time Communications Dispatchers, Communications Dispatcher Leads, and Senior Communications Dispatchers (collectively referred to as "Dispatchers"), who are in a paid work status and have successfully completed the required dispatch training according to the Lead Communications Dispatcher, a non-pensionable lump sum payment of $577 per pay period. The Town shall continue to pay $577 per pay period to Dispatchers who are in a paid work status through June 30, 2024, for up to no more than twenty-six (26) consecutive pay periods, subject to the below conditions.

2. Dispatchers who are not in a paid work status will not receive any amount of additional pay for that pay period under this side letter.

3. As used here, "paid work status" means when a Dispatcher is receiving full or partial compensation by the Town in a pay period through regular pay or approved paid leave. Employees who are not employed by the Town for a full pay period will receive a prorated amount.

4. The Lead Communications Dispatcher will inform the Town of the date on which Dispatchers have successfully completed the required dispatch training program in order for those Dispatchers to be eligible for the additional pay after that date. For the purposes of this side letter, this date cannot be within four months of the Dispatcher's hire date.

5. The parties agree that the Town will not report the payments as pensionable to CalPERS. The Parties further agree that the employee shall be responsible for any employee obligation that arises should CalPERS deem the monthly pay reportable compensation.

6. It is understood that such payment is taxable income and will be subject to appropriate deductions.

7. This side letter, and all monetary benefits contained herein, expires on June 30, 2024, and shall have no further force, effect, or validity after that date.

8. The parties agree that this side letter is not subject to any applicable grievance or other appeal procedure. Clarifications and corrections may be requested if payments are believed to be incorrectly calculated. After review of such requests, the Town's decision on the proper calculation of the payments is final.

9. If the economic impacts of this side letter exceed the amount budgeted by the Town, the Town may reopen this side letter to address such unintended economic impacts.

10. The parties agree that this side letter is subject to Council approval.

FOR TEA:

_____
Christine Crossen,
Communications Dispatcher Lead

_____
Sean Mullin
Senior Planner

TOWN OF LOS GATOS:

_____
Laurel Prevetti, Town Manager

APPROVED AS TO FORM:

_____
Gabrielle Whelan, Town Attorney

DATE: October 20, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Adopt an Enabling Resolution to Change the Name of the Parks Commission to the Parks and Sustainability Commission and Add Appropriate Powers and Duties and Rescind Resolution 2016-057; and Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Town Code Section 19.20.010, 'Parks and Recreation – Created' and Section 26.10.070, 'Trees and Shrubs – Appeals' to Update Reference to Parks Commission to Parks and Sustainability Commission"

RECOMMENDATION:

Adopt an enabling resolution to change the name of the Parks Commission to the Parks and Sustainability Commission and add appropriate powers and duties and rescind resolution 2016-057 (Attachment 1); and introduce an ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Town Code Section 19.20.010, 'Parks and Recreation – Created' and Section 26.10.070, 'Trees and Shrubs – Appeals' to Update Reference to Parks Commission to Parks and Sustainability Commission" (Attachment 2).

BACKGROUND:

On October 17, 2023, the Town Council directed staff to return with a revision to the enabling resolution of the Parks Commission to change its name to the Parks and Sustainability Commission and expand its mission to incorporate issues to sustainability with a natural resource focus.

DISCUSSION:

Staff has reviewed the Town Code, the Parks Commission enabling resolution, and the 2040

PREPARED BY: Nicolle Burnham
Parks and Public Works Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Town Clerk

DISCUSSION (continued):

General Plan's Sustainability Element. The proposed amended resolution and ordinance reflect the change of the Commission's name and proposes changes to the Commission's mission to reflect taking on those aspects of the General Plan that relate to open space and natural resource-based goals.

CONCLUSION:

The proposed resolution and ordinance align with the Town Council direction from October 17, 2023. If the updated resolution and ordinance are approved, the renamed Commission will begin its work at its next regular meeting in December 2023.

COORDINATION:

This staff report was coordinated with the Town Manager, Assistant Town Manager, Town Clerk, Finance Director, and Town Attorney.

FISCAL IMPACT:

None.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:
1. Draft Resolution
2. Redline Draft Ordinance
3. Clean Draft Ordinance

DRAFT RESOLUTION 2023
RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS RESCINDING RESOLUTION 2016-057 AND ADOPTING AN ENABLING RESOLUTION TO CREATE THE PARKS AND SUSTAINABILITY COMMISSION

WHEREAS, Town Code Section 19.20.010 of the Los Gatos Town Code provides that the Town Council shall establish a Parks Commission for the Town by resolution; and

WHEREAS, on July 1, 2002, The Town Council established a Park Commission; and

WHEREAS, on October 17, 2023, the Town Council approved changing to the name of the Parks Commission to the "Parks and Sustainability Commission;"

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Los Gatos, that the Town Council does hereby approve:

1. Changing the name of the Parks Commission to the "Parks and Sustainability Commission;" and

2. Establishing the terms and conditions for appointment to and conduct of the Parks and Sustainability Commission as follows:

   Membership/Organization

   a. The Parks and Sustainability Commission shall consist of seven (7) members: six (6) adult voting members appointed by Council, whose terms of office shall be three (3) years and until their successors are appointed by Council and one (1) Youth Commissioner as a voting member, appointed by the Youth Commission, whose term of office shall be for one (1) year with no limitations on reappointment.

   b. All adult members of the Commission shall reside within the incorporated municipal limits of the Town of Los Gatos, California.

   c. Commission members shall serve without compensation, provided that, with advance budgetary approval of the Town Council, the actual and necessary expenses (if any) incurred by the members in the conduct of Town business shall be reimbursable pursuant to the provisions of the current Administrative Policy.

   d. The Commission shall establish a regular time and location for its meetings and shall otherwise call and conduct its meetings in compliance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 and following)

e. A majority of members of the Parks Commission shall constitute a quorum for the purpose of transacting the business of the Commission.

f. The Parks Commission shall elect a Chair and a Vice-Chair, both of whom shall serve at the pleasure of the Commission. Terms of office shall be for one (1) year.

g. Staff services as required shall be provided to the Parks Commission by the Parks and Public Works Director, or his/her designee.

h. Meeting attendance requirements will conform with all current Town Resolutions and Policies.

i. A record of all minutes and resolutions of the Commission shall be kept and shall be a public record.

3. Establishing the Commission as an advisory body to the Town Council which operates in the manner hereinafter prescribed as follows:

Powers and Duties

a. The function of the Commission shall be to serve in an advisory capacity to the Town Council regarding Town policies within its scope of expertise; specifically, on matters pertaining to public parks, off-street trails, open space, grounds, street trees and sustainability topics pertaining to the natural environment.
b. With the prior approval of, and/or at the direction of, the Town Council or its delegate, the Commission shall receive public input, evaluate options, and make recommendations on policy issues including, but not limited to, the following:

1. Policies and procedures on park, trail, open space, and street tree programs.
2. Policies and procedures relating to sustainability of the natural environment, such as landscape maintenance, water usage, ecosystem protection, and educational programs on these topics.
3. Inventories of park, trail, open space, and street tree services that exist or may be needed, and of the needs of the public regarding these services.
4. Coordination of park, trail, open space, street tree and sustainability services with the programs of other governmental agencies and voluntary organizations.

BE IT FURTHER RESOLVED that Resolution 2106-057 is hereby rescinded.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of November 2023 by the following vote:

DRAFT

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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DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING TOWN CODE SECTION 19.20.010, "PARKS AND RECREATION - CREATED" AND SECTION 26.10.070, "TREES AND SHRUBS – APPEALS" TO UPDATE REFERENCE TO PARKS COMMISSION TO PARKS AND SUSTAINABILTY COMMISSION."

WHEREAS, Section 19.20.010, "Parks and Recreation – Created" and Section 26.10.070, "Trees and Shrubs – Appeals" reference a "Parks Commisssion;" and

WHEREAS, the Town Council has voted to add Sustainability issues to the duties of the "Parks Commission" and to rename it the "Parks and Sustainability Commission:" and

WHEREAS, the Town Council deems it necessary to amend Section 19.20.010, "Parks and Recreation – Created" and Section 26.10.070, "Trees and Shrubs – Appeals" reference Parks Commisssion, to update references to "Parks Commission" to "Parks and Sustainability Commission" in the Town Code;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS as follows:

SECTION I. Section 19.20.010, "Parks and Recreation – Created," of the Town Code is hereby amended to read as follows:

Sec. 19.20.010. Created.

The Town Council shall establish a Parks and Sustainability Commission for the Town by resolution.

(Ord. No. 2212, § I, 2-4-13)

SECTION II. Section 26.10.070, "Trees and Shrubs – Appeals" reference of the Town Code is hereby amended to read as follows:

Sec. 26.10.070. Appeals.

(a) Decisions of the Director under the provisions of sections 26.10.055, 26.20.010, 26.20.015, and 26.10.060(a) and (c) (in instances involving trees located on private property only), and 26.10.060(e), and 26.30.010 concerning notices to cut down, trim or remove a tree, only, are appealable to the Parks and Sustainability Commission. Appeals shall be commenced by filing a written notice of appeal with the Secretary of the Parks and Sustainability Commission within ten (10) days after the property owner or possessor of land is notified of the decision. The notice of appeal shall state the name and address of the appellant, the location of the tree, including the street address of the property most likely to assist in locating the tree if there is such address, a description sufficient to

identify the tree, describe the specific action of the Director which is the subject of the appeal, and state the grounds for the appeal.

(b) Determinations of the Parks and Sustainability Commission under the provisions of this chapter, including determinations on appeal from decisions of the Director, are appealable to the Town Council. Appeals shall be commenced by filing a written notice of appeal with the Town Clerk within ten (10) days after the property owner or possessor of land is notified of the decision. The notice of appeal shall state the name and address of the appellant, shall describe the determination or decision appealed from, and shall state the grounds for appeal.

(c) Any interested person may appeal.

(d) All appeals under the provisions of this chapter shall be determined after hearing by the appellate body of all of the evidence concerning the determination from which the appeal is taken.

(Ord. No. 2240, § I(Exh. A), 6-2-15)

SECTION III. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The Town Council of the Town of Los Gatos declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION IV. CEQA FINDINGS. This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. This Ordinance is also exempt under CEQA Guideline 15061{b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION V. PUBLICATION. The Town Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the Town of Los Gatos and shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

SECTION 5. EFFECTIVE DATE. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of _____ 20 , 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 _____ 20 . This ordinance takes effect 30 days after it is adopted.

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: _____

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING TOWN CODE SECTION 19.20.010, "PARKS AND RECREATION - CREATED" AND SECTION 26.10.070, "TREES AND SHRUBS – APPEALS" TO UPDATE REFERENCE TO PARKS COMMISSION TO PARKS AND SUSTAINABILTY COMMISSION"

WHEREAS, Section 19.20.010, "Parks and Recreation – Created" and Section 26.10.070, "Trees and Shrubs – Appeals" reference a "Parks Commisssion;" and

WHEREAS, the Town Council has voted to add Sustainability issues to the duties of the "Parks Commission" and to rename it the "Parks and Sustainability Commission:" and

WHEREAS, the Town Council deems it necessary to amend Section 19.20.010, "Parks and Recreation – Created" and Section 26.10.070, "Trees and Shrubs – Appeals" reference Parks Commisssion, to update references to "Parks Commission" to "Parks and Sustainability Commission" in the Town Code;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS as follows:

SECTION I. Section 19.20.010, "Parks and Recreation – Created," of the Town Code is hereby amended to read as follows:

Sec. 19.20.010. Created.

The Town Council shall establish a Parks and Sustainability Commission for the Town by resolution.

(Ord. No. 2212, § I, 2-4-13)

SECTION II. Section 26.10.070, "Trees and Shrubs – Appeals" reference of the Town Code is hereby amended to read as follows:

Sec. 26.10.070. Appeals.

(a) Decisions of the Director under the provisions of sections 26.10.055, 26.20.010, 26.20.015, and 26.10.060(a) and (c) (in instances involving trees located on private property only), and 26.10.060(e), and 26.30.010 concerning notices to cut down, trim or remove a tree, only, are appealable to the Parks and Sustainability Commission. Appeals shall be commenced by filing a written notice of appeal with the Secretary of the Parks and Sustainability Commission within ten (10) days after the property owner or possessor of land is notified of the decision. The notice of appeal shall state the name and address of the appellant, the location of the tree, including the street address of the property most likely to assist in locating the tree if there is such address, a description sufficient to

identify the tree, describe the specific action of the Director which is the subject of the appeal, and state the grounds for the appeal.

(b) Determinations of the Parks and Sustainability Commission under the provisions of this chapter, including determinations on appeal from decisions of the Director, are appealable to the Town Council. Appeals shall be commenced by filing a written notice of appeal with the Town Clerk within ten (10) days after the property owner or possessor of land is notified of the decision. The notice of appeal shall state the name and address of the appellant, shall describe the determination or decision appealed from, and shall state the grounds for appeal.

(c) Any interested person may appeal.

(d) All appeals under the provisions of this chapter shall be determined after hearing by the appellate body of all of the evidence concerning the determination from which the appeal is taken.

(Ord. No. 2240, § I(Exh. A), 6-2-15)

SECTION III. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The Town Council of the Town of Los Gatos declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

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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: _____

DRAFT

DATE: October 24, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Discuss and Provide Any Requested Modifications to the Proposed Joint Powers Agreement to Create the Cities Association of Santa Clara County Joint Powers Agency

RECOMMENDATION:

Discuss and provide any requested modifications to the proposed Joint Powers Agreement to create the Cities Association of Santa Clara County Joint Powers Agency.

BACKGROUND:

In 1990, the 15 cities and towns in Santa Clara County (member agencies) established the Cities Association of Santa Clara County (CASCC or Cities Association) to improve coordination and collaboration on issues that affected all participating communities, including but not limited to clean energy, housing, and economic development. The CASCC was also formed to consolidate and maintain the functions of a City Selection Committee for Santa Clara County and other coordinating bodies with elected officials from the same jurisdictions. In 2010, the CASCC adopted its bylaws. Currently, the CASCC is an unincorporated association.

In 2017, the CASCC began reviewing and considering the appropriate organizational structure for the CASCC to provide clarity regarding tax status, governmental immunities, and potential liability of the member agencies. One option was a 501(c)(4) nonprofit organization; however, the Board determined that a joint powers authority government structure aligned best with the goals and purpose of the CASCC. In August 2020, its Board of Directors unanimously voted to take the steps necessary to form a joint powers authority to provide a more formal structure for CASCC.

To form a joint powers authority (JPA), a Joint Powers Authority Agreement (Agreement) must be approved by the CASCC Board of Directors and then executed by each member agency that wishes to join the JPA. If approved, the new JPA would be called the Cities Association of Santa Clara County Joint Powers Agency.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

In September 2023, the CASCC Board unanimously approved transmittal of the draft Agreement to the member agencies' City/Town Councils for their consideration prior to the CASCC Board meeting of November 9, 2023. Councilmember Rennie is Los Gatos' representative on the Cities Association Board.

Cities and towns throughout Santa Clara County are now considering the proposed Agreement. Some are likely to approve the Agreement as drafted, others are likely to request additional changes prior to approval, and at least two cities (Gilroy and Milpitas) have indicated that they will not be joining the JPA.

This agenda item provides the Town Council the opportunity to discuss the Agreement and provide any requests for modifications. Staff anticipates that there will be substantive changes to the Agreement after the potential participating cities have reviewed it. For this reason, the final Agreement will return to Council at a later date.

DISCUSSION:

The JPA Agreement (Attachment 1) restates the same purposes expressed for the original creation of the CASCC. Consistent with the Joint Exercise of Powers Act (Government Code section 6500 et seq.), the Agreement defines the power and authority of the JPA. To address concerns raised by member agencies, the JPA would be specifically prohibited from acquiring real property, levying taxes, hiring employees, or exercising any eminent domain power. The staff support for the JPA would occur through contracted services.

The CASCC Executive Board would be replaced by an Executive Committee. The Executive Committee may only take on those powers approved by the Agency's Board of Directors. For example, the Executive Committee is not permitted to authorize any investigations into the business of the JPA without the Board's approval.

Like the CASCC, the JPA would also be charged with administering the City Selection Committee (CSC), which is a state-mandated entity charged with making appointments to various regional and local boards and committees. Each city and town in Santa Clara County would continue to participate in the CSC even if the city or town is not a member of CASCC. Appointments to the local boards and committees would be based on majority votes of the city/town CSC representatives.

CONCLUSION AND NEXT STEPS:

The Los Gatos Town Council should discuss the proposed Agreement and provide any comments. If the Town Council has proposed modifications to the Agreement, the Town

CONCLUSION AND NEXT STEPS (continued):

Manager would transmit the requested modifications to the CASCC Board for consideration at its November 9, 2023 meeting.

It is likely that the CASCC Board will be considering substantive changes to the Agreement at its November meeting. For this reason, the Town Council will be asked to approve the final version of the Agreement after the CASCC Board has concluded its work.

If the JPA is formed, one of the next steps is for the Board to update the existing bylaws. In conjunction with the future bylaws for the JPA, the CASCC plans to prepare a personnel policy handbook which would include policies that apply to the organization's independent contractors and Board members.

COORDINATION:

The preparation of this report was coordinated with the Town Attorney. In addition, the City Managers and City Attorneys in Santa Clara County reviewed the draft Agreement and provided comments to the Cities Association and its legal team. The Cities Association contract staff represented that those comments have been addressed in the draft Agreement (Attachment 1).

FISCAL IMPACT:

As has been the case for many years, the dues structure is based on the size of each member agency and the Board has expressed a desire not to increase the membership dues for next fiscal year. In the event not all 15 cities join the JPA, the proposed budget would preserve the same dues, and the Board would need to identify cost savings to arrive at a balanced budget.

Contract staff are talking about requesting a Consumer Price Index adjustment for dues in future years; however, the Board has not considered this proposal.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:
1. Proposed Joint Powers Agreement with the Cities Association

JOINT POWERS AGENCY AGREEMENT FOR CITIES ASSOCIATION OF SANTA CLARA COUNTY

This Joint Powers Agreement ("Agreement" or "JPA") for the Cities Association of Santa Clara County is entered into by and among the cities ("Members"), which are organized and existing under the Constitution and laws of the State of California in which public agencies are located in the County of Santa Clara, and upon approval and full execution of the Agreement, creates the Cities Association of Santa Clara County Joint Powers Agency ("Agency").

RECITALS

WHEREAS, Articles 1 and 2, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 *et seq.)* permit two or more public agencies by agreement to jointly exercise powers common to the Members; and

WHEREAS, the public agency Members executing this JPA are cities or towns within the jurisdiction of the County of Santa Clara ("County"); and

WHEREAS, the Cities Association of Santa Clara County has existed as an unincorporated association since 1990 and desires to formalize the relationship between its City and Town members and form a Joint Powers Agency in order to carry out activities for the good of all its Members; and

WHEREAS, the Members executing this Agreement, desire to join together to create a separate Joint Powers Agency for the purpose of promoting cooperation among the Members; advocating for positive action; enhancing the quality of life for the residents of the County and their individual cities; and encouraging other joint and cooperative endeavors among the public agencies for their mutual benefit.

NOW, THEREFORE, the Parties agree to the following:

AGREEMENT

ARTICLE 1 - DEFINITIONS

1.1 "Associate Member" shall mean any non-city local agency, located within jurisdictional authority of the County of Santa Clara, and shall have duly executed and delivered to the Agency an Associate Membership Agreement in the form of and as further provided in the Bylaws of the Agency, as further provided in Article 32 herein.

1.2 "Agency" shall mean the Cities Association of Santa Clara County Joint Powers Agency created by this Agreement.

1.3 "Board of Directors" or "Board" shall mean the governing body of the Agency.

1.4 "Executive Committee" shall mean the Executive Committee of the Board of Directors of the Agency.

1.5 "Fiscal Year" shall mean that period of twelve (12) months which is established by the Board of Directors or the Bylaws as the fiscal year of the Agency, which shall run from July 1 to June 30 of each year.

1.6 "Government Code" shall mean the California Government Code, as amended.

1.7 "Joint Powers Law" shall mean Articles 1 and 2, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code, known as the Joint Exercise of Powers Act, as amended.

1.8 "Legislative Body" shall mean the legislative board of each Public Agency that is a Member of the Agency.

1.9 "Member" shall mean any city which has executed this Agreement and has become a member of the Agency. The complete list of Members is set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

1.10 "Parties" shall mean Members or Associate Members who are party to this Agreement.

1.11 "Public Agency" shall mean public agency as defined in Government Code Section 6500, as amended.

1.12 Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neutral gender shall be construed to include each other gender, when appropriate, and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions herein shall be construed to effectuate the purposes set forth and to sustain the validity of those purposes.

ARTICLE 2 - CREATION AND PURPOSES

2.1 This Agreement is entered into by the Members in order to:

2.1.1 Review, study, develop consensus positions, and take action on issues of interest to Members;

2.1.2 Focus on local and regional matters that are important to our future;

2.1.3 Develop a common agenda for Santa Clara County cities;

2.1.4 Serve as a unified voice for Santa Clara County cities in relationship to other agencies, organizations, and levels of government;

2.1.5 Establish and administer the City Selection Committee pursuant to Government Code Section 50270 *et seq.,* as amended and make appointments to regional and local bodies as provided by law;

2.1.6 Serve as a source of education, information, and networking for officials from all cities in Santa Clara County;

2.1.7 Provide a forum for non-city individuals, groups and organizations and the private sector to address items of interest to Santa Clara County cities;

2.1.8 Reduce duplication of effort by sharing information and provide a unified voice and strong advocacy on legislation and other important issues that affect its Members;

2.1.9 Strengthen the Members' and Agency's standing at the regional, State and Federal level;

2.1.10 Strive to respect local control, provide regional perspective, and make a difference to elevate the quality of life throughout the County;

2.1.11 Provide a forum for discussion and study of problems common to the Members and to assist in the development and implementation of solutions to such problems;

2.1.12 Provide a method for the Members to collaborate and jointly develop policies that benefit the region; and

2.1.13 Collaborate in such a way that is efficient, saves the jurisdictions the expense of individual effort, and creates positive outcomes.

ARTICLE 3 - PARTIES TO AGREEMENT

Each Member, as a Party to this Agreement, intends to and does contract with all other Members as Parties to this Agreement and, with other Public Agencies as may later be added as Parties to this Agreement pursuant to the Joint Powers Law. The withdrawal of any party from this Agreement, pursuant to Article 20, shall not affect this Agreement or the remaining Members' obligations.

ARTICLE 4 – FORMATION; TERM

This Agreement shall become effective when fully executed and returned to the Agency by at least eight (8) Members, but only as to those Members that have executed the Agreement. The Agency shall promptly notify all Members in writing of the effective date. After one full year after the initial formation of the Agency, should the membership fall below seven (7) Members due to the withdrawal of Members and the membership level remains at below seven (7) Members for a period of at least one (1) year and a similar joint powers authority, with the same or similar powers and functions is formed containing a majority of cities in the County of Santa Clara, the Agency shall change its name and permit the new organization to take on the name of the Agency. Notwithstanding the name change, this Agreement shall continue in effect until terminated as provided herein. The termination of this Agreement with respect to an individual Member upon its withdrawal from membership in the Agency shall not operate to terminate this Agreement with respect to the remaining Members.

ARTICLE 5 - CREATION OF THE AGENCY

Pursuant to the Joint Powers Law, there is hereby created a public entity, separate and apart from the Parties hereto, to be known as the "Cities Association of Santa Clara County Joint Powers

Agency" with powers as are set forth herein. Upon formation of the Agency as described in Article 4, the Cities Association of Santa Clara County, an unincorporated association shall follow the process of dissolution and cease to exist.

ARTICLE 6 - POWERS OF THE AGENCY

6.1 Subject to the terms of this agreement, the Agency shall have all of the powers of a public agency as defined in the Government Code Section 6500 as amended and all additional powers set forth in the Joint Powers Law and other statutes applicable to the Joint Powers Agency created hereby and is authorized to do all acts necessary for the exercise of these powers on behalf of its Members. Powers include, but are not limited to, the following, in the Agency's own name:

6.1.1 To make and enter into contracts;

6.1.2 To incur debts, liabilities, and obligations and to encumber personal property;

6.1.3 To acquire, hold, or dispose of personal property, contributions, and donations of personal property, funds, services, and other forms of assistance from persons, firms, corporations, and government entities;

6.1.4 To sue and be sued in its own name, and to settle any claim against it;

6.1.5 To receive and use contributions and advances from Members as provided in Government Code Section 6504, as amended including contributions or advances of personnel and equipment;

6.1.6 To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code Section 6509.5, as amended;

6.1.7 To acquire, construct, manage, maintain, or operate title to personal property, or rights, or any interest therein;

6.1.8 To retain the services of agents, contractors, and consultants;

6.1.9 To receive, collect, and disburse monies;

6.1.10 To conduct studies, tests, evaluations, and similar activities;

6.1.11 To contract for services from Members, including in-kind services;

6.1.12 To conduct public outreach and education;

6.1.13 To participate in pilot and demonstration projects;

6.1.14 To charge for services, programs, and/or systems;

6.1.15 To work with elected officials and local, regional, state, and federal agencies, including other joint powers agencies and unincorporated associations to pursue funding, enter agreements and otherwise carry out the purposes of the Agency; and

6.1.16 Subject to this Agreement or the Bylaws of the Agency, and only as authorized by the Joint Powers Law, to exercise other reasonable and necessary powers in furtherance or support of any purpose of the Agency.

ARTICLE 7 - RESTRICTIONS ON POWERS

7.1 Pursuant to and to the extent required by Government Code Section 6509, as amended, the Agency shall be restricted in the exercise of its powers and shall exercise its powers in the same manner as the Town of Los Gatos is restricted in its exercise of similar powers; provided that, if the Town of Los Gatos shall cease to be a Member, then the Agency shall be restricted in the exercise of its power in the same manner as another Member agreed to by the majority of the Board of Directors. Unless expressly provided for, the Agency does not, by virtue of this Section or this Agreement, subject itself to the internal policies or ordinances of any Member.

7.2 The Agency shall not have the power of eminent domain.

7.3 The Agency shall not have the power of taxation. The Agency may not impose taxes but may receive the proceeds of taxes imposed by other entities or public funds from other entities.

7.4 The Agency shall not have the power to acquire, purchase, hold or dispose of real property.

7.5 The Agency shall not have the power to hire employees.

7.6 The Agency shall not have the power to issue debt.

ARTICLE 8 - BOARD OF DIRECTORS

8.1 The Agency shall be governed by the Board of Directors, which shall be composed of one Director representing each Member. Each Member's Legislative Body, according to its own procedures, shall appoint a Member of the Legislative Body as a Director to represent the Member on the Board of Directors. The Director shall serve at the pleasure of their respective Legislative Body. The Legislative Body of each Member shall also appoint one alternate Director ("Alternate") who shall participate in and vote at any meeting of the Board when the primary Director is absent. Any vacancy in a Director or Alternate position shall be filled by the appointing Member's Legislative Body, subject to the provisions of this Article. Immediately upon admission of a new Member, the new Member shall be entitled and required to appoint a Director and one alternate Director. Every Director or Alternate shall be a Council Member or Mayor of their individual Member city.

8.2 A Director and/or Alternate shall be removed from the Board of Directors upon the occurrence of any one of the following events: (1) the Agency receives written notice from the appointing Member of the removal and/or replacement of the Director or Alternate; (2) the withdrawal of the Member from this Agreement; (3) the death or resignation of the Director or Alternate; (4) the Agency receives written notice from the Member that the Director or Alternate is no longer qualified as provided in the first paragraph of this Article 8; or as set forth in Article 21.

8.3 The Board of Directors shall have the following powers and functions:

8.3.1 Except as otherwise provided in this Agreement, the Board shall exercise all powers and conduct all business of the Agency, either directly or by delegation to other bodies or persons;

8.3.2 The Board shall elect an Executive Committee, as provided in Article 11;

8.3.3 The Board shall be the policy setting body of the Agency;

8.3.4 The Board shall appoint or retain the services of necessary agents, consultants, or independent contractors in accordance with Article 14;

8.3.5 The Board shall cause to be prepared, and shall review, modify as necessary, and adopt the annual operating budget of the Agency. Adoption of the budget may not be delegated. The Board shall adopt their budget no later than the first April 30th following formation and then subsequently by April 30th of each successive year. The Board shall review, set, and adopt annual dues to be funded by Agency Members;

8.3.6 The Board shall receive, review and act upon periodic reports and audits of the funds of the Agency, as required under Article 16 of this Agreement;

8.3.7 The Board may adopt policies regarding personnel, conflicts of interest and other matters necessary or convenient for the efficient operation of the Agency;

8.3.8 The Board shall adopt a set of priorities and work plan for each fiscal year; and

8.3.9 Subject to the terms of this Agreement, the Board shall have such other powers and duties as are reasonably necessary to carry out the purposes of the Agency.

ARTICLE 9 – MEETINGS OF THE BOARD OF DIRECTORS

9.1 The Board of Directors shall hold at least one regular meeting each year. The Board of Directors shall fix by resolution, or in the Bylaws, the date, time, and location of each regular meeting. The Board or Executive Director, in consultation with the President of the Board as provided in Article 10 below, may call special meetings.

9.2 Each meeting of the Board of Directors, including without limitation, regular, adjourned regular and special meetings shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq*., as amended.

9.3 The Agency shall require the Secretary/Treasurer or designee to take and maintain minutes of all regular, adjourned regular and special meetings. As soon as practicable after each meeting, the Secretary/Treasurer or designee shall forward to each Board Member, a copy of the minutes of the meeting.

9.4 A majority of the Members of the Board shall constitute a quorum for the transaction of business. Unless otherwise required by law, a vote of the majority of a quorum of the members

present at a meeting is sufficient to take any action, unless otherwise specified in this Agreement. However, less than a quorum may adjourn the meeting to a future date.

9.5 Each Member of the Board shall have one vote.

ARTICLE 10 - OFFICERS

The Board shall elect as Officers of the Agency President, First Vice President, Second Vice President, Secretary/Treasurer, and Immediate Past President at its first meeting. Thereafter, except as may be otherwise provided in the Bylaws of the Agency, the Board shall elect the President, First Vice President, Second Vice President, Secretary/Treasurer, and Immediate Past President, at the November Board of Directors meeting, or the first meeting held on or after November 1 of each year. Of the Officers, the President, and at least two other Officers, must also be members of the Board of Directors. The remaining Officers may be the elected or appointed Mayor or Council Member of any Member of the Agency regardless of whether they are on the Board of Directors. Each Officer shall assume the duties of his or her office upon election. If the President ceases to be a Member of the Board, the resulting vacancy shall be filled at the next meeting of the Board held after the vacancy occurs, or at a special meeting of the Board called to fill the vacancy. The President shall preside at and conduct all meetings of the Board. Should the Board President not be available then the highest-level Officer, who is a member of the Board of Directors, shall preside. If that individual is unavailable, then any Director appointed by the President may preside. The Board may appoint other officers as it considers necessary. The duties of the Secretary/Treasurer are set forth in Articles 16 and 17 of this Agreement. The Secretary/Treasurer shall be appointed by the Board of Directors and shall be eligible to serve as Secretary/Treasurer, as provided in the Joint Powers Law.

ARTICLE 11 - EXECUTIVE COMMITTEE

At such time as there are nine Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of three (3) Officers consisting of the President, First Vice President, and Secretary/Treasurer, which shall exist thereafter. At such time as there are 11 Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of five (5) Officers, with the addition of the Immediate Past President, which shall exist thereafter. Should the Immediate Past President no longer hold elected office then a Member at Large may be appointed by the Board to serve on the Executive Committee. The qualifications of the Member at Large are that they must be an elected or appointed Mayor or Council Member of a Member of the Agency but need not be on the Board of Directors. The terms of office of the Members of the Executive Committee shall be one year. The Executive Committee shall conduct the business of the Agency between meetings of the Board, exercising all those powers as provided for in this Article, or as otherwise delegated to it by the Board.

The Executive Committee, subject to approval by the Board of Directors, shall exercise all powers or duties of the Board relating to the entering, approval and execution of agreements, leases, and other instruments of or relating to the finances of the Joint Powers Agency within the previously

approved annual budget or amended budget. The Executive Committee may have additional powers delegated to it by the Board, except for the adoption of the Agency's annual budget. Any additional powers and duties delegated shall be specified in a Resolution adopted by the Board. The Executive Committee shall obtain approval from the Board before authorizing or conducting any investigations into the business of the Agency and before taking personnel action. These actions must be authorized by a majority vote of the Executive Committee. Each meeting of the Executive Committee shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.

ARTICLE 12 - COMMITTEES

The Board may establish committees, as it deems appropriate to conduct the business of the Agency or it may, in the Bylaws or by resolution, delegate this power to the Executive Committee by Resolution. Members of committees, except as otherwise stated in this Agreement, shall be appointed by the President. Each committee shall have those duties as determined by whichever Agency body created it or as otherwise set forth in the Bylaws. Each committee shall meet on the call of its chairperson and shall report to and be directed by whichever entity created it. No more than one representative from each jurisdiction shall serve on each committee. Membership of any committee may consist in whole or in part of persons who are not members of the Board; provided that the Board may delegate decision-making powers and duties only to a committee, a majority of the members of which are Board Members. Any committee, except the City Selection Committee, in which a majority of the members are not Board Members may function only in an advisory capacity. The Legislative Action Committee shall be a permanent Committee of the Agency chaired by the Second Vice President and whose members shall be appointed by the Agency Members. Should there be no Second Vice President, the Legislative Action Committee shall be chaired by the First Vice President. All standing committees shall abide by the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.

ARTICLE 13 – CITY SELECTION COMMITTEE

The City Selection Committee is established pursuant to State law and the Agency shall administer the City Selection Committee as follows: The City Selection Committee shall be a permanent committee of the Agency, consisting of the Mayor of each City or Town, consistent with Government Code 50270, as amended. The Agency shall allow all cities in the County to participate in the City Selection Committee, whether or not they are members of the Agency.

ARTICLE 14 – PROFESSIONAL SERVICES

14.1 The Board of Directors may contract with individuals or companies to provide the following services at the pleasure of the Board of Directors:

14.1.1 Executive Director. The Board shall contract with a consultant or independent contractor to fulfill the following duties of an Executive Director: manage the affairs of the Agency, subject to the general supervision and policy direction of the Board and the Executive Committee; oversee the day-to-day activities of the Agency; select and manage the activities of all consultants and independent contractors to the Agency; be responsible for required filings by the Agency with the State of California; prepare or delegate the preparation of all meeting notices, minutes, and required documentation of the Agency; prepare and propose an annual budget; prepare reports and recommendations for consideration by the Executive Committee or Board; be responsible for billing and collection of annual dues; maintain the records of the Agency; assist Local Agencies in the preparation and filing of applications for participation in the financing programs of the Agency; expedite the processing of these applications; pay all invoices, taxes and amounts due; and perform other duties as are assigned by the Board and Executive Committee. The Executive Director may have the authority to sign agreements, applications, and other documents on behalf the Agency, if authorized by the Board or Executive Committee. The Executive Director shall have the Authority to enter into individual Agreements with a single vendor over the course of a fiscal year, on behalf of the Agency, up to the amount set by the Bylaws.

14.1.2 General Counsel. The Board shall contract with a consultant, independent contractor, or law firm to fulfill the duties of General Legal Counsel. The General Counsel shall take direction from the majority of the Board of Directors. The General Counsel shall be a member in good standing of the California State Bar. The General Counsel shall be responsible for the legal affairs of the Agency;

14.1.3 Auditor. The Auditor shall be a Certified Public Accountant licensed to practice in the State of California. The Auditor will conduct annual financial audits of the Agency;

14.1.4 Other services. The Executive Director may hire additional consultants and independent contractors, as appropriate, based upon a previously approved budget;

14.1.5 The Agency shall not contract with or become a member of the California Public Employees Retirement System ("PERS"), nor shall any agent, consultant or independent contractor of the Agency become a member of PERS or be entitled to a pension or retirement from PERS as a result of service to the Agency; and

14.1.6 The consultants and independent contractors fulfilling the duties of Executive Director, the Auditor, the General Counsel and any other consultants or independent contractors who provide services to the Agency shall be compensated in such manner as shall be approved by the Board and as permitted by applicable law.

ARTICLE 15 - SIGNIFICANT PROGRAMS

If the Board desires to create significant programs or activities which will utilize substantial resources of the Agency, it shall do so by a vote of the Board. If the Board deems it necessary, it may

appoint a working committee to study the significant program or activity and provide input to the Board. Substantial resources and significant program or activity shall be defined as any program or activity requiring $10,000 or more in annual expenditures; this amount shall be increased by the annual cost of living CPI index. Any new significant program or activity shall require a work plan and a two-thirds vote of the Members in order to be initiated. When a new significant program is intentionally designed to be limited in scope, such that it only provides benefits to particular Members, the Agency may enter into a specific program or project Agreement that includes relevant terms regarding the particular affected Members, and any such Agreement shall be approved by the Board prior to or at the same time as formation of the significant program. These limited scope Agreements shall be subject to approval by the Board by a two-thirds vote of the Members.

ARTICLE 16 - ACCOUNTS AND RECORDS

16.1 The Agency shall adopt an operating budget pursuant to Section 8.3.5 of Article 8 of this Agreement.

16.2 The Secretary/Treasurer of the Agency or the Executive Director shall establish and maintain funds and accounts as may be required by good accounting practices and by the Board. Books and records of the Agency shall be open to and made available for inspection at all reasonable times upon request by authorized representatives of the Members.

16.3 The Agency shall adhere to the standard of strict accountability for funds and report all receipts and disbursements as set forth in the Joint Powers Law.

16.4 Auditor's Report. The Auditor, within one hundred and twenty (120) days after the close of each Fiscal Year, shall give a complete written report of all financial activities for the prior Fiscal Year to the Board.

16.5 The Agency shall either make or contract with a Certified Public Accountant to make an annual Fiscal Year audit of all accounts and records of the Agency, conforming in all respects with the requirements of the Joint Powers Law. A report of the audit shall be filed as a public record and be provided to each of the Members, and with the County Auditor of the County of Santa Clara. Costs of the audit shall be considered a general expense of the Agency. Any costs of the audit shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for this purpose.

ARTICLE 17 - RESPONSIBILITIES FOR FUNDS AND PROPERTY

17.1 The Secretary/Treasurer, or his or her designee, shall have the custody of and disburse the Agency's funds. Proceeds of similar obligations of the Agency may be deposited with a trustee, agent or other depositary and shall not be considered the Agency's funds for purposes of this Article. The Secretary/Treasurer may delegate disbursements to persons as may be authorized by the Board or the Executive Committee to perform that function, subject to the requirements of Section 17.2 below.

17.2 The Secretary/Treasurer or designee shall perform all functions then required to be performed by the Treasurer under the Joint Powers Law. The Secretary/Treasurer shall review the financial statements and the annual audit of the Agency.

17.3 Pursuant to Government Code Section 6505.1, as amended, the Executive Director, the Secretary/Treasurer, and other persons as the Board may designate, shall have charge of, handle, and have access to the property of the Agency. The Agency shall secure and pay for a fidelity bond or bonds, in an amount or amounts and in a form specified by the Board of Directors, covering any officers or agents of the Agency who are authorized to hold or disburse funds of the Agency and any officers or agents who are authorized to have charge of, handle and have access to property of the Agency.

ARTICLE 18 - MEMBER RESPONSIBILITIES

18.1 Each Member shall have the following responsibilities:

18.1.1 To appoint its Director and Alternate to, or remove its Director and Alternate, from the Board, as set forth in Article 8;

18.1.2 To consider proposed amendments to this Agreement as set forth in Article 29;

18.1.3 To make contributions in the form of annual membership assessments and fees, if any, determined by the Board for the purpose of defraying the costs of providing the annual benefits accruing directly to each party from this Agreement; and

18.1.4 If a Member provides written notice to the Agency of its election to relinquish its status as a Member, or if a Member fails to be represented at four (4) or more consecutive regular meetings of the Board of Directors, then that Member may be deemed to be a suspended Member, with all the rights and duties of an Associate Member, upon action of the Board of Directors duly adopted. Prior to the suspension, the President shall contact the Mayor and request that another Council Member be appointed or that reinstatement for the current Member be requested. The suspension shall be approved by the Board of Directors. Promptly following that action by the Board of Directors, the Member may be reinstated by informing the Board of its intent to be reinstated within thirty (30) days and to attend all future meetings either via the Director or Alternate. Removal of a Member for failure of the Director to attend meetings shall not relieve the Member from its obligations under any outstanding agreements relating to the Agency's financial obligations, except in accordance with this Agreement.

ARTICLE 19 - NEW MEMBERS

With the approval of the Board, any city located within the County of Santa Clara may become a party as a Member to this Agreement. A city requesting membership shall apply by presenting to the Agency, a resolution of the Legislative Body of the City, evidencing its approval of this Agreement. The date that the applying city will become a Member will be determined by the Board. The Agency shall

accept new Members upon a majority affirmative vote of the entire Board and upon payment of any Board determined assessments and fees.

ARTICLE 20 - WITHDRAWAL

A Member may terminate its membership in the Agency at any time upon giving one hundred and eighty (180) days written notice of withdrawal to the Agency. The notice shall be given to the Board of Directors. The effective date shall be the conclusion of the first Board Meeting which occurs after the one hundred and eighty (180) day notice period has passed. Any Member who withdraws shall remain obligated to pay its share of all debts, liabilities, and obligations incurred or accrued through the end of the current fiscal year of the Agency. The withdrawal does not in any way impair any contracts, resolutions, indentures, or other obligations of the Agency then in effect. In the event of a disagreement between the Agency and the withdrawing Member as to whether the withdrawal shall cause the impairment of any contracts, resolutions, indentures, or other obligations of the Agency, the determination shall be made by a majority vote of the Board of Directors. Any Member that withdraws and later seeks reinstatement to the Agency shall provide funds to the Agency, proportionate to their responsibility for the current fiscal year, as if the Member had never left the Agency. A withdrawing Member shall, in all events, remain liable for its proportionate share of: (i) its full amount of its proportionate share of the adopted fiscal year budget; (ii) any call for funds or assessment levied by the Agency prior to the date it provides its notice of withdrawal; (iii) any contribution in existence at the time of the notice of withdrawal.

ARTICLE 21 - REMOVAL

If the Board of Directors determines that reasonable cause exists to remove a Director from the Board, it can remove the Director and request that the Member who appointed the Director appoint a new Director. The Board may, by two-thirds majority vote of the entire Board, remove a Member based on a Member's breach of any material term of this Agreement, and the failure to cure that breach within sixty (60) days written notice. A terminated Member shall remain liable for any obligation under this Agreement as described above. Failure to pay dues within 60 days following notice shall result in a Member becoming suspended with all the rights of an Associate Member. A suspended Member shall immediately have its voting rights restored upon full payment of dues.

ARTICLE 22 - OBLIGATIONS OF AGENCY

The debts, liabilities, and obligations of the Agency shall not be the debts, liabilities, and obligations of the Members. Any Member may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the Agency. Nothing in this Agreement shall be interpreted to limit the applicability of the provisions of Government Code Section 895.6.

ARTICLE 23 - TERMINATION AND DISTRIBUTION OF ASSETS

This Agreement may be terminated at any time that no financial obligations of the Agency are outstanding, with the approval of two-thirds of the Members. Upon termination of this Agreement, all assets of the Agency shall, after payment of all unpaid costs, expenses and charges incurred under this Agreement, be distributed among the parties to this Agreement, in accordance with the respective contributions of each of the Parties.

ARTICLE 24 - LIABILITY OF BOARD OF DIRECTORS, OFFICERS, AND COMMITTEE MEMBERS

24.1 The Members of the Board of Directors, Officers, and Committee Members of the Agency shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. They shall not be individually liable for any mistake of judgment, or any other action made, taken, or omitted by them in good faith, nor for any act or omission by any agent, consultant or independent contractor selected with reasonable care, nor for loss incurred, resulting from any action made, taken, or omitted by them in good faith and with reasonable care through investment of Agency funds, or failure to invest.

24.2 No Director, Officer, or Committee Member shall be responsible for any act or omission of any other Director, Officer, or Committee Member. Unless otherwise required by law, no Director, Officer, or Committee Member shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Agreement.

24.3 The funds of the Agency shall be used to defend, indemnify, and hold harmless the Agency for any Director, Officer, or Committee Member, for their actions taken within the scope of the Agency. Nothing herein shall limit the right of the Agency to purchase insurance to provide coverage for these types of losses.

24.4 These indemnification and defense obligations shall survive the termination of the Agreement as to any acts or omissions occurring before such termination.

ARTICLE 25 - INDEMNIFICATION

To the fullest extent allowed by law, the Agency shall defend, indemnify, and save harmless the Members and their governing bodies, officers, agents and employees from all claims, losses, damages, costs, injury, and liability of every kind, nature, and description directly or indirectly arising from the performance of any of the activities of the Agency or the activities undertaken pursuant to this Agreement.

ARTICLE 26 - BYLAWS

The Board shall adopt Bylaws consistent with this Agreement which shall provide for the administration and management of the Agency. The provisions of the Bylaws, as modified from time to time, shall establish the operating procedures and standards for the Agency.

ARTICLE 27 - NOTICES

The Agency shall address notices, billings, and other communications to a Member as directed by that Member. Each Member shall provide the Agency with the email and physical address to which communications are to be sent. Members shall address notices and other communications to the Agency, at the office address of the Agency, or the email address of the Agency as directed by the Member and as set forth in the Bylaws.

ARTICLE 28 - CODES

The Agency shall adopt and observe a Code of Conduct and Conflict of Interest Policy. The Agency shall comply with all requirements of the Fair Political Practices Commission as required by law or regulation.

ARTICLE 29 - AMENDMENT

This Agreement may be amended at any time by vote of the Members, acting through their Legislative Bodies. Any amendment of this Agreement shall become effective upon receipt by the Agency of notice of the approval of the amendment by two thirds of the Legislative Bodies of the Members.

ARTICLE 30 - SEVERABILITY

Should any portion, term, condition, or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions shall not be affected.

ARTICLE 31 - PROHIBITION AGAINST ASSIGNMENT

No Member may assign any right, claim, or interest it may have under this Agreement, and no creditor, assignee or third-party beneficiary of any Member shall have any right, claim, or title to any part, share, interest, fund, or asset of the Agency. This Agreement shall be binding upon and shall inure to the benefit of successors of the Members. This Agreement is intended solely for the benefit of the

Agency and its Members. No third party shall be deemed a beneficiary of this Agreement or have any rights against the Agency or its Members.

ARTICLE 32 - ASSOCIATE MEMBERS

Any Public Agency located within the jurisdictional authority of the County of Santa Clara may, with the approval of the Board of Directors, become an Associate Member of the Agency by executing and delivering to the Agency an Associate Membership Agreement and providing an Associate Membership fee and as further provided in the Bylaws. An Associate Member shall not be entitled to representation on the Board of Directors, or to vote on any matter coming before the Board of Directors or the Agency, unless a separate written agreement is entered into between the Associate Member and the Agency.

ARTICLE 33 - LIBERAL CONSTRUCTION

The provisions of this Agreement shall be liberally construed as necessary or reasonably convenient to achieve the purposes of the Agency.

ARTICLE 34 - NON-WAIVER

No waiver of the breach of default of any of the covenants, agreements, restrictions, or conditions of this Agreement by any Member shall be construed to be a waiver of any succeeding breach of the same or other covenants, restrictions, or conditions of this Agreement. No delay or omission of exercising any right, power, or remedy in the event of a breach or default shall be construed as a waiver or a variation of any of the terms of this Agreement or any applicable agreement.

ARTICLE 35 - REMEDIES FOR BREACH

If any Member shall default on any obligation contained in this Agreement, the default shall not excuse any other Member from fulfilling its respective obligations under this Agreement. Any Member shall be entitled to pursue all legal and equitable remedies against another Member in response to any alleged default under this Agreement. Any and all of the remedies provided to the Members, hereunder or by law now or hereafter enacted, are cumulative and the exercise of one right or remedy shall not impair the Members to any other remedy.

ARTICLE 36 - ARTICLE HEADINGS

All article headings are for reference only and are not intended to define or limit the scope of any provision of this Agreement.

ARTICLE 37 - DISPUTE RESOLUTION

37.1 The Members agree that any dispute regarding the enforcement or interpretation of any term, covenant, or condition of this Agreement ("Dispute") may first, for a period of not less than thirty (30) days, be submitted to mediation before a mutually acceptable mediator prior to initiation of litigation, or any other binding arbitration or adjudicative dispute resolution process. The Members shall: (i) mediate in good faith; (ii) exchange all documents which each believes to be relevant and material to the issue(s) in the Dispute; (iii) exchange written position papers stating their position on the Dispute and outlining the subject matter and substance of the anticipated testimony of persons having personal knowledge of the facts underlying the Dispute; and (iv) engage and cooperate in such further discovery as the Members agree or mediator suggests may be necessary to facilitate effective mediation.

37.2 Each Member shall bear its own costs, attorney's fees, and expenses of the mediation. Venue of the mediation shall be a mutually agreeable city within Santa Clara County, California.

ARTICLE 38 – INSURANCE

If available, the Agency shall obtain insurance for all Members, appointed Members, and Committee Members, including, but not limited to, Directors and Officers liability insurance and general liability insurance containing policy limits in such amounts as the Board of Directors shall deem will be necessary to adequately insure against the risks of liability that may be incurred by the Agency. Insurance under this provision may include an insurance pool program.

ARTICLE 39 - FILING WITH SECRETARY OF STATE

The Executive Director of the Agency shall file a notice of this Agreement with the office of the California Secretary of State within thirty (30) days of its effective date, as required by Government Code Section 6503.5, as amended and within seventy (70) days of its effective date as required by Government Code Section 53051, as amended.

ARTICLE 40 - COUNTERPARTS

This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as constituting one complete original and may be attached together when executed by the Members hereto. Facsimile and electronic signatures shall be binding.

ARTICLE 41 - AGREEMENT COMPLETE

This Agreement constitutes the full and complete Agreement of the parties and supersedes any prior written Agreement between the Members on the same topic.

Town of Los Gatos:

_____
Town Manager

Approved as to Form:

_____
Town Attorney

Attest:

_____
Town Clerk

DATE: November 2, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Hear Protests and Adopt a Resolution Making Determinations and Approving the Reorganization of an Uninhabited Area Designated as Los Gatos Boulevard No. 20, Approximately 0.521 Acres on Property Pre-Zoned R-1:8. APN 523-01-001. Annexation Application AN22-001. Project Location: 15810 Los Gatos Boulevard. Property Owner/Applicant: Jesus Ching and Kathleen Ban.

RECOMMENDATION:

Open public hearing to hear any protests and adopt a resolution (Attachment 1) making determinations and approving the reorganization of an uninhabited area designated as Los Gatos Boulevard No. 20, approximately 0.521 acres, located at 15810 Los Gatos Boulevard (APN 523-01-001).

BACKGROUND:

The Town has an agreement with Santa Clara County that requires annexation of any property located within the Town's Urban Service Area boundary that is either contiguous to a Town boundary or within 300 feet of a Town maintained roadway if a use is proposed to intensify. The subject property is within 300 feet of a Town roadway. Section 56757 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 gives cities in Santa Clara County the authority to annex territory without application to and hearing by the Santa Clara County Local Agency Formation Commission (LAFCO).

The property owner of 15810 Los Gatos Boulevard has submitted applications for annexation, General Plan amendment, and zoning. On October 17, 2023, the Town Council approved the General Plan amendment and introduced the ordinance for the zoning. The total annexation area (0.521 acres) includes 0.2581 acres of County street right-of-way.

PREPARED BY: Jocelyn Shoopman
Associate Planner

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

BACKGROUND (continued):

The Town is required to hold a protest proceeding even if the area proposed for annexation is uninhabited (less than twelve registered voters) and all property owners have consented to the annexation. This annexation was introduced at the October 17, 2023, Town Council meeting and the protest proceedings are set for November 7, 2023.

DISCUSSION:

The Town has received a petition requesting annexation to the Town of Los Gatos from Jesus Ching and Kathleen Ban, owners of the property at 15810 Los Gatos Boulevard. The property is located on the east side of Los Gatos Boulevard in an unincorporated County pocket.

The property is in the Town's Urban Service Area, is contiguous to a Town boundary, and is Pre-zoned R-1:8 (Single-Family Residential, 8,000 square foot minimum lot size). Annexation would allow Town services to be extended to the property and reduce an existing County pocket.

The Santa Clara County Planning, County Lighting Service Area, and the County Library Service Area have been notified in writing of the annexation request.

COORDINATION:

The preparation of this report was coordinated with the Santa Clara County Library District, Santa Clara County Lighting Service Area, County of Santa Clara Infrastructure Development Division, LAFCO, County of Santa Clara Assessor, County of Santa Clara Surveyor, and the County of Santa Clara Planning Division.

FISCAL IMPACT:

Once the annexation is certified by the State Board of Equalization, the Town will receive approximately 9.3 percent of the property taxes.

ENVIRONMENTAL ASSESSMENT:

The project is exempt pursuant to the California Environmental Quality Act Guidelines under Section 15061(b)(3): Review for Exemption, in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. A Notice of Exemption will not be filed.

Attachments:
1. Resolution, with Exhibit A - Geographic Description, and Exhibit B - Plat Map
2. Location Map

DRAFT RESOLUTION 2023-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS MAKING DETERMINATIONS AND APPROVING THE REORGANIZATION OF AN UNINHABITED TERRITORY DESIGNATED AS LOS GATOS BOULEVARD NO. 20

APN: 523-01-001
APPROXIMATELY 0.521 ACRES
ANNEXATION APPLICATION: AN22-001
PROPERTY LOCATION: 15810 LOS GATOS BOULEVARD
PROPERTY OWNER/APPLICANT: JESUS CHING AND KATHLEEN BAN

WHEREAS, the Town Council of the Town of Los Gatos has received a request for annexation of territory designated as Los Gatos Boulevard No. 20 from Jesus Ching and Kathleen Ban; and

WHEREAS, the property, is approximately 0.2629 acres and includes 0.2581 acres of County street right-of-way for a total of 0.521 acres located at 15810 Los Gatos Boulevard, APN: 523-01-001, is contiguous to a Town boundary and within the Town's Urban Service Area; and

WHEREAS, the following special districts would be affected by the proposal: Santa Clara County Lighting Service Area; and Santa Clara County Library Service Area; and

WHEREAS, the annexation would provide for use of Town services; and

WHEREAS, the Town Council enacted Ordinance 1267 in 1975 pre-zoning the subject territory with an R-1:8 (single-family residential, 8,000 square foot minimum lot size) zoning designation; and

WHEREAS, the Town of Los Gatos, as Lead Agency for environmental review for the reorganization, has determined annexation of the subject property is exempt from the California Environmental Quality Act guidelines, pursuant to Section 15061(b)(3); and

WHEREAS, the County Surveyor of Santa Clara County has found the description and map (Exhibits A and B) to be in accordance with Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with LAFCO's road annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the Town Council of the Town of Los Gatos shall be the conducting authority for a reorganization including an annexation to the Town; and

WHEREAS, the territory is uninhabited and all owners of land included in the proposal have consented to this annexation; and

WHEREAS, the Town Council held a public hearing to hear any protests on November 7th.

NOW, THEREFORE, BE IT RESOLVED, that the that the Town Council of the Town of Los Gatos does as follows:

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated as Los Gatos Boulevard No. 20, more particularly described in Exhibits A and B;
2. That the following findings are made by the Town Council of the Town of Los Gatos:
    a. Said territory is uninhabited and comprises approximately 0.521 acres;
    b. The annexation is consistent with the orderly annexation of territory within the Town's Urban Service Area and is consistent with the Town policy of annexing when required by the Town's agreement with the County of Santa Clara;
    c. The project is exempt from the California Environmental Quality Act (CEQA) under Title 14 Code of Regulations, Chapter 3: Guidelines for the Implementation of CEQA Section 15061(b)(3): Review for Exemption;

DRAFT

d. The Town Council enacted Ordinance 1267 in 1975 pre-zoning the subject territory with an R-1:8 (Single-Family Residential, 8,000 square foot minimum lot size) zoning designation;
e. The territory is within the Town's Urban Service Area as adopted by the Local Agency Formation Commission of Santa Clara County;
f. The County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies. The County Surveyor has been reimbursed for the actual cost incurred by the County Surveyor in making this determination;
g. The proposed annexation will not create an area in which it would be difficult to provide municipal services;
h. The proposed annexation does not split lines of assessment or ownership;
i. The proposed annexation is consistent with the Town's General Plan;
j. The territory to be annexed is located within 300 feet of a Town boundary; and
k. The Town has complied with all conditions imposed by the Commission for inclusion of the territory in the Town's Urban Service Area.

3. That all owners of land within the affected territory have provided written consent to the reorganization and no protests have been received;
4. That upon completion of these reorganization proceedings the territory described in Exhibit A will be annexed to the Town of Los Gatos and will be detached from the Santa Clara County Library and Lighting Service Areas; and
5. That upon completion of these reorganization proceedings the territory reorganized will be taxed on the regular County assessment roll, including taxes for existing bonded indebtedness.

DRAFT

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of November 2023, by the following vote:

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: _____

DRAFT

EXHIBIT A

LOS GATOS BOULEVARD NO. 20

ANNEXATION TO THE TOWN OF LOS GATOS

GEOGRAPHIC DESCRIPTION

All that certain real property lying in the Rancho Rinconada De Los Gatos, County of Santa Clara, State of California, being more particularly described as follows:

Beginning at the southwest corner of Lot 9 of Tract 649, Recorded October 17, 1949 in Book 24 of Maps at Page 32-33, in the Office of the County Recorder of said Santa Clara County, said **Point of Beginning** being on the easterly line of Los Gatos Boulevard and Bascom Avenue(Parcel Number 2) Annexation as passed and adopted January 25, 1969,

Thence, (1) along the easterly line of said annexation and the westerly line of said Lot 9 North 20°44'00" East, 110.94 feet;

Thence, (2) along the westerly and northerly line of said Lot 9 and the easterly line of said annexation along a tangent curve to the right, concave to the southeast, having a radius of 20.00 feet, having an included angle of 78°53'00", an arc length of 27.54 feet;

Thence, (3) leaving said northerly line of Lot 9 and continuing along the easterly line of said annexation North 09°37'00" East, 30.00 feet to the centerline of Farley Road, being the most northeasterly corner of said annexation and on the southerly line of Blossom Hill Manor Number One Annexation as passed and adopted June 15, 1959;

Thence, (4) along the centerline of Farley Road and the southerly line of last said annexation South 80°23'00" East, 116.83 feet;

Thence, (5) along the easterly line of last said annexation North 20°44'00" East, 30.57 feet to the northerly right of way line of Farley Road and the southwest corner of Lot 8 of said Tract 649;

Thence, (6) leaving last said annexation and along said right of way line of Farley Road and the southerly line of said Lot 8 South 80°23'00" East, 110.94 feet;

Thence, (7) along said right of way line and southerly line of said Lot 8 around a tangent curve to the left, concave to the northwest, having a radius of 20.00 feet, an included angle of 78°53'47", and an arc length of 27.54 feet;

Thence, (8) South 20°43'47" West, 101.91 feet to a point on the westerly right of way line of Camellia Terrace as shown on the Map of said Tract 649;

Thence, (9) along said right of way line along a non tangent curve to the left, concave to the southwest, whose center bears North 69°16'00" West, having a radius of 20.00 feet, and included angle of 101°06'34", and an arc length of 35.29 feet;

Thence, (10) along the southerly right of way line of Farley Drive and the northerly line of Lots 10 and 11 of said Tract 649 North 80°23'00" West, 150.69 feet to the northeast corner of aforesaid Lot 9 of Tract 649;

Thence, (11) along the easterly line of said Lot 9 South 09°37'00" West, 125.00 feet to the southeast corner of said Lot 9;

Thence, (12) along the southerly line of said Lot 9 North 80°23'00" West, 104.35 feet to the **Point of Beginning**.

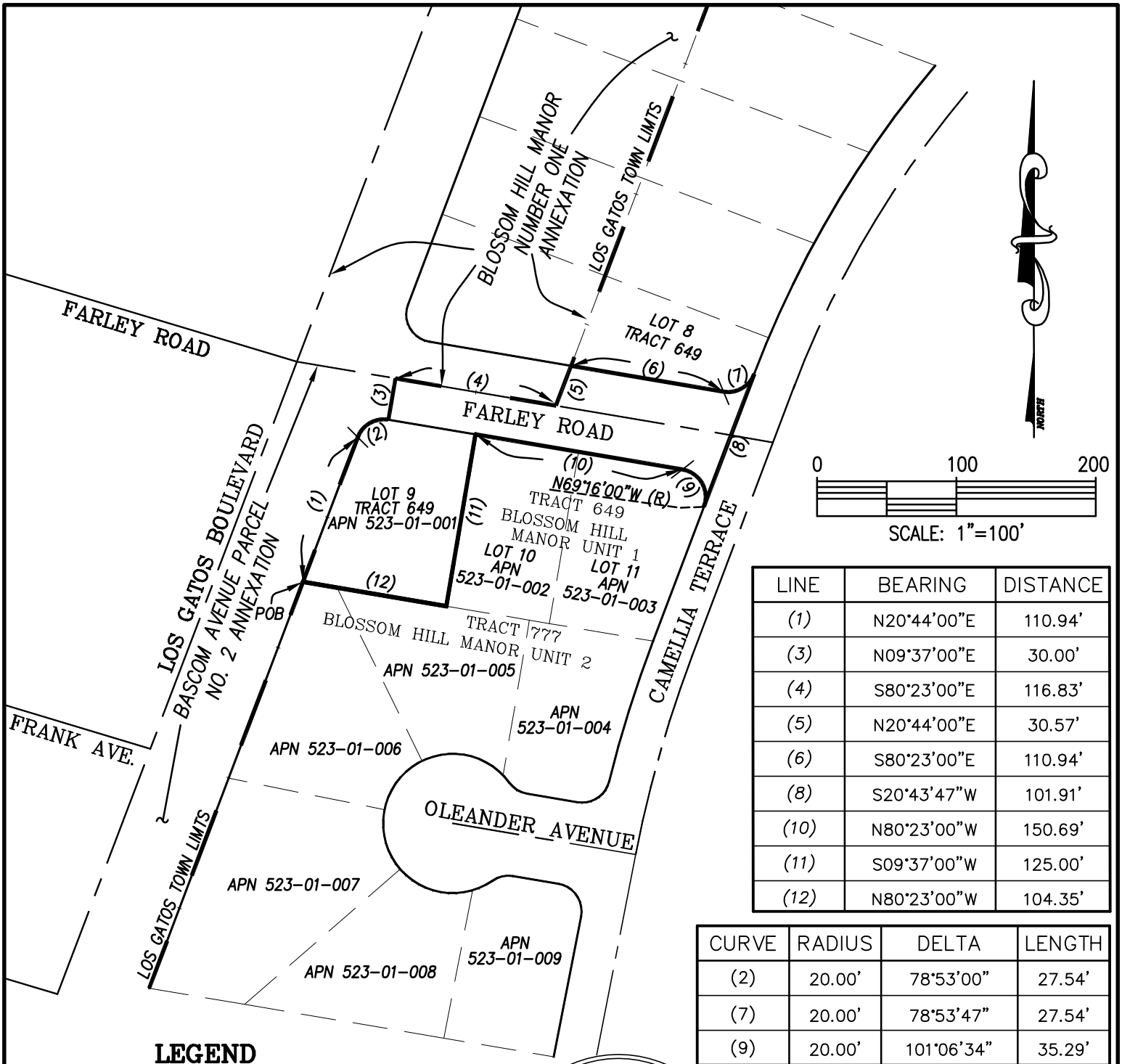
Area of Proposed Annexation: 22,701 sq. ft. of land, more or less (0.521 acres)

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for the sale of the land described.

Helmut R. Korstick (PLS 7739)

AUG. 25, 2003 (Date)

LICENSED LAND SURVEYOR
HELMUT R. KORSTICK
No. 7739
STATE OF CALIFORNIA



LINE	BEARING	DISTANCE
(1)	N20°44'00"E	110.94'
(3)	N09°37'00"E	30.00'
(4)	S80°23'00"E	116.83'
(5)	N20°44'00"E	30.57'
(6)	S80°23'00"E	110.94'
(8)	S20°43'47"W	101.91'
(10)	N80°23'00"W	150.69'
(11)	S09°37'00"W	125.00'
(12)	N80°23'00"W	104.35'

CURVE	RADIUS	DELTA	LENGTH
(2)	20.00'	78°53'00"	27.54'
(7)	20.00'	78°53'47"	27.54'
(9)	20.00'	101°06'34"	35.29'

LEGEND

(#)	COURSE PER GEOGRAPHIC DESCRIPTION
APN	ASSESSOR'S PARCEL NUMBER
POB	POINT OF BEGINNING
(R)	RADIAL
— — —	EXISTING LOT LINE
—— – ——	EXISTING CENTERLINE
———	EXISTING RIGHT-OF-WAY
▬ ▪ ▬	EXISTING TOWN BOUNDARY
▬▬▬	PROPOSED TOWN BOUNDARY

LICENSED LAND SURVEYOR
HELMUT R. KORSTICK
NO. 7739
STATE OF CALIFORNIA

EXHIBIT B

PREPARED BY:
STERLING CONSULTANTS
[illegible]NT BLVD, SUITE 205
[illegible]A 94538
[illegible]ants@gmail.com PHONE: 510.344.8956

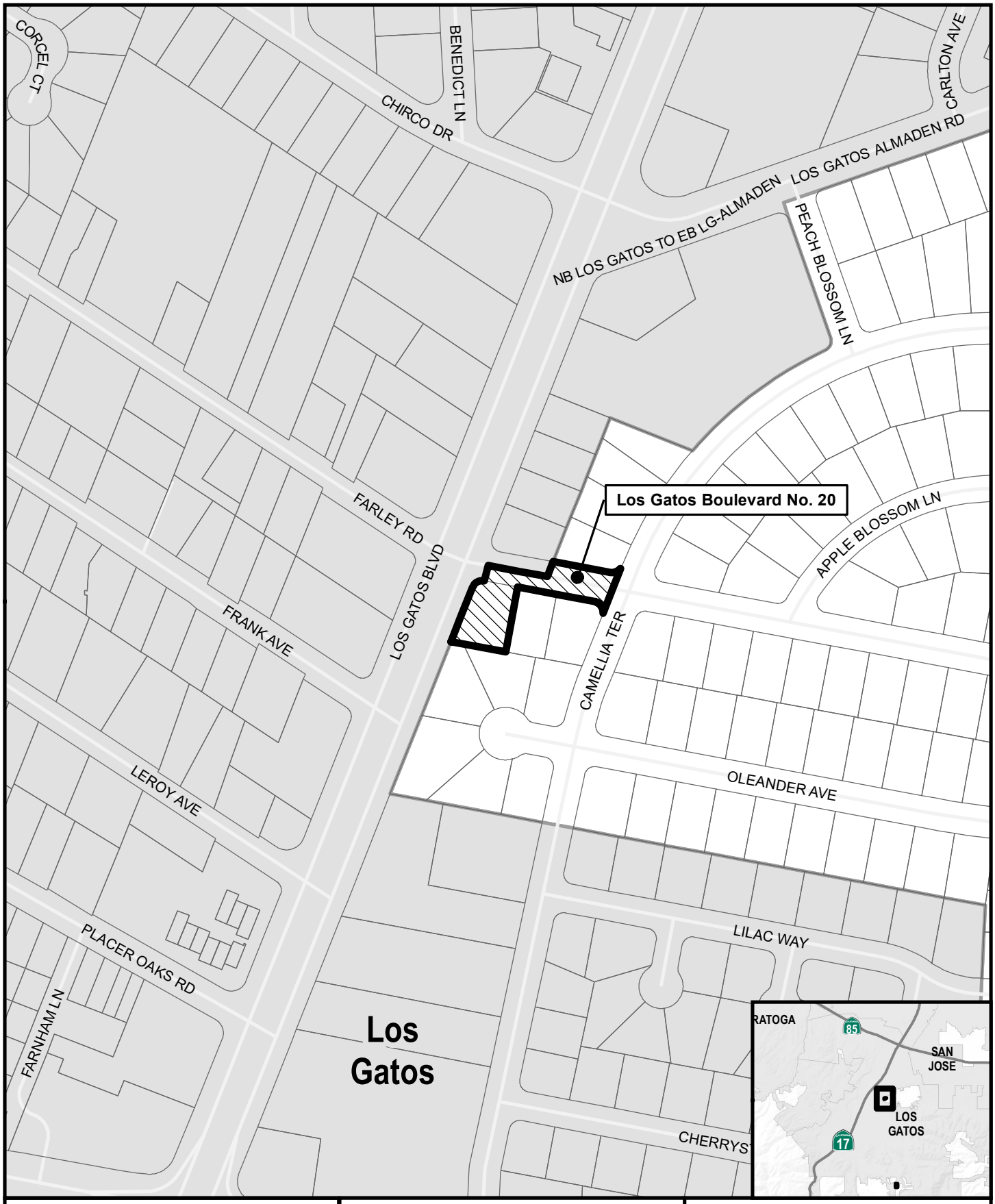
EXHIBIT B

PLAT TO ACCOMPANY GEOGRAPHIC DESCRIPTION
LOS GATOS BOULEVARD NO. 20 ANNEXATION
SANTA CLARA COUNTY RECORDS

CITY OF LOS GATOS – PUBLIC WORKS DEPARTMENT
41 MILES AVENUE, LOS GATOS, CA 95030. PH (408) 399-5770

SCALE: 1"=100'
DATE: AUGUST 25, 2023
PAGE: 1 of 1
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CHK: HRK

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County of Santa Clara
Department of Planning and Development
County Government Center, East Wing
70 West Hedding St., 7th Floor
San Jose, California 95110

EXHIBIT A
Los Gatos Boulevard No. 20
0.521 acres +/-
Prepared for the Office of the County Surveyor
September 5, 2023
August Hanks, County Surveyor

Area of Annexation
Incorporated Lands
Unincorporated Lands

N
0 150
Feet

ATTACHMENT 2

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TOWN OF LOS GATOS
COUNCIL AGENDA REPORT

MEETING DATE: 11/07/2023

ITEM NO: 16

DATE: November 1, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Adopt a Resolution to Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Replace the Affordable Housing Overlay Zone Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,' With the Housing Element Overlay Zone As Division 5 of Article VIII, 'Overlay Zones and Historic Preservation.'" An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Town Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. Applicant: Town of Los Gatos. Project Planners: Jocelyn Shoopman and Erin Walters.

RECOMMENDATION:

Approve a recommendation of the Planning Commission to adopt a resolution (Attachment 1) to amend the General Plan to include a description of the Housing Element Overlay Zone and introduce an ordinance (Attachment 2) titled "An Ordinance of the Town Council of the Town of Los Gatos amending Chapter 29, 'Zoning Regulations,' of the Town Code to replace the Affordable Housing Overlay Zone Division 5 of Article VIII, 'Overlay Zones And Historic Preservation,' with the Housing Element Overlay Zone as Division 5 of Article VIII, 'Overlay Zones and Historic Preservation.'"

PREPARED BY: Jocelyn Shoopman, Associate Planner and
Erin Walters, Associate Planner

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

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing and Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income groups within the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle planning period is 1,993 units.

On January 30, 2023, the Town Council adopted the 2023-2031 Housing Element with modifications to the Sites Inventory, finding that it was in substantial compliance with State law. Two of the Implementation Programs contained in the Housing Element adopted by Town Council are the basis for the items under consideration and described in further detail below.

On May 30, 2023, the Town received HCD's findings/comment letter on the Revised Draft Housing Element. The findings/comment letter is in reference to the Town's Housing Element submitted to HCD on March 31, 2023.

On July 20, 2023, at a special meeting, the General Plan Committee (GPC) reviewed the requests described below and recommended approval of the General Plan amendments to the Planning Commission and Town Council.

On August 23, 2023, the Planning Commission met to discuss the amendments to the 2020 General Plan Land Use Element and Chapter 29 of the Town Code and made a recommendation to the Town Council. The Planning Commission received and considered public comments on the proposed amendments, reviewed the proposed modifications, and unanimously recommended approval to Town Council (Attachments 4 through 7).

On October 3, 2023, the Town Council adopted a resolution to amend the General Plan to include a description of the Housing Element Overlay Zone and introduced an ordinance to amend the Town Code to modify the Affordable Housing Overlay Zone to be the Housing Element Overlay Zone, consistent with the staff recommendation. Due to an error in the description of the project for the legal advertisement not including the Planning Commission's recommendation, the item has been re-noticed for the Town Council's consideration.

At the October 3, 2023, Town Council meeting, a Council Member asked for information about how the text from other locally certified Housing Elements had been incorporated into the Town's most recent Draft Revised Housing Element. A draft response table to HCD's May 30, 2023, comment letter was provided to the Housing Element Advisory Board (HEAB) at their July

BACKGROUND (continued):

20, 2023, meeting with this information included in Attachment 7 and available at the following link: https://www.losgatosca.gov/AgendaCenter/ViewFile/Agenda/_07202023-2313.

Since the October 3, 2023, Town Council meeting, staff has made further edits to the ordinance to clarify that a mixed-use project must contain a residential use that occupies more than 50 percent of the total floor area pursuant to Government Code Section 65583.2(h) (Attachment 2). No changes have been made to the resolution included in Attachment 1 since the October 3, 2031, Town Council meeting.

DISCUSSION:

In August, the Planning Commission reviewed and discussed the proposed amendments to the 2020 General Plan Land Use Element and Chapter 29 of the Town Code and had no recommended modifications.

A. General Plan Land Use Designation

The 2023-2031 Housing Element includes Implementation Programs that involve an overlay zoning of parcels within the Town to provide modified development standards for residential and mixed-use developments. The purpose of these modified development standards is to provide the development capacity required by State law and the Town's RHNA, as mentioned above. The first step in creating the new minimum and maximum densities referenced in these Implementation Programs is the addition of the Housing Element Overlay Zone (HEOZ) and the associated development standards in the 2020 General Plan Land Use Element. In addition to density, those development standards also include lot coverage, floor area, and height, as provided below in Table LU-2 and included in the draft resolution (Attachment 1).

The Town received public comments suggesting a future need to add sites to the Sites Inventory as a result of the No Net Loss law. In response to these comments, the modifications shown below in underlined text to Table LU-2, *HEOZ Development Standards* were considered and recommended for approval by the Planning Commission to ensure that standards are included for all land use designations. Given the requirements of the No Net Loss law, the addition of sites to the Sites Inventory may be required in the future as sites on the current inventory are developed, and so establishing regulations for all designations is recommended.

DISCUSSION (continued):

Table LU-2 HEOZ Development Standards

Designation	Standards
Low Density Residential	**Density:** 0 – 5 du/ac **Lot Coverage:** Up to 50% **Max. Height:** 30 feet
Medium Density Residential	**Density:** 14 – 22 du/ac **Density in Very High Fire Hazard Severity Zones:** 5 – 12 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 35 feet
High Density Residential	**Density:** 30 – 40 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 45 feet
Mixed-Use	**Density:** 30 – 40 du/ac **FAR:** Up to 3.0 **Max. Height:** 45 feet
Neighborhood Commercial	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Central Business District	**Density:** 20 – 30 du/ac **FAR:** Up to 2.0 **Max. Height:** 45 feet
North Forty Specific Plan	**Density:** 30 – 40 du/ac **FAR:** As defined in Specific Plan **Max. Height:** As defined in Specific Plan
Office Professional	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Service Commercial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet
Light Industrial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet

B. Zoning

Due to changes to State law, many components of the Affordable Housing Overlay Zone (AHOZ) are no longer compliant with State law. Staff expects the replacement of the AHOZ with the HEOZ will provide greater flexibility for residential and mixed-use projects in order to create more potential for the development of housing.

In response to public comments received regarding adding sites to the current Sites Inventory, the Planning Commission considered and recommended approval of the modifications shown in underlined text to Table 1A (HEOZ Development Standards), shown on the following page to reflect the possibility of adding sites to the Sites Inventory in the

DISCUSSION (continued):

future as sites on the current inventory are approved for development (Attachment 2).

At the August 23, 2023, Planning Commission meeting, staff verbally notified the Commission of a modification that would be made to Table 1A to specify the density for the North Forty Specific Plan Area. Additionally, staff has made edits to the draft ordinance to further describe that a property with a HEOZ designation may be developed under the new regulations as a residential or mixed-use project (Attachment 2, Exhibit A). Non-residential projects will be subject to the development standards of the underlying zone.

Since the October 3, 2023, Town Council meeting, staff has made further edits to the ordinance to clarify that a mixed-use project must contain a residential use that occupies more than 50 percent of the total floor area pursuant to Government Code Section 65583.2(h).

Table 1A (HEOZ Development Standards)

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
Service Commercial	LM	As authorized by Section 29.70.125	N/A	1.0	35 feet	none
Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

PUBLIC COMMENTS:

Public notification has included a legal advertisement in the paper. The meeting has also been publicized on the Town's website and through the Town's social media platforms. As of the drafting of this report, no comments from the public have been received.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that no further environmental analysis is required (Attachments 1 and Attachment 2);
2. Adopt a resolution to amend the 2020 General Plan Land Use Element to include a description of the HEOZ (Attachment 1); and
3. Introduce an ordinance, by title only, effecting an amendment to the Town Code to replace the AHOZ of Division 5, Article VIII, "Overlay Zones and Historic Preservation," with the HEOZ (Attachment 2) with any specific changes identified and agreed upon by the majority of the Town Council.

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff; or
2. Refer the item back to the Planning Commission with specific direction.

ENVIRONMENTAL ASSESSMENT:

An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments. No further environmental analysis is required.

Attachments:
1. Draft Resolution for the General Plan Amendment with Exhibit A
2. Draft Ordinance for the Zoning Amendment with Exhibit A
3. Draft Town Code Amendments in Tracked Changes
4. August 23, 2023, Planning Commission Staff Report with Exhibits 1-3
5. August 23, 2023, Planning Commission Addendum with Exhibit 4
6. August 23, 2023, Planning Commission Desk Item with Exhibits with Exhibit 5
7. August 23, 2023, Planning Commission Verbatim Minutes
8. Public Comment received between 11:01 a.m., Tuesday, October 3, 2023, and 11:00 a.m., Wednesday, November 1, 2023

Draft Resolution to be modified by Town Council deliberations and direction.

DRAFT RESOLUTION 2023-__

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING THE 2020 GENERAL PLAN LAND USE ELEMENT TO INCLUDE A DESCRIPTION OF THE HOUSING ELEMENT OVERLAY ZONE.

GENERAL PLAN AMENDMENT APPLICATION GP-23-002

PROPERTY LOCATION: TOWN WIDE
APPLICANT: TOWN OF LOS GATOS

WHEREAS, the General Plan Committee at its meeting of July 20, 2023, recommended that the 2020 General Plan Land Use Element be amended to include a description of the Housing Element Overlay Zone; and

WHEREAS, the Planning Commission at its meeting on August 23, 2023, reviewed the proposed General Plan amendment and forwarded a recommendation of approval to the Town Council; and

WHEREAS, the Town Council at its meeting on October 3, 2023, reviewed the proposed General Plan amendment, held a public hearing, and adopted a resolution to amend the 2020 General Plan Land Use Element to include a description of the Housing Element Overlay Zone;

WHEREAS, however, because the project description in the public hearing notice did not include the Planning Commission's recommendation, the item has been re-noticed for the Town Council's consideration; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed General Plan amendment and held a public hearing; and

WHEREAS, the Town Council considered all facts and information related to the request to amend the 2020 General Plan Land Use Element to include a description of the Housing Element Overlay Zone as shown on Exhibit A.

ATTACHMENT 1

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS RESOLVES AS FOLLOWS:

1. The Town Council finds as follows:
   A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments; and
   B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements, in that the amendments will provide for the development of housing for the sites in the Sites Inventory to comply with the Town's Regional Housing Needs Allocation; and
   C. The Town has complied with the requirements set forth in Government Code Section 65350 and following.
2. The 2020 General Plan Land Use Element is amended to include the description of the Housing Element Overlay Zone shown in Exhibit A to this Resolution.
3. This amendment was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November 2023, and adopted by the following vote as a resolution of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the __day of _____ 2023. This amendment shall take effect 30 days after the date it is adopted.

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: _____

DRAFT

3 LAND USE ELEMENT

A. Introduction

Los Gatos is a mature, predominantly built-out community. While there is little room for growth or change in the physical environment, land use is dynamic and change is constant from within and outside the community. Managing change in an effort to maintain our quality of life is a priority of this General Plan and the Community.

The Land Use Element is the framework of the General Plan and is intended to inform and shape the future physical development of Los Gatos. This Element sets forth the patterns of development activity and land uses that will support and enhance the character of the Town. Although all General Plan Elements are of equal importance, the Land Use Element is the most frequently used and referenced section of the General Plan.

Planning for neighborhood preservation and protection is one of the most important purposes of the Town's General Plan. Preserving the small-town heritage, natural setting, and architectural diversity are also important to this community. One of Los Gatos's most outstanding assets is the visual diversity of its individual neighborhoods. Existing development represents a variety of architectural styles from various eras, embodying a variety of sizes, design features, and building materials, resulting in neighborhoods with their own unique identity. For example, Downtown Los Gatos is the historic heart of Town with a pedestrian-scale setting of mixed land uses and architecturally historic buildings. It is a unique area that sets the spirit and style of the entire Town.

Maintaining neighborhood quality suggests conservation of existing housing, good street design, traffic control in residential neighborhoods, and development review that adheres to quality design. Factors such as new or excessive traffic, aging or inadequate infrastructure, and even economic pressures may cause disruption of neighborhoods. Neighborhood preservation also includes balancing the intensity of land uses with the existing residential density.

Los Gatos also focuses on maintaining a "full-service" town that provides a range of goods and services that support the economic vitality of the Town. The commercial centers of Los Gatos are therefore also important to the community. Under the Los Gatos Boulevard Plan, the community expressed interest in creating a shopping experience and destination that complements but does not compete with the Downtown.

Residential and non-residential uses produce different impacts on the community. The impacts on traffic, noise, schools, open space, and other quality-of-life issues will vary, depending on the final mixture of residential and non-residential uses approved within the area. The overall planning for the area needs to limit the adverse impacts on the quality of life of all of the residents of Los Gatos and to provide for open space.

The Land Use Element describes land use designations, special planning areas, and existing land uses in Los Gatos. The Land Use Element is divided into the following sections:

- **Introduction:** A description of the requirements and contents of the Land Use Element.
- **Existing Land Uses:** A description of existing land uses in Los Gatos.
- **General Plan Land Use Designations:** A description of the characteristics and intensity of the different land use designations in Los Gatos, including a map identifying the location of these land use designations.
- **Special Planning Areas:** A description of special planning areas, including Historic Districts and Specific Plan Overlays.
- **Goals, Policies, and Actions:** A list of goal, policy, and action statements that provide guidance to Los Gatos on land use decisions.

B. Authority for the Element

California Government Code Section 65302(a) and Public Resources Code Section 2762(a) require that the Land Use Element provide the following information:

- Distribution, location, and extent of land uses for categories of public or private uses. Such categories include, but are not limited to housing, business, industry, open space, natural resources, recreation and enjoyment of scenic beauty, education, and public buildings and grounds.
- Population density and building intensity standards for land use designations.

The Land Use Element has the broadest scope of any of the State-required components of the General Plan. In addition to the State's requirements set forth in the Government Code, it has also been legally established that, while the location of a particular land use may be expressed in general terms, a property owner must be able to identify the General Plan Land Use Designation for his/her parcel from the land use diagram contained in the Land Use Element.

Among the important implementation mechanisms for the Land Use Element are Specific Plans and the Town Code. The California Government Code requires that the Town Code and zoning map be consistent with its General Plan Land Use Element and land use map, and that all provisions of Specific Plans adopted by the Town must be consistent with the General Plan that they implement.

C. Relationship of Land Use Element to other Elements and Plans

Because the Land Use Element sets the framework of the General Plan, the Land Use Element relates directly to all goals and policies of the other Elements and unifies the General Plan by providing the overall policy context for the other Elements. The relationship of the Land Use Element to other elements and plans is described below.

- The Land Use Element addresses circulation by setting out, in its map and policies, the location and size of all roadways in the Town coordinated with the land uses the roads will serve. It also notes the planned capacities of all other infrastructure systems that will be necessary to protect the health and welfare of the Town's citizens.
- The location, type, and density of residential units are key components of the Land Use Element. The Housing Element uses the density ranges specified in the Land Use Element to identify sites to meet the Town's housing needs.
- The mandates of the Safety Element are reflected in the designation and location of land use, the permitted activities within designated areas, and the patterns of land use that support defensible space, the Town's contingency plan, and fire and other hazard mitigation.
- The Land Use Element addresses buffers between noise sensitive uses and noise sources.
- The Town conserves resources through policies for the wise use of land, water, and energy.
- Air quality is improved by land use patterns that minimize vehicle travel within the Town.
- The Conservation Element goals address protecting and enhancing the natural environment. Programs that retain natural features such as tree preservation, limited grading, and water conservation maintain the natural character of Los Gatos.
- The Open Space Element refers to the location, character, and use of parks, recreational facilities, and preserved, unimproved land.
- Land use designations protect and preserve open spaces.
- The Land Use Element reflects the Town's high priority for quality design.

- The Land Use and Community Design Elements preserve historical buildings and historic areas, limiting the size of houses, while careful de- sign of new infill developments protects the character of Los Gatos.
- California State law requires that all Specific Plans and zoning regulations be consistent with the General Plan. The Hillside Specific Plan, the North Forty Specific Plan, the Redevelopment Plan, and other plans that may be adopted as necessary will be consistent with this General Plan.

D. Existing Land Uses

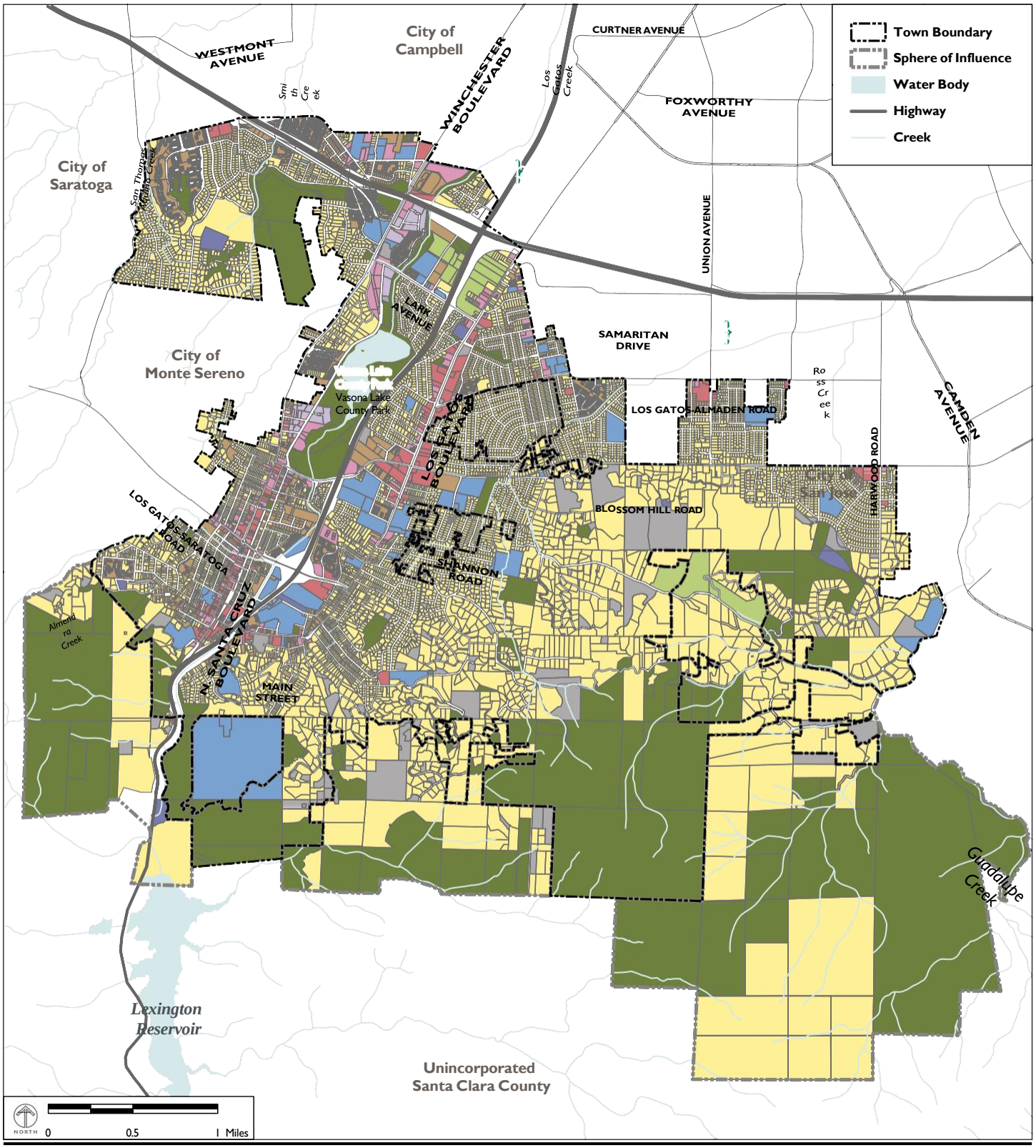
This section contains qualitative and quantitative descriptions of existing land uses in the Town of Los Gatos and Los Gatos's Sphere of Influence (SOI). "Existing land uses" refers to the existing built environment, regardless of the General Plan land use designation or zoning designation applied by the Town. This initial assessment is based on data from the Santa Clara County Office of the Assessor. Existing land uses are illustrated in Figure LU-1 and listed in Table LU-1.

1. Residential – Single Family

Approximately 3,183 acres of land in Los Gatos are dedicated to parcels that contain a single, detached residence and related structures. Single-family residential land use is located throughout the Town, with the exception of the public and open spaces in the southern area of the Town and along commercial corridors immediately adjacent to Los Gatos Boulevard and Santa Cruz Avenue. In the SOI, approximately 2,728 acres of land are dedicated to single-family residential land.

2. Residential – Multi-Family

This land use category refers to parcels that contain more than one housing unit. It includes duplexes, triplexes, fourplexes, condominiums, and apartment buildings. This residential land use totals approximately 407 acres in the Town. There is no multi-family housing in the SOI. Multi-family uses are largely clustered in and around the Highway 17 corridor, either between



Source: Santa Clara County Office of the Assessor, 2006; DC&E, 2008.

Existing Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Office/Professional
- Light Industrial
- Public Utilities
- Public/Quasi-Public
- Agricultural
- Open Space/Recreation
- Vacant

FIGURE LU-1

EXISTING LAND USE

TABLE LU-1 EXISTING LAND USES

Land Use Category	Number of Acres	Percent of Town Acreage	Percent of SOI Acreage
Residential – Single Family	5,911	51.2%	51.9%
Residential – Multi-Family	407	6.5%	0%
Commercial	164	2.6%	0%
Office Professional	126	2%	0%
Light Industrial	37	0.6%	0%
Public/Quasi-Public	440	4.7%	2.8%
Public Utilities	39	0.5%	0.1%
Agricultural	112	1%	1%
Open Space/Recreation	3,841	26.2%	42.2%
Vacant	399	4.7%	2%
Total	**11,476**	**100%**	**100%**

Source: County of Santa Clara, Office of the Assessor, 2006.

Los Gatos Boulevard and Highway 17 or in the area south of Vasona Lake County Park. A significant pocket of multi-family housing is also located in the northwest corner of the Town, just south of the City of Campbell.

3. Commercial

Commercial land refers to parcels that contain either retail businesses—those offering specific products for sale—or businesses that provide day-to-day services such as grocery stores, restaurants, spas and salons, dry cleaners, and nurseries. There are approximately 164 acres of commercial uses in Los Gatos and 1 acre in the SOI. Most commercial parcels in Los Gatos are located along the Santa Cruz Avenue or Los Gatos Boulevard corridors.

4. Office Professional

Office Professional land use refers to parcels that contain offices for medical, legal, insurance, consulting, and similar contracted services. Office and professional uses account for 125 acres in Los Gatos. Like commercial parcels, office professional parcels are concentrated along the Town's primary commercial corridors. An additional cluster of office and professional uses is located near the Highway 17/85 interchange.

5. Light Industrial

The Light Industrial land use category refers to parcels used primarily for production, manufacturing, and research and development. Additional uses include self-storage and automobile service garages. There are approximately 37 acres of light industrial land uses in Los Gatos. Light industrial uses are concentrated in two small pockets, one just south of Highway 85 and east of Winchester Boulevard, and another along University Avenue, north of Blossom Hill Road.

6. Public/Quasi-Public

Public/Quasi-Public land uses include schools, libraries, police and fire stations, faith communities, and hospitals. These uses are distributed through- out Los Gatos, mostly in single parcels or small groups of parcels. Public/Quasi-Public land uses comprise approximately 291 acres of land in the Town and approximately 149 acres in the SOI.

7. Public Utilities

Public Utilities refer to uses related to communications and energy production and distribution. There are approximately 37 acres in the Town devoted to utilities divided between parcels scattered throughout Los Gatos. Many of these parcels are owned by San Jose Water Company and PG&E and are sites of communications infrastructure.

8. Agricultural

Agricultural land is used for raising and harvesting crops, breeding livestock, and/or housing equipment used for agricultural purposes. According to the Santa Clara County Assessor's Office, about 64 acres of land scattered

throughout Los Gatos, and approximately 48 acres in the SOI, are devoted to existing agricultural uses. One of the largest areas of agricultural land is the North Forty site, which contains orchard trees, including walnut and fruit trees. Wine grapes can be found in the Santa Cruz Mountains hillside areas.

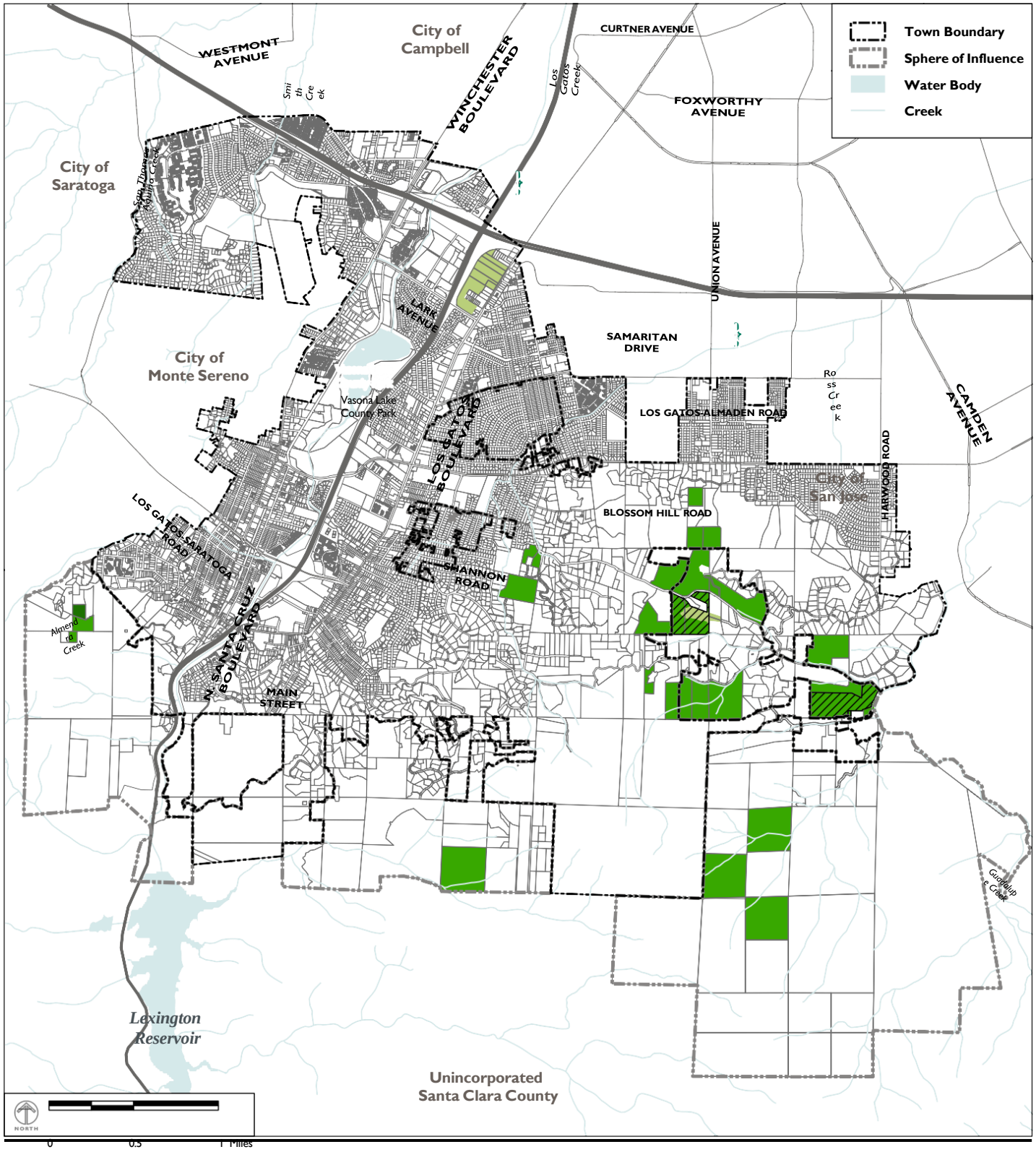
The California Land Conservation Act of 1965, better known as the Williamson Act, works to preserve agricultural and open space lands through restrictive use contracts administered by counties and cities under State regulations. Private landowners voluntarily restrict their land to agricultural and compatible open space uses under minimum 10-year rolling term contracts, with counties and cities also acting voluntarily. In return, the property tax on a Williamson Act parcel is assessed at a rate consistent with its actual use, rather than potential market value.

Figure LU-2 shows the location of all Williamson Act lands and their designation as well as farmland not covered by the Williamson Act. Approximately 136 acres of land within the Town limits and 358 acres of land within the SOI are designated Williamson Act land.[1] Of these, only 3.85 acres are considered "prime agricultural lands" under the definition of the Land Conservation Act. All of these lands occur in the Town's SOI. In addition to Williamson Act lands, approximately 32 acres of Unique Farmland are located within Town limits and 8 acres within the SOI. "Unique Farmland" is a designation ap- plied by the State Department of Conservation to land that is capable of producing specific high value crops. In Los Gatos, it is applied to the orchards on the North Forty site.

9. Open Space/Recreation

Open Space/Recreation refers to indoor and outdoor recreational facilities, including public open spaces such as regional parks, community centers,

[1] This number is higher than the number of acres in existing Agricultural use because Williamson Act include parcels that are classified by the Assessor as Agriculture, Open Space, and Single Family Residential. Single Family Residential may be considered an acceptable classification by the Assessor since Williamson Act contracts may include provisions for a limited number of dwelling units on the property.



Source: State of California Department of Conservation 2006.

Williamson Act Lands

- **Prime Agricultural Land**
- **Non-Prime Agricultural Land**
- **Non-Prime/Non-Renewal Agricultural Land**

State Farmland Designation

- **Unique Farmland**

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

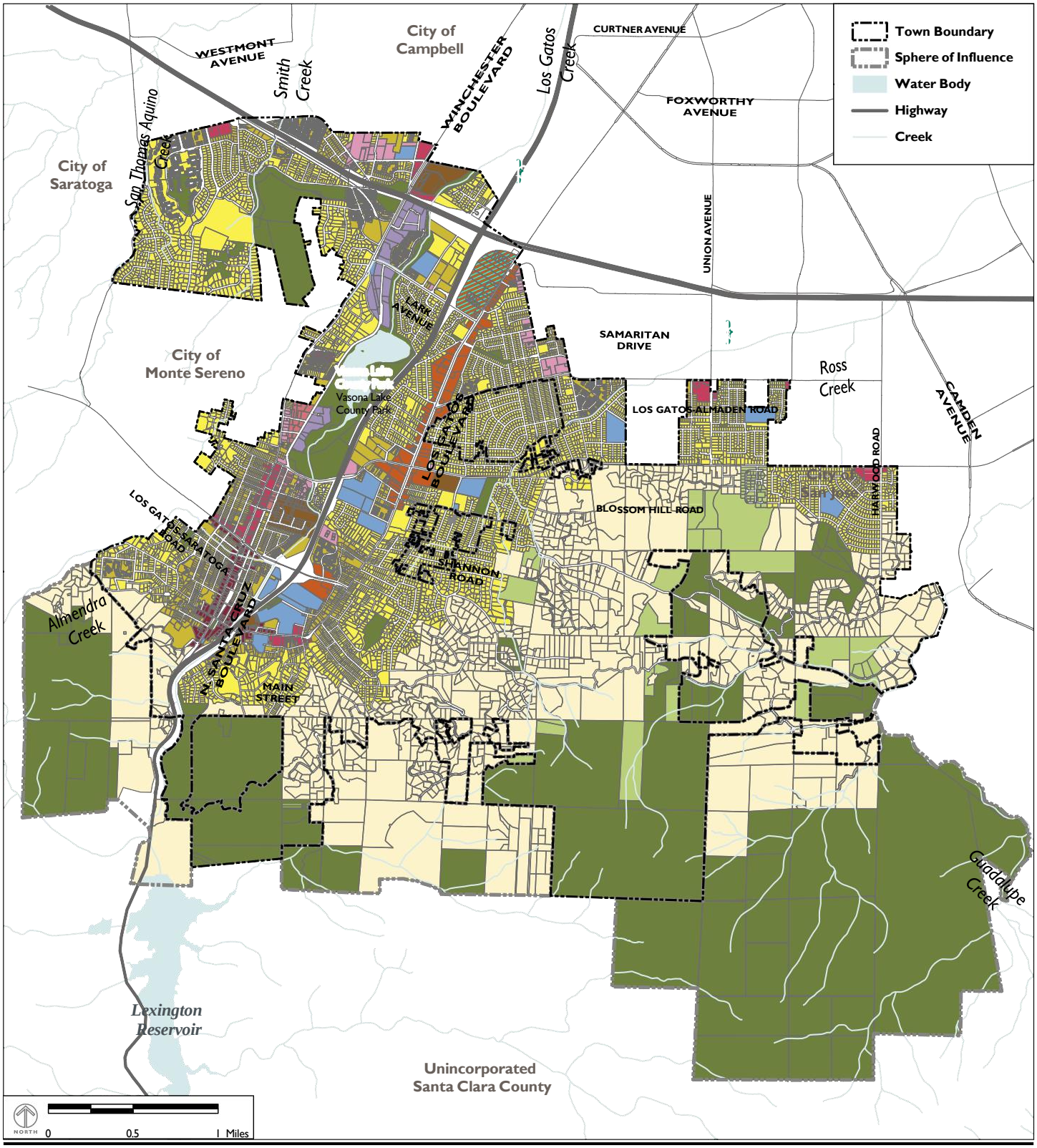
Approximately 292 acres within the Town are vacant parcels of varying sizes that are scattered throughout the Town. Most of the vacant acreage in Los Gatos is located in the single-family residential area on the eastern side of the Town. Parcels here are generally larger than they are elsewhere in Los 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.

General Plan Land Use

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

FIGURE LU-3

2020 GENERAL PLAN LAND USE

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 Indus- trial 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.

a. 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.

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

The Central Business District designation applies exclusively to the down- town 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.

c. 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 restaurants.

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 ser- vice-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.
- **Housing Element Overlay Zone (HEOZ).** The HEOZ is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, the housing element overlay zone encourages the development of housing affordable to all income levels as described in the 2023-2031 Housing Element Sites Inventory to comply with the Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle Planning period and listed in Table LU-2.

TABLE LU-2 HEOZ Development Standards

Designation	Standards
Low Density Residential	**Density:** 0 – 5 du/ac **Lot Coverage:** Up to 50% **Max. Height:** 30 feet
Medium Density Residential	**Density:** 14 – 22 du/ac **Density in Very High Fire Hazard Severity Zones:** 5 – 12 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 35 feet
High Density Residential	**Density:** 30 – 40 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 45 feet
Mixed-Use	**Density:** 30 – 40 du/ac **FAR:** Up to 3.0 **Max. Height:** 45 feet
Neighborhood Commercial	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Central Business District	**Density:** 20 – 30 du/ac **FAR:** Up to 2.0 **Max. Height:** 45 feet
North Forty Specific Plan	**Density:** 30 – 40 du/ac **FAR:** As defined in Specific Plan **Max. Height:** As defined in Specific Plan

Office Professional	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Service Commercial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet
Light Industrial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet

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 former Southern Pacific Railroad right-of-way to the west. The District is composed of five subdivisions that predate 1900 and contain a number of residential and commercial structures of mixed architectural styles. This District was established by ordinance in 1991. All of Los Gatos's historic districts are defined by structures that contribute to the District. In every District, the transformation of these structures is tightly regulated. Demolition of contributing structures is strictly prohibited. In addition, all restoration, rehabilitation, and new construction of principal units must adhere to a series of guidelines for preserving architectural heritage and conforming to existing style. Any modifications to the original design are either restricted or prohibited.

3. Overlay Designation

The North Forty Specific Plan Overlay is applied to the approximately 40-acre property bounded by Los Gatos Boulevard to the east, Highway 17 to the west, Lark Avenue to the south, and Highway 85 to the North. This Overlay requires the preparation and adoption of a specific plan that will determine the mix of uses, dimensional standards, architectural standards, phasing, and infrastructure to support the development of the property prior to approval of any entitlements. Drawing on the draft North Forty Specific Plan prepared in 1999, the General Plan overlay designation is intended to help guide the future development of this property. The 2020 General Plan Environmental Impact Report assumed a maximum capacity of 750 mixed residential units and 580,000 square feet of retail and offices uses for the purposes of assessing environmental impacts associated with the development of the property. While this is the maximum development capacity under this General Plan, the specific plan may be approved with lower densities and square footage of residential and commercial uses, respectively. The North Forty Specific Pan will be based on the following general guidelines:

- Include a mixture of uses that will complement the Downtown and the rest of the community.
- Be based on sustainable and "smart" development practices.

- Include public gathering spaces such as a plaza and park.
- Provide for a variety of residential housing types, both rental- and owner-occupied. A minimum of 20 percent of the units shall be affordable to households at the moderate income level or below.
- Include high-quality architecture and design that reflects the rural and agricultural history of the site.
- Provide pedestrian-oriented buildings along the Los Gatos Boulevard frontage, with minimal parking oriented to the street.
- Take advantage of the grade change across the site.
- Continue the "boulevard treatment" along Los Gatos Boulevard, with interconnections from one parcel's drive aisle to the next.
- Include connections to existing intersections along Los Gatos Boulevard and Lark Avenue.
- Develop gateway or landmark features at Los Gatos Boulevard and Lark Avenue and at Los Gatos Boulevard and the Highway 85 off-ramp.
- Provide an easily accessible, fully connected street network that encourages walking.
- Provide a vegetative buffer and screening along Highways 17 and 85.
- Preserve Town character and views.

4. Other Plans

The Hillside Specific Plan and Los Gatos Boulevard Plan areas are each developed according to separate land use goals and in different areas of the Town. In addition to these approved Specific Plans, the Town will be developing a North Forty Specific Plan.

a. Hillside Specific Plan

The Hillside Specific Plan establishes land use policy for the Hillside Study Area, an area of mountainous terrain in the southeastern portion of the Town designated for Hillside Residential development. Adopted by Town Council in 1978, the Specific Plan establishes a series of policies and standards related

to land use, facilities, services, circulation, fire protection, safety, and open space. These policies and standards are intended to prevent deficiencies in access to water and sewer services, ensure conservation of the sensitive natural environment, and address differences in Town and County land use regulations.

Development in the Hillside Specific Plan area is prohibited outside of designated "least restrictive development areas" (LRDAs) unless it is compliant with conditions established in the Plan.

b. Los Gatos Boulevard Plan

Adopted by Town Council in 1997, the Los Gatos Boulevard Specific Plan is a policy framework for meeting a series of short, medium, and long range goals related to the commercial revitalization of Los Gatos Boulevard. This Specific Plan is based on a land use concept for which higher density, mixed-use commercial development in the north of the Specific Plan area transitions into residential and community clusters, and then into existing residential neighborhoods just south of the Specific Plan area. This Specific Plan contains policies and design standards targeting safe, attractive public improvements; pedestrian-oriented activity nodes; vital, commercial land use; distinct gateways, and site-appropriate private improvements.

c. Central Los Gatos Redevelopment Project

The Central Los Gatos Redevelopment Project, which focuses on an area located around Downtown Los Gatos, contains a mix of residential and non- residential land use designations. The Town of Los Gatos Redevelopment Agency has the authority to facilitate property acquisition and management, construction of public improvements, structural rehabilitation, and site assembly within the Project Area. The project was adopted in 1991, following the 1989 Loma Prieta earthquake. The main objectives of the project are to eliminate blight, assemble land parcels for improved development, strengthen the economic base of downtown, and improve undeveloped and underutilized areas.

G. Goals, Policies, and Actions

The following goals, policies, and actions guide future physical development throughout Los Gatos.

Goal LU-1	**To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.**

Policy LU-1.1 Encourage developers to engage in discussions as early as possible regarding the nature and scope of the project and possible impacts and mitigation requirements.

Policy LU-1.2 Ensure that new development preserves and promotes existing commercial centers consistent with the maintenance of a small-scale, small-town atmosphere and image.

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

Policy LU-1.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.

Policy LU-1.5 Encourage private/public funding, development, and operation of cultural amenities, activities, and centers consistent with the small-town character of Los Gatos.

Policy LU-1.6 Recognizing that our ability to preserve our small-town character is somewhat dependent on decisions in surrounding communities, continue and expand Town participation in planning processes in neighboring jurisdictions and regional bodies in order to develop innovative, effective, and coordinated land use, transportation, and hillside development plans and standards that will help preserve our small-town character.

Policy LU-1.7 Use task forces, ad hoc committees and other means as appropriate to involve residential and commercial interests in Town matters.

Policy LU-1.8 Commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos.

Goal LU-2 **To maintain a balanced, economically stable community within environmental goals.**

Policies

Policy LU-2.1 Minimize vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos.

Policy LU-2.2 Promote telecommuting and home-based businesses by allowing live-work and work-live uses in existing and future residential development.

Goal LU-3 **To coordinate with surrounding jurisdictions and other local and regional agencies that may affect Los Gatos's future development patterns and character.**

Policies

Policy LU-3.1 Cooperate with the County of Santa Clara to encourage the annexation of unincorporated islands into the Town. The Town will not require the installation of curbs, gutters, sidewalks, or street lights as a condition of annexation nor will these improvements be imposed on annexed areas unless the residents of the area request such improvements and are willing to participate in the cost of such improvements. This does not prevent the Town from requiring such improvements as a condition of approval of any zoning or subdivision approval if such conditions are normally made on those items and the improvements would be in keeping with the neighborhood.

Policy LU-3.2 Work with Santa Clara County to ensure that projects developed in the County meet Town policies and standards, do not induce further development, and do not un- duly burden the Town.

Goal LU-4	**To provide for well-planned, careful growth that reflects the Town's existing character and infrastructure.**

Policies

Policy LU-4.1 Integrate planning for the North Forty area, Los Gatos Boulevard, Vasona Light Rail area, and Downtown so that development in each area takes into consideration the Town as a whole.

Policy LU-4.2 Allow development only with adequate physical infra-structure (e.g. transportation, sewers, utilities, etc.) and social services (e.g. education, public safety, etc.).

Policy LU-4.3 Only approve projects for which public costs can be justified by the overall benefit to the community.

Policy LU-4.4 Project applicants shall evaluate and provide appropriate mitigation measures to reduce impacts on urban services including schools, utilities, police, and fire.

Policy LU-4.5 Discourage corridor lots. Corridor lots shall only be allowed if the use of a corridor lot decreases the amount of public street required for the subdivision, contributes to the surrounding neighborhood, and is in context with the existing scale and established character of the neighborhood. The subdivider shall also demonstrate that the use of a corridor lot benefits surrounding properties.

Goal LU-5	**To encourage public involvement in Town planning processes.**

Policy

Policy LU-5.1 Use task forces, ad hoc committees, and other means as appropriate to involve residential and commercial interests in Town matters.

Action

Action LU-5.1 Utilize traditional communication tools and new media and technology to provide clear and current information on Town processes and decisions and to encourage public participation in Town government.

Goal LU-6	**To preserve and enhance the existing character and sense of place in residential neighborhoods.**

Policies

Policy LU-6.1 Protect existing residential areas from the impacts of non-residential development.

Policy LU-6.2 Allow non-residential activity in residential areas only when the character and quality of the neighborhood can be maintained.

Policy LU-6.3 Protect existing residential areas from adjacent non-residential uses by assuring that buffers are developed and maintained.

Policy LU-6.4 Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood.

Policy LU-6.5 The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood.

Policy LU-6.6 In order to reduce landfill, conserve resources, and preserve neighborhood character, demolitions shall be discouraged in established residential neighborhoods and applicants shall submit structural reports to determine whether the demolition of any principal structure is justified. If allowed, the replacement house should be similar in size and scale to other homes in the neighborhood and maintain the neighborhood character.

Policy LU-6.7 Continue to encourage a variety of housing types and sizes that is balanced throughout the Town and within neighborhoods, and that is also compatible with the character of the surrounding neighborhood.

Policy LU-6.8 New construction, remodels, and additions shall be compatible and blend with the existing neighborhood.

Policy LU-6.9 The Housing Element assumes that sites designated medium and high density residential will be developed at the upper end of the density range. If the Town approves a development at a lower density on one of these sites, staff shall identify one or more other sites to maintain the Town's capacity to meet its housing needs as identified in the Housing Element, subject to neighborhood compatibility and mitigation of traffic impacts.

Policy LU-6.10 Require applicants to submit letters of justification to show how new residential development contributes to the balance of types and sizes of housing available in Los Gatos.

Actions

Action LU-6.1 Develop standards for traffic, noise, intensity, and overall size for non-residential uses in residential zones.

Action LU-6.2 The conditional use permit approvals for non-residential uses in residential zones shall be reviewed by the Planning Commission on an as-needed basis for any adverse im- pacts, nuisances, or any required modifications.

Goal LU-7	**To use available land efficiently by encouraging appropriate infill development.**

Policies

Policy LU-7.1 Allow redevelopment of unused school sites commensurate with the surrounding residential neighborhood and availability of services.

Policy LU-7.2 To ensure compatibility with surrounding neighborhoods, infill projects shall demonstrate that the development meets the criteria contained in the Development Policy for In-Fill Projects and the deciding body shall make findings consistent with this policy.

Policy LU-7.3 Infill projects shall contribute to the further development of the surrounding neighborhood (e.g. improve circulation, contribute to or provide neighborhood unity, eliminate a blighted area) and shall not detract from the existing quality of life.

Policy LU-7.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.

Goal LU-8	**To uphold and enforce adopted land use regulations.**

Policies

Policy LU-8.1 Maintain a Code Compliance function to effectively enforce the land use regulations in the Town Code.

Policy LU-8.2 Town staff shall identify major violations (illegal units, sign violations, illegal uses, tree removals, grading violations, etc.) without waiting for public complaint. Town staff shall act on minor violations (illegally parked cars, boats, trailers and campers, etc.) based on public com- plaints. Additional violations that may be observed during investigation of a complaint shall also be acted on.

Goal LU-9	To provide residents with adequate commercial and industrial services.

Policies

Policy LU-9.1 Ensure that new development preserves and promotes existing commercial centers consistent with the maintenance of a small-scale, small-town atmosphere and image.

Policy LU-9.2 Maintain a variety of commercial uses, including a strong Downtown commercial area combined with Los Gatos Boulevard and strong neighborhood commercial centers to meet the shopping needs of residents and to preserve the small-town atmosphere.

Policy LU-9.3 Encourage a mix of retail and office uses in commercial areas, except in the Central Business District designation, where retail should be emphasized and office should be limited to upper floors and other areas as defined by the Town Code.

Policy LU-9.4 Encourage existing light industry and service commercial uses to remain or be replaced with similar uses.

Policy LU-9.5 Encourage the development and retention of locally owned stores and shops.



Policy LU-9.6 Encourage development that maintains and expands resident-oriented services and/or creates employment opportunities for local residents consistent with overall land use policies of the Town.



Policy LU-9.7 "Broadening the tax base" shall never be the sole reason for allowing new commercial development or approving a change in a commercial land use.

Policy LU-9.8 Retail sales tax "leakage" should be kept to a minimum by providing in-town convenience and comparative shopping opportunities.

Policy LU-9.9 Buffers shall be required as conditions of approval for non-residential projects that are adjacent to residential areas and may consist of landscaping, sound barriers, building setbacks, or open space.

Policy LU-9.10 Prohibit new commercial or industrial zoning adjacent to school sites and carefully consider the impacts of new school sites in industrial and commercial land use designations.

Action

Action LU-9.1 The Town should identify those businesses that are needed in the Town and actively recruit those businesses.

Goal LU-10	**To preserve Downtown Los Gatos as the historic center of the Town, with goods and services for local residents, while maintaining the existing Town identity, environment, and commercial viability.**

Policies

Policy LU-10.1 Encourage the development and retention of small businesses and independent stores and shops Downtown that are consistent with small-town character and scale.

Policy LU-10.2 Recognize and encourage the different functions, land use patterns, and use mixes of the various commercial areas within the Downtown. These include:

a. The pedestrian scale and orientation of the Central Business District.

b. The neighborhood-serving commercial land use pattern of areas north of Saratoga Avenue to Blossom Hill Road.

c. The mixed use commercial activities along Santa Cruz Avenue and the service commercial activities along University Avenue between Andrews Street and Blossom Hill Road.

Policy LU-10.3 Establish and maintain strong boundaries between the Central Business District designation and adjacent residential neighborhoods.

Policy LU-10.4 Encourage mixed uses to increase residential opportunities in commercial zones Downtown, taking into consideration potential impacts to loss of commercial opportunities.

Goal LU-11	**To plan for development of a variety of uses in the North Forty area in a coordinated and comprehensive way.**

Policies

Policy LU-11.1 Zoning shall be changed as part of development applications to provide consistency with the Vasona Light Rail Element and other elements of this General Plan and with any future specific plan prepared for this area.

Policy LU-11.2 The Town shall encourage uses that serve Town residents. These include, but are not limited to, open space, playfields, office, retail, and other commercial uses. Residential uses may be permitted as part of mixed-use development and only with acceptable mitigation of adverse noise, air quality, and other environmental hazards.

Policy LU-11.3 Provide coordinated infrastructure in the North Forty area.

Policy LU-11.4 Include a variety of regional destination and local-serving commercial uses in the North Forty area, following a logical land use pattern that takes advantage of the site opportunities while protecting adjacent uses.

Policy LU-11.5 Avoid negative effects on the long-term development potential of the area surrounding the North Forty area.

Policy LU-11.6 Incorporate multi-modal links from the North Forty area to the Vasona Light Rail station into the North Forty Specific Plan.

Action

Action LU-11.1 Prepare and adopt a specific plan for the North Forty area prior to development of the site.

Goal LU-12	**To ensure an appropriate mix of land use types along Los Gatos Boulevard in order to maintain the economic vitality of the corridor and continue to serve the needs of Town residents.**

Policies

Policy LU-12.1 Encourage redevelopment and assemblage of parcels that have experienced a high vacancy rate over a prolonged period of time, possibly including appropriate and compatible rezoning.

Policy LU-12.2 Encourage a mix of uses along Los Gatos Boulevard, including, where appropriate, mixed-use parcels that are compatible with surrounding uses.

Policy LU-12.3 New landscaping, streetscape improvements and new development along Los Gatos Boulevard shall incorporate pedestrian amenities, scale, and design.

Policy LU-12.4 Encourage mixed uses to increase residential opportunities in commercial zones.

Policy LU-12.5 Retain and enhance auto dealerships.

Policy LU-12.6 Neighborhood commercial, multi-family residential, and office uses shall be concentrated south of Los Gatos–Almaden Road.

Policy LU-12.7 New and relocating auto-related businesses shall be located north of Los Gatos–Almaden Road, adjacent to existing auto dealerships, or on a vacant site previously used for permitted auto sales.

Policy LU-12.8 Uses on Los Gatos Boulevard south of Roberts Road shall be residential or office; existing non-residential uses shall not be intensified; and existing vacant property and residential uses shall be developed as Single Family Residential.

Policy LU-12.9 Encourage replacement of vacated business south of Los Gatos–Almaden Road and north of Roberts Road/Shannon Road with neighborhood commercial, multi-family, or office uses.

Goal LU-13	**To promote appropriate and compatible development along Los Gatos Boulevard that complements the whole Town and serves residents and families.**

Policies

Policy LU-13.1 Development shall transition from higher intensity uses at the north end of Los Gatos Boulevard to existing residential uses at the south end of Los Gatos Boulevard.

Policy LU-13.2 Commercial activity along Los Gatos Boulevard shall complement the whole Town and shall provide a dependable source of income, employment opportunities, goods, and services.

Policy LU-13.3 New projects along Los Gatos Boulevard shall incorporate a family and resident orientation.

Policy LU-13.4 New development along Los Gatos Boulevard shall be designed to minimize adverse impacts on adjacent residential areas.

Policy LU-13.5 Establish and maintain appropriate boundaries between the commercial uses along Los Gatos Boulevard and adjacent residential neighborhoods.

Policy LU-13.6 Provide more pedestrian/bike areas and links to adjacent residential areas to foster neighborhood use of commercial centers.

Policy LU-13.7 Allow auto dealers and other commercial property owners and merchants to conduct occasional promotional sales activities with a "festival" atmosphere with appropriate re- strictions to reduce traffic congestion and impacts on neighboring commercial and residential uses.

Actions

Action LU-13.1 Work with existing auto dealers and other commercial property owners and merchants to develop an appropriate commercial image specifically for Los Gatos Boulevard.

Action LU-13.2 Use the adopted Los Gatos Boulevard Plan and Commercial Design Guidelines to review development proposals and exterior improvements to existing buildings.

Draft Ordinance: subject to modification by Town Council based on deliberations and direction.

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE TO REPLACE THE AFFORDABLE HOUSING OVERLAY ZONE DIVISION 5 OF ARTICLE VIII, "OVERLAY ZONES AND HISTORIC PRESERVATION," WITH THE HOUSING ELEMENT OVERLAY ZONE AS DIVISION 5 OF ARTICLE VIII, "OVERLAY ZONES AND HISTORIC PRESERVATION"

ZONING CODE AMENDMENT APPLICATION Z-23-002

PROPERTY LOCATION: TOWN WIDE
APPLICANT: TOWN OF LOS GATOS

WHEREAS, the Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the Housing Element Overlay Zone as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the Planning Commission at its meeting on August 23, 2023, reviewed the proposed Town Code amendments , held a public hearing, and forwarded a recommendation of approval to the Town Council; and

WHEREAS, the Town Council at its meeting on October 3, 2023, reviewed the proposed Town Code amendment, held a public hearing, and adopted the ordinance to amend the Town Code to modify the Affordable Housing Overlay Zone to be the Housing Element Overlay Zone; and

WHEREAS, because the project description in the public hearing notice did not include the Planning Commission's recommendation, the item has been re-noticed for the Town Council's consideration; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendment and held a public hearing; and

WHEREAS, the Town Council considered all facts and information related to a request to amend the Town Code as shown on Exhibit A.

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

SECTION I. FINDINGS

The Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments; and

B. The Town Code Amendments are consistent with the General Plan and its elements in that the proposed zonings are consistent with the proposed General Plan land use designations; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and

SECTION II. AMENDMENTS

Chapter 29, Article VIII., Division 5 of the Town Code is hereby amended to read as follows:

ARTICLE VIII. OVERLAY ZONES AND HISTORIC PRESERVATION

...

DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.510. HEOZ and underlying zoning.

A property that has the HEOZ designation may be developed with a residential or mixed-use project with a residential use occupying more than 50 percent of the total floor area based on the standards provided in this division or, where standards are not specified, then based on the standards provided in the underlying zone. The underlying zoning development standards will remain in effect for all other development without a residential component.

DRAFT

Pursuant to Government Code Section 65583.2(i), by right development will be allowed when 20 percent or more of the units are affordable to lower income households.

Sec. 29.80.515. HEOZ general development standards.

A proposed residential project, including a mixed-use project with a residential use occupying more than 50 percent of the total floor area within the HEOZ shall be designed and constructed in conformity with the development standards for the corresponding zoning and General Plan Land Use designation in Table 1A (Overlay Zones Development Standards). Regardless of the underlying zoning designation, no residential project or mixed-use project with a residential use occupying more than 50 percent of the total floor area may be developed that does not meet the applicable HEOZ development standards.

Table 1A (HEOZ Development Standards)

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
Service Commercial	LM	As authorized by Section 29.70.125	N/A	1.0	35 feet	none
Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

SECTION III. CEQA.

An Environmental Impact Report was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments. No further environmental analysis is required.

SECTION IV. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

SECTION V. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November 2023, 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 _____ 2023, by the following vote:

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: _____

DRAFT

DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.510. HEOZ and underlying zoning.

A property that has the HEOZ designation may be developed with a residential or mixed-use project with a residential use occupying more than 50 percent of the total floor area based on the standards provided in this division or, where standards are not specified, then based on the standards provided in the underlying zone. The underlying zoning development standards will remain in effect for all other development without a residential component.

Pursuant to Government Code Section 65583.2(i), by right development will be allowed when 20 percent or more of the units are affordable to lower income households.

Sec. 29.80.515. HEOZ general development standards.

A proposed residential project, including a mixed-use project with a residential use occupying more than 50 percent of the total floor area within the HEOZ shall be designed and constructed in conformity with the development standards for the corresponding zoning and General Plan Land Use designation in Table 1A (Overlay Zones Development Standards). Regardless of the underlying zoning designation, no residential project or mixed-use project with a residential use occupying more than 50 percent of the total floor area may be developed that does not meet the applicable HEOZ development standards.

Table 1A (HEOZ Development Standards)

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
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Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
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Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

Chapter 29, Article VIII., Division 5 of the Town Code is hereby amended to remove the following strikeouts (~~strikeouts~~) indicating deleted text and include underlining (underlining) indicating new text:

~~**Sec. 29.80.505. Intent.**~~

~~The affordable housing overlay zone (AHOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the affordable housing overlay zone encourages the development of housing affordable to all income levels on one (1) property within the Town that is deemed to be most appropriate for such uses. The housing element lists the one (1) property within the Town of Los Gatos as a key housing opportunity site for mixed income affordable housing projects. The designation of this site will assist the Town in meeting its fair share of the region's housing needs required by the State.~~

~~**Sec. 29.80.510. AHOZ and underlying zoning.**~~

~~A property that has the AHOZ designation may be developed either in the manner provided in this division or the manner provided in the underlying zone, but not both; use of the overlay zone and the underlying zone are mutually exclusive alternatives. Once the land has developed in the manner provided in the underlying zoning, the property owner shall relinquish the right to redevelop the land using the AHOZ overlay.~~

~~**Sec. 29.80.515. Applicability of regulations.**~~

~~(a) This division applies to the one (1) property listed on Table 6-1 of Chapter 6 (Housing Sites Inventory) of the 2015-23 Housing Element Technical Appendix and as identified below:~~

~~Affordable housing overlay zone (AHOZ) property:~~
~~1. Southbay Development, Knowles Drive east of Winchester Boulevard, APN 424-32-077~~

~~(b) The provisions of this division shall not apply if an applicant requests to use the General Plan Density Bonus Policy (HOU-1.3). If the applicant submits a development project application utilizing this density bonus program, the base density on which the bonus is calculated shall be the density of the existing zoning of the property.~~

~~**Sec. 29.80.520. Qualification.**~~

~~In order to qualify for the benefits of this overlay zone, residential development projects shall comply with all of the following:~~

(a) Include the following minimum percentage of total units in the development with rents or sales prices that are restricted to the area median income household affordability levels noted below. The income limits shall be established based on the current year area median income for Santa Clara County as set by the appropriate State or Federal government housing agencies.

Required unit affordability levels

Site	Low and/or Very Low and Below	Moderate and/or Above Moderate
Southbay Development (APN 424-32-077)	40%	60%

(b) Based on a recommendation by the Planning Commission after its review of a project, the Town Council may approve a modification to the affordability ratios in subsection (a) if the applicant can demonstrate with actual project specific pro forma, financial and local market data, that a specific ratio is not financially feasible. The Town Council may only approve a modification to a ratio if the overall Regional Housing Needs Allocation (RHNA) unit production for an individual income category (e.g. very low, low and moderate income) has been achieved by the Town during the applicable housing element period.

(c) Ensure that affordable units are deed-restricted for a period of not less than fifty-five (55) years, or for the longest feasible time. An affordable housing agreement shall be executed prior to recording any final map for the underlying property or prior to the issuance of any building permit for the housing development, whichever comes first, unless the Community Development Director approves an alternative phasing plan, at which time the affordable housing agreement shall be executed no later than the issuance of the certificate for the fifty-first percent of the market rate units. The affordable housing agreement shall be binding on all future owners and successors of interest of the housing development.

Sec. 29.80.525. Permitted uses in the AHOZ.

(a) Multifamily dwellings;

(b) Two-family dwellings;

(c) Single-family dwellings.

Sec. 29.80.530. Conditional uses permitted.

No conditional use permit shall be required for a housing development that meets the intent and regulations contained in this division.

Sec. 29.80.535. Application.

Residential developments using the AHOZ standards shall be required to submit applications for architecture and site review. The application shall be subject to review by the Planning Commission with a recommendation to Town Council and the review by Town Council shall be final.

Sec. 29.80.540. Affordable housing overlay zones general development standards.

Proposed development within the affordable housing overlay zones shall be designed and constructed in conformity with the development standards in Table 1A (Overlay Zones Development Standards) and Table 1B (Overlay Zones Development Setbacks).

Table 1A (Overlay Zones Development Standards)

Site	Maximum Lot Coverage	Maximum Height Limit (ft)[1]	Density Units Per Acre	Parking Ratio[2]
Southbay Development (APN 424-32-077)	40%	30 feet w/separate garage; 35 feet w/integrated garage	20	0—1 bedroom: 1 space 2—3 bedrooms: 2 spaces 4+ bedrooms: 2.5 spaces

1. Building height is increased to 35 feet for residential products that integrate the garage on the first floor, underground or is constructed on a parking podium. Additional height increase may be granted through the architecture and site review process.

2. Tandem parking is permitted.

Table 1B (Overlay Zones Development Setbacks)

Site	Required Setbacks
Southbay Development (APN 424-32-077)	25 ft. from Knowles Avenue property line; 40 ft. from Los Gatos Creek property line; 25 ft. from Southwest Property Line; West and internal setbacks to be determined by architecture and site review process

Sec. 29.80.545. Affordable housing overlay zones development incentives.

(a) *Concessions and incentives.* Applications meeting the intent of the AHOZ will be automatically granted four (4) concessions at the applicant's sole discretion. The concessions are reductions in the development standards specified in this section, and processing fee waivers. The following development incentives are available to qualifying residential developments within an AHOZ:

(1) *Parking standards.* Parking standards may be reduced if a parking reduction is requested as one (1) of the four (4) concessions. Parking may be reduced as follows:

a. Reduction to one (1) space per unit for units reserved for seniors or persons with disabilities.

b. Reduction to one (1) space per unit for developments within one-quarter (¼) mile to the proposed Vasona Light Rail Station.

(2) *Property setbacks.* Any two (2) property setbacks may be reduced by up to fifty (50) percent if an applicant selects the setback reduction as one (1) of the four (4) concessions. The two (2) setback reductions are considered one (1) concession.

(3) *Lot coverage.* The lot coverage may be increased up to fifty (50) percent if the applicant selects the lot coverage increase as one (1) of the four (4) concessions.

(4) *Processing fees.* The Town shall waive or defer planning, engineering, and building processing fees, except those that are paid directly to Town consultants or for technical studies.

The developer can select one (1) of the following types of fees to be waived as one (1) of the four (4) available concessions:

a. Planning and engineering application fees (but not Town consultant fees).
b. Building plan check and inspection fees.
c. Construction mitigation fee.

The fees selected shall be waived if the applicant selects a fee waiver as one (1) of the four (4) automatically granted concessions.

If the developer selects a deferral of all fees noted above rather than a waiver, the fees shall be deferred to the time of issuance of the certificate of occupancy for each unit.

(5) *Priority processing.* The Town shall give qualifying projects the highest processing priority for planning entitlements, building plan check and building inspection.

Sec. 29.80.550. Architecture and site review process.

(a) *Affordable housing overlay zone design guidelines.* All projects shall comply with the adopted affordable housing overlay zone design guidelines in effect at the time of entitlement approval.

(b) *Architecture and site approval.* All projects shall require an architecture and site application approval. The Planning Commission shall review each project and make a recommendation to the Town Council. The Town Council is the final decision making authority for AHOZ applications. The Town Council shall adopt a resolution that documents the architecture and site application decision.

(1) *Architectural design.* Affordable units within a mixed affordable/market rate development may be allowed to vary in interior and exterior design and square footage from market rate units as long as the project remains architecturally harmonious as determined by the approval body. Attached units, smaller (in square footage) units and other design variations from market rate units may be permitted within reason to reduce costs of providing affordable units subject to the required architecture and site approval process.

(c) *Environmental review.* All projects shall be subject to the requirements of the California Environmental Quality Act.

(d) *Findings.* In order to qualify for a height increase over the maximum stated in Table 1A, the Planning Commission shall make a recommendation and the Town Council shall find that:

(1) The building massing and dimensional ratios of proposed building components create a harmonious visual balance and contribute to the architectural character of the project or its surroundings.

~~(2) The height increase is necessary to achieve excellence in architectural design and cannot be accommodated through alternative means such as reducing overall floor to ceiling heights.~~

~~(e) *Timing of affordable unit construction.* Affordable units must be constructed concurrently with market rate units. The affordable units shall be integrated into the market rate component of the plan to the greatest extent feasible. If complete integration cannot be achieved, the applicant shall provide justification for not meeting the intent of this section and why such integration is not feasible. The applicant shall submit a plan of the affordable and market rate unit distribution in the development to the Town. The Planning Commission shall review and make a recommendation on the affordable and market rate unit distribution plan and the Town Council shall review the final plan for approval.~~

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities for mixed income affordable housing projects. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.510. HEOZ and underlying zoning.

A property that has the HEOZ designation may be developed with a residential or mixed-use project with a residential use occupying more than 50 percent of the total floor area based on the standards provided in this division or, where standards are not specified, then based on the standards provided in the underlying zone. The underlying zoning development standards will remain in effect for all other development without a residential component.

Pursuant to Government Code Section 65583.2(i), by right development will be allowed when 20 percent or more of the units are affordable to lower income households.

Sec. 29.80.515. HEOZ general development standards.

A proposed residential project, including a mixed-use project with a residential use occupying more than 50 percent of the total floor area within the HEOZ shall be designed and constructed in conformity with the development standards for the corresponding zoning and General Plan Land Use designation in Table 1A (Overlay Zones Development Standards). Regardless of the underlying zoning designation, no residential project or mixed-use project

with residential may be developed that does not meet the applicable HEOZ development standards.

Table 1A (HEOZ Development Standards

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
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North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
Service Commercial	LM	As authorized by Section 29.70.125	N/A	1.0	35 feet	none
Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

DATE: August 18, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for a Request to Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Amend the Town Code to Modify the Affordable Housing Overlay Zone Division 5 of Article VIII Overlay Zones and Historic Preservation to be the Housing Element Overlay Zone as Division 5 of Article VIII Overlay Zones and Historic Preservation. An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments. No Further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. **Project Location: Town Wide**. Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation of approval to the Town Council for the following items:

1. Amend the 2020 General Plan Land Use Element to include a description of the Housing Element Overlay Zone (HEOZ); and
2. Amend the Town Code to modify the Affordable Housing Overlay Zone (AHOZ) of Division 5, Article VIII Overlay Zones and Historic to be the HEOZ.

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income groups within

PREPARED BY: Jocelyn Shoopman and Erin Walters
Associate Planner and Associate Planner

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

BACKGROUND (continued):

the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle planning period is 1,993 units.

On January 30, 2023, the Town Council adopted the 2023-2031 Housing Element with modifications to the Sites Inventory, finding that it was in substantial compliance with State law. Two of the Implementation Programs contained in the Housing Element adopted by Town Council are the basis for the items under consideration and described in further detail below.

The Town continues to work with HCD to get the 2023-2031 Housing Element certified and resubmitted its latest version to HCD on March 31, 2023.

The Housing Element Advisory Board (HEAB) met on July 20, 2023, to review and discuss portions of the Town's interim working Draft Revised Housing Element addressing HCD's findings/comment letter received by the Town on May 30, 2023.

The most recent information on the status of the ongoing Housing Element update process can be viewed online at: https://www.losgatosca.gov/HousingElement.

DISCUSSION:

A. General Plan Committee

On July 20, 2023, at a special meeting, the General Plan Committee (GPC) reviewed the requests described below and recommended approval of the General Plan amendments to the Planning Commission and Town Council.

B. General Plan Land Use Designation

The 2023-2031 Housing Element includes Implementation Programs that involve rezoning of parcels within the Town to allow for modified development standards. The purpose of these modified development standards is to provide the development capacity required by State law and the Town's RHNA, as mentioned above.

DISCUSSION (continued):

- *Implementation Program BG, General Plan Amendment*

  Amend the General Plan to modify the designation of 16492 Los Gatos Boulevard and Assessor Parcel Number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial, modify the designation of the Caltrans right- of-way from Low Density Residential to Medium Density Residential, and establish new maximum densities for the High Residential, Medium Density Residential, Low Density Residential, Mixed-Use, Neighborhood Commercial, and Central Business District land use designations to provide for the development of housing for the sites in the Site Inventory.

The first step in creating the new maximum densities referenced in Implementation Program BG, is the addition of the HEOZ and the associated development standards in the 2020 General Plan Land Use Element. In addition to density, those development standards will also include lot coverage, floor area, and height, as provided in Table LU-2 on the following page and included in Exhibit 2.

The Town has received public comments since the July 20, 2023, GPC meeting suggesting a future need to add sites to the Sites Inventory as a result of No Net Loss law. In response to these comments, staff is recommending the modifications shown in underlined text to Table LU-2, *HEOZ Development Standards* to ensure that standards are included for all land use designations. Given the requirements of No Net Loss law, the addition of sites to the Sites Inventory may be required in the future as sites on the current inventory are developed.

DISCUSSION (continued):

Table LU-2, HEOZ Development Standards

Designation	**Standards**
Low Density Residential	**Density:** 0 – 5 du/ac **Lot Coverage:** Up to 50% **Max. Height:** 30 feet
Medium Density Residential	**Density:** 14 – 22 du/ac **Density in Very High Fire Hazard Severity Zones:** 5 – 12 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 35 feet
High Density Residential	**Density:** 30 – 40 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 45 feet
Mixed-Use	**Density:** 30 – 40 du/ac **FAR:** Up to 3.0 **Max. Height:** 45 feet
Neighborhood Commercial	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Central Business District	**Density:** 20 – 30 du/ac **FAR:** Up to 2.0 **Max. Height:** 45 feet
North Forty Specific Plan	As defined in Specific Plan
Office Professional	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Service Commercial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet
Light Industrial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet

The General Plan modifications to 16492 Los Gatos Boulevard, APN 532-07-086, and the Caltrans right-of-way will be considered in a separate General Plan Amendment application, item 5 of tonight's Planning Commission agenda.

DISCUSSION (continued):

C. Zoning

The following Implementation Program is included in the Housing Element adopted by Town Council on January 30, 2023, and is presented below, as modified and presented in the July 2023 Interim Working Draft Revised Housing Element. This program proposes to amend the Zoning Code to comply with State Housing Element law:

- *Implementation Program BF, Zoning Code Amendments*

  Amend the Zoning Code to comply with State law and ensure adequate sites are available to accommodate the identified sites in the Sites Inventory. These Code revisions include:

  1. Amend the Zoning Code to include a HEOZ to apply to the sites included in the Sites Inventory and to modify the development standards (i.e., density, lot coverage, FAR, height) on those sites;
  2. Amend the Affordable Housing Overlay Zone to increase the maximum allowable density from 20 dwelling units per acre to 40 dwelling units per acre;
  3. Clarify the text of the non-residential zones regarding housing;
  4. Rezone the Caltrans Right-of-Way – Site E3 from R:1:8 to R-M:14-22;
  5. Amend the Accessory Dwelling Unit Ordinance; and
  6. Amend the Density Bonus Ordinance.

In response to item #1 of Implementation Program BF, staff has drafted amendments to the Zoning Code to replace the AHOZ with the new HEOZ as Division 5, Article VIII Overlay Zones and Historic Preservation (Exhibit 3).

Due to changes to State law, many components of the AHOZ are no longer compliant with State law. Additionally, the AHOZ only applied to a single parcel in the Town, located at 110 Knowles Avenue. Therefore, staff expects to remove item #2 of Implementation Program BF. The application of the HEOZ to the remaining AHOZ parcel will provide greater flexibility in order to create more potential for the development of housing. All other components of Implementation Program BF will be completed at a later date. Application of the HEOZ to the sites in the Sites Inventory will be considered in a separate zoning amendment application, item 5 on tonight's Planning Commission agenda.

In response to public comments received since the July 20, 2023, GPC meeting regarding adding sites to the current Sites Inventory, staff is recommending the following

DISCUSSION (continued):

modifications shown in underlined text to Table 1A (HEOZ Development Standards), shown below to reflect the possibility of adding sites to the Sites Inventory in the future as sites on the current inventory are developed (Exhibit 3).

Table 1A (HEOZ Development Standards)

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
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Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
Service Commercial	LM	As authorized by Section 29.70.125	N/A	1.0	35 feet	none
Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

PUBLIC COMMENTS:

Public notification has included a legal ad in the paper. The meeting has been publicized on the Town's website and through the Town's social media platforms. As of the drafting of this report, no comments from the public have been received.

CONCLUSION:

A. Summary

A request for approval of the following General Plan Amendment and Zone Changes:

1. Approval of a request to amend the 2020 General Plan Land Use Element to include a description of the Housing Element Overlay Zone; and
2. Approval of a request to amend the Town Code to modify the Affordable Housing Overlay Zone of Division 5, Article VIII Overlay Zones and Historic Preservation to be the Housing Element Overlay Zone.

B. Recommendation

Based on the analysis above, staff recommends that the Planning Commission consider the General Plan amendment and Zoning amendments and forward a recommendation for approval of the amendments to the Town Council. If the Planning Commission finds merit with the proposed amendments, it should:

1. Make the finding that no further environmental analysis is required (Exhibit 1);
2. Make the required finding that the General Plan amendments are internally consistent with the existing goals and policies of the General Plan and its elements, in that the amendments will provide for the development of housing for the sites in the Sites Inventory to comply with the Town's RHNA (Exhibit 1);
3. Make the required finding that the proposed amendments to the Zoning Code is consistent with the General Plan and its elements in that the Zoning Code amendment is consistent with the proposed General Plan Land Use elements (Exhibit 1); and
4. Forward a recommendation of approval of General Plan Amendment application GP-23-002 and Zone Change application Z-23-002 to the Town Council.

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction;
2. Provide a recommendation for denial to the Town Council providing findings for denial.

EXHIBITS:

1. Draft Findings
2. Draft General Plan Amendment
3. Draft Zoning Code Ordinance Amendments, Division 5. Housing Element Overlay Zone

PLANNING COMMISSION – *August 23, 2023*
REQUIRED FINDINGS

General Plan Amendment Application GP-23-002
Zone Change Application Z-23-002

Forward a Recommendation to the Town Council for a Request Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Amend the Town Code to Modify the Affordable Housing Overlay Zone Division 5 of Article VIII Overlay Zones and Historic Preservation to be the Housing Element Overlay Zone as Division 5 of Article VIII Overlay Zones and Historic Preservation. An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments. No Further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. Project Location: Town Wide. Applicant: Town of Los Gatos.

FINDINGS:

Required finding for CEQA:

- An EIR was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments. No further environmental analysis is required.

Required consistency with the Town's General Plan:

- That the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements, in that the amendments will provide for the development of housing for the sites in the Site Inventory to comply with the Town's Regional Housing Needs Allocation.

- That the proposed amendments to the Zoning Code are consistent with the General Plan and its Elements in that the Zoning Code amendment is consistent with the proposed General Plan land use designations.

EXHIBIT 1

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3 LAND USE ELEMENT

A. Introduction

Los Gatos is a mature, predominantly built-out community. While there is little room for growth or change in the physical environment, land use is dynamic and change is constant from within and outside the community. Managing change in an effort to maintain our quality of life is a priority of this General Plan and the Community.

The Land Use Element is the framework of the General Plan and is intended to inform and shape the future physical development of Los Gatos. This Element sets forth the patterns of development activity and land uses that will support and enhance the character of the Town. Although all General Plan Elements are of equal importance, the Land Use Element is the most frequently used and referenced section of the General Plan.

Planning for neighborhood preservation and protection is one of the most important purposes of the Town's General Plan. Preserving the small-town heritage, natural setting, and architectural diversity are also important to this community. One of Los Gatos's most outstanding assets is the visual diversity of its individual neighborhoods. Existing development represents a variety of architectural styles from various eras, embodying a variety of sizes, design features, and building materials, resulting in neighborhoods with their own unique identity. For example, Downtown Los Gatos is the historic heart of Town with a pedestrian-scale setting of mixed land uses and architecturally historic buildings. It is a unique area that sets the spirit and style of the entire Town.

Maintaining neighborhood quality suggests conservation of existing housing, good street design, traffic control in residential neighborhoods, and development review that adheres to quality design. Factors such as new or excessive traffic, aging or inadequate infrastructure, and even economic pressures may cause disruption of neighborhoods. Neighborhood preservation also includes balancing the intensity of land uses with the existing residential density.

Los Gatos also focuses on maintaining a "full-service" town that provides a range of goods and services that support the economic vitality of the Town. The commercial centers of Los Gatos are therefore also important to the community. Under the Los Gatos Boulevard Plan, the community expressed interest in creating a shopping experience and destination that complements but does not compete with the Downtown.

Residential and non-residential uses produce different impacts on the community. The impacts on traffic, noise, schools, open space, and other quality-of-life issues will vary, depending on the final mixture of residential and non-residential uses approved within the area. The overall planning for the area needs to limit the adverse impacts on the quality of life of all of the residents of Los Gatos and to provide for open space.

The Land Use Element describes land use designations, special planning areas, and existing land uses in Los Gatos. The Land Use Element is divided into the following sections:

- **Introduction:** A description of the requirements and contents of the Land Use Element.
- **Existing Land Uses:** A description of existing land uses in Los Gatos.
- **General Plan Land Use Designations:** A description of the characteristics and intensity of the different land use designations in Los Gatos, including a map identifying the location of these land use designations.
- **Special Planning Areas:** A description of special planning areas, including Historic Districts and Specific Plan Overlays.
- **Goals, Policies, and Actions:** A list of goal, policy, and action statements that provide guidance to Los Gatos on land use decisions.

B. Authority for the Element

California Government Code Section 65302(a) and Public Resources Code Section 2762(a) require that the Land Use Element provide the following information:

- Distribution, location, and extent of land uses for categories of public or private uses. Such categories include, but are not limited to housing, business, industry, open space, natural resources, recreation and enjoyment of scenic beauty, education, and public buildings and grounds.
- Population density and building intensity standards for land use designations.

The Land Use Element has the broadest scope of any of the State-required components of the General Plan. In addition to the State's requirements set forth in the Government Code, it has also been legally established that, while the location of a particular land use may be expressed in general terms, a property owner must be able to identify the General Plan Land Use Designation for his/her parcel from the land use diagram contained in the Land Use Element.

Among the important implementation mechanisms for the Land Use Element are Specific Plans and the Town Code. The California Government Code requires that the Town Code and zoning map be consistent with its General Plan Land Use Element and land use map, and that all provisions of Specific Plans adopted by the Town must be consistent with the General Plan that they implement.

C. Relationship of Land Use Element to other Elements and Plans

Because the Land Use Element sets the framework of the General Plan, the Land Use Element relates directly to all goals and policies of the other Elements and unifies the General Plan by providing the overall policy context for the other Elements. The relationship of the Land Use Element to other elements and plans is described below.

- The Land Use Element addresses circulation by setting out, in its map and policies, the location and size of all roadways in the Town coordinated with the land uses the roads will serve. It also notes the planned capacities of all other infrastructure systems that will be necessary to protect the health and welfare of the Town's citizens.
- The location, type, and density of residential units are key components of the Land Use Element. The Housing Element uses the density ranges specified in the Land Use Element to identify sites to meet the Town's housing needs.
- The mandates of the Safety Element are reflected in the designation and location of land use, the permitted activities within designated areas, and the patterns of land use that support defensible space, the Town's contingency plan, and fire and other hazard mitigation.
- The Land Use Element addresses buffers between noise sensitive uses and noise sources.
- The Town conserves resources through policies for the wise use of land, water, and energy.
- Air quality is improved by land use patterns that minimize vehicle travel within the Town.
- The Conservation Element goals address protecting and enhancing the natural environment. Programs that retain natural features such as tree preservation, limited grading, and water conservation maintain the natural character of Los Gatos.
- The Open Space Element refers to the location, character, and use of parks, recreational facilities, and preserved, unimproved land.
- Land use designations protect and preserve open spaces.
- The Land Use Element reflects the Town's high priority for quality design.

- The Land Use and Community Design Elements preserve historical buildings and historic areas, limiting the size of houses, while careful de- sign of new infill developments protects the character of Los Gatos.
- California State law requires that all Specific Plans and zoning regulations be consistent with the General Plan. The Hillside Specific Plan, the North Forty Specific Plan, the Redevelopment Plan, and other plans that may be adopted as necessary will be consistent with this General Plan.

D. Existing Land Uses

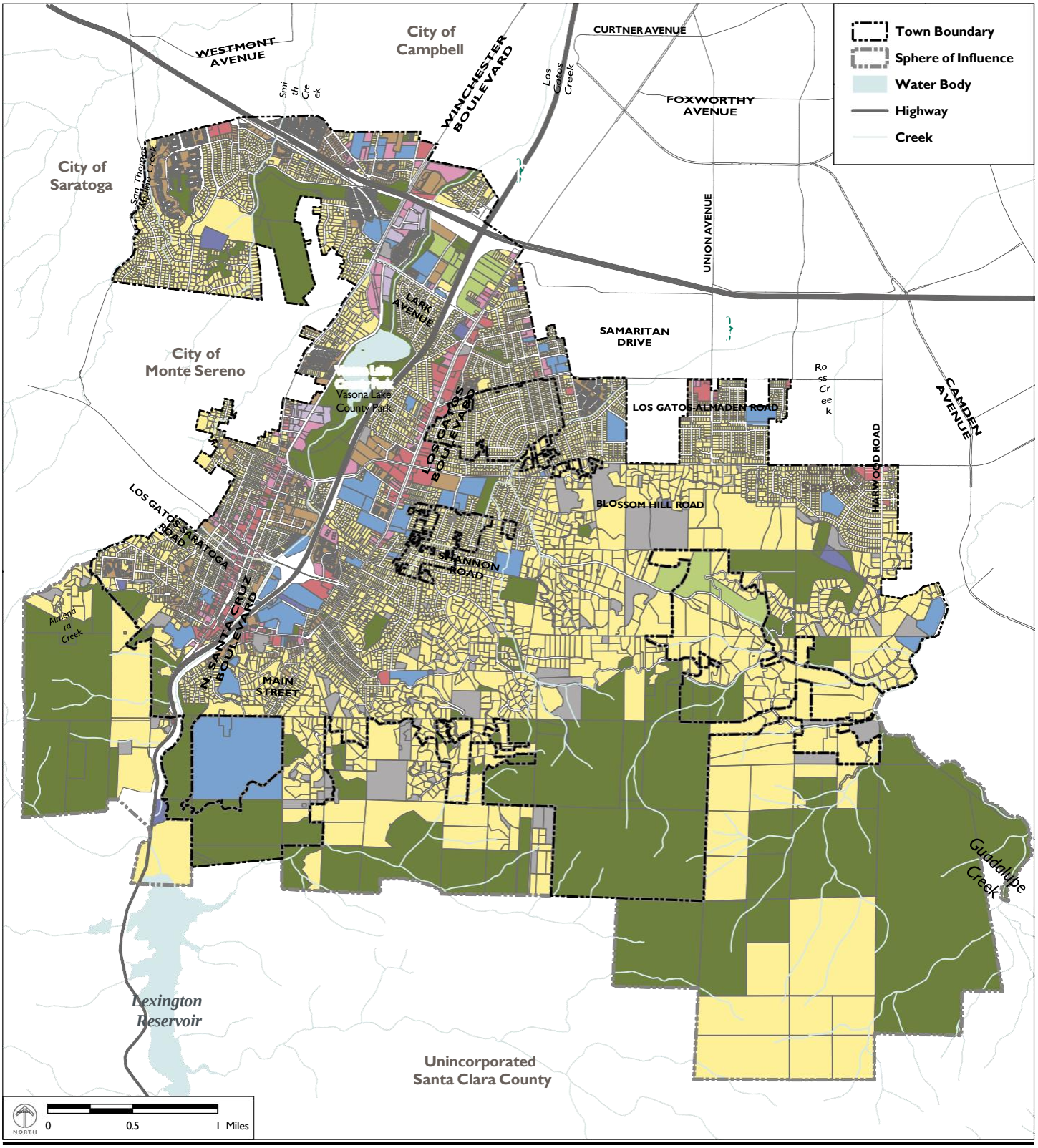
This section contains qualitative and quantitative descriptions of existing land uses in the Town of Los Gatos and Los Gatos's Sphere of Influence (SOI). "Existing land uses" refers to the existing built environment, regardless of the General Plan land use designation or zoning designation applied by the Town. This initial assessment is based on data from the Santa Clara County Office of the Assessor. Existing land uses are illustrated in Figure LU-1 and listed in Table LU-1.

1. Residential – Single Family

Approximately 3,183 acres of land in Los Gatos are dedicated to parcels that contain a single, detached residence and related structures. Single-family residential land use is located throughout the Town, with the exception of the public and open spaces in the southern area of the Town and along commercial corridors immediately adjacent to Los Gatos Boulevard and Santa Cruz Avenue. In the SOI, approximately 2,728 acres of land are dedicated to single-family residential land.

2. Residential – Multi-Family

This land use category refers to parcels that contain more than one housing unit. It includes duplexes, triplexes, fourplexes, condominiums, and apartment buildings. This residential land use totals approximately 407 acres in the Town. There is no multi-family housing in the SOI. Multi-family uses are largely clustered in and around the Highway 17 corridor, either between



Source: Santa Clara County Office of the Assessor, 2006; DC&E, 2008.

Existing Land Use

- Single Family Residential
- -Family Residential
- Commercial
- Office/Professional
- Light Industrial
- Public Utilities
- Public/Quasi-Public
- Agricultural
- Open Space/Recreation
- Vacant

FIGURE LU-1

EXISTING LAND USE

TABLE LU-1 **EXISTING LAND USES**

Land Use Category	Number of Acres	Percent of Town Acreage	Percent of SOI Acreage
Residential – Single Family	5,911	51.2%	51.9%
Residential – Multi-Family	407	6.5%	0%
Commercial	164	2.6%	0%
Office Professional	126	2%	0%
Light Industrial	37	0.6%	0%
Public/Quasi-Public	440	4.7%	2.8%
Public Utilities	39	0.5%	0.1%
Agricultural	112	1%	1%
Open Space/Recreation	3,841	26.2%	42.2%
Vacant	399	4.7%	2%
Total	**11,476**	**100%**	**100%**

Source: County of Santa Clara, Office of the Assessor, 2006.

Los Gatos Boulevard and Highway 17 or in the area south of Vasona Lake County Park. A significant pocket of multi-family housing is also located in the northwest corner of the Town, just south of the City of Campbell.

3. Commercial

Commercial land refers to parcels that contain either retail businesses—those offering specific products for sale—or businesses that provide day-to-day services such as grocery stores, restaurants, spas and salons, dry cleaners, and nurseries. There are approximately 164 acres of commercial uses in Los Gatos and 1 acre in the SOI. Most commercial parcels in Los Gatos are located along the Santa Cruz Avenue or Los Gatos Boulevard corridors.

4. Office Professional

Office Professional land use refers to parcels that contain offices for medical, legal, insurance, consulting, and similar contracted services. Office and professional uses account for 125 acres in Los Gatos. Like commercial parcels, office professional parcels are concentrated along the Town's primary commercial corridors. An additional cluster of office and professional uses is located near the Highway 17/85 interchange.

5. Light Industrial

The Light Industrial land use category refers to parcels used primarily for production, manufacturing, and research and development. Additional uses include self-storage and automobile service garages. There are approximately 37 acres of light industrial land uses in Los Gatos. Light industrial uses are concentrated in two small pockets, one just south of Highway 85 and east of Winchester Boulevard, and another along University Avenue, north of Blossom Hill Road.

6. Public/Quasi-Public

Public/Quasi-Public land uses include schools, libraries, police and fire stations, faith communities, and hospitals. These uses are distributed through- out Los Gatos, mostly in single parcels or small groups of parcels. Public/Quasi-Public land uses comprise approximately 291 acres of land in the Town and approximately 149 acres in the SOI.

7. Public Utilities

Public Utilities refer to uses related to communications and energy production and distribution. There are approximately 37 acres in the Town devoted to utilities divided between parcels scattered throughout Los Gatos. Many of these parcels are owned by San Jose Water Company and PG&E and are sites of communications infrastructure.

8. Agricultural

Agricultural land is used for raising and harvesting crops, breeding livestock, and/or housing equipment used for agricultural purposes. According to the Santa Clara County Assessor's Office, about 64 acres of land scattered

throughout Los Gatos, and approximately 48 acres in the SOI, are devoted to existing agricultural uses. One of the largest areas of agricultural land is the North Forty site, which contains orchard trees, including walnut and fruit trees. Wine grapes can be found in the Santa Cruz Mountains hillside areas.

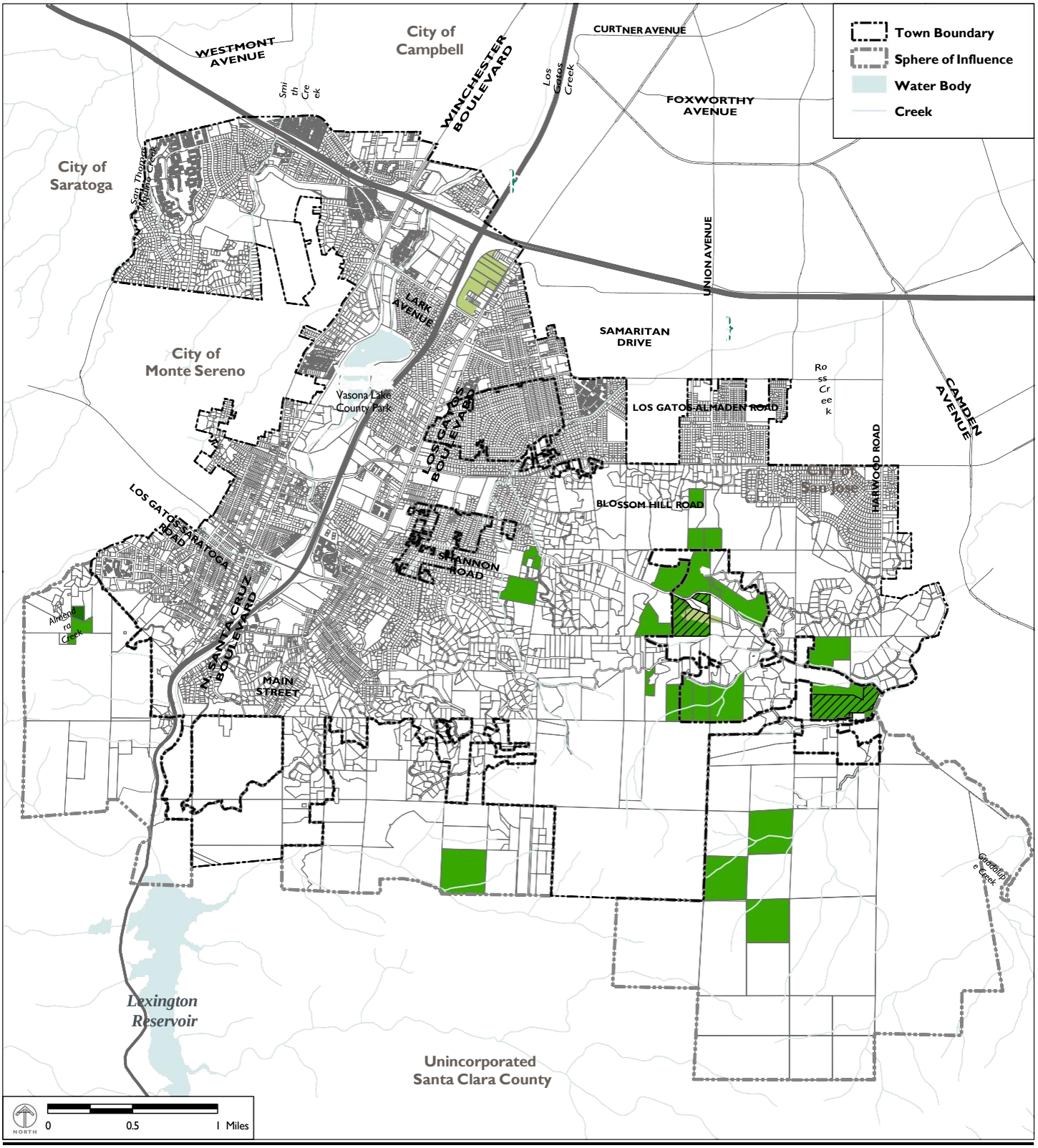
The California Land Conservation Act of 1965, better known as the Williamson Act, works to preserve agricultural and open space lands through restrictive use contracts administered by counties and cities under State regulations. Private landowners voluntarily restrict their land to agricultural and compatible open space uses under minimum 10-year rolling term contracts, with counties and cities also acting voluntarily. In return, the property tax on a Williamson Act parcel is assessed at a rate consistent with its actual use, rather than potential market value.

Figure LU-2 shows the location of all Williamson Act lands and their designation as well as farmland not covered by the Williamson Act. Approximately 136 acres of land within the Town limits and 358 acres of land within the SOI are designated Williamson Act land.[1] Of these, only 3.85 acres are considered "prime agricultural lands" under the definition of the Land Conservation Act. All of these lands occur in the Town's SOI. In addition to Williamson Act lands, approximately 32 acres of Unique Farmland are located within Town limits and 8 acres within the SOI. "Unique Farmland" is a designation ap- plied by the State Department of Conservation to land that is capable of producing specific high value crops. In Los Gatos, it is applied to the orchards on the North Forty site.

9. Open Space/Recreation

Open Space/Recreation refers to indoor and outdoor recreational facilities, including public open spaces such as regional parks, community centers,

[1] This number is higher than the number of acres in existing Agricultural use because Williamson Act include parcels that are classified by the Assessor as Agriculture, Open Space, and Single Family Residential. Single Family Residential may be considered an acceptable classification by the Assessor since Williamson Act contracts may include provisions for a limited number of dwelling units on the property.



Source: State of California Department of Conservation 2006.

Williamson Act Lands

- Prime Agricultural Land
- Non-Prime Agricultural Land
- Non-Prime/Non-Renewal Agricultural Land

State Farmland Designation

- Unique Farmland

FIGURE LU-2

WILLIAMSON ACT AND UNIQUE FARMLAND

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

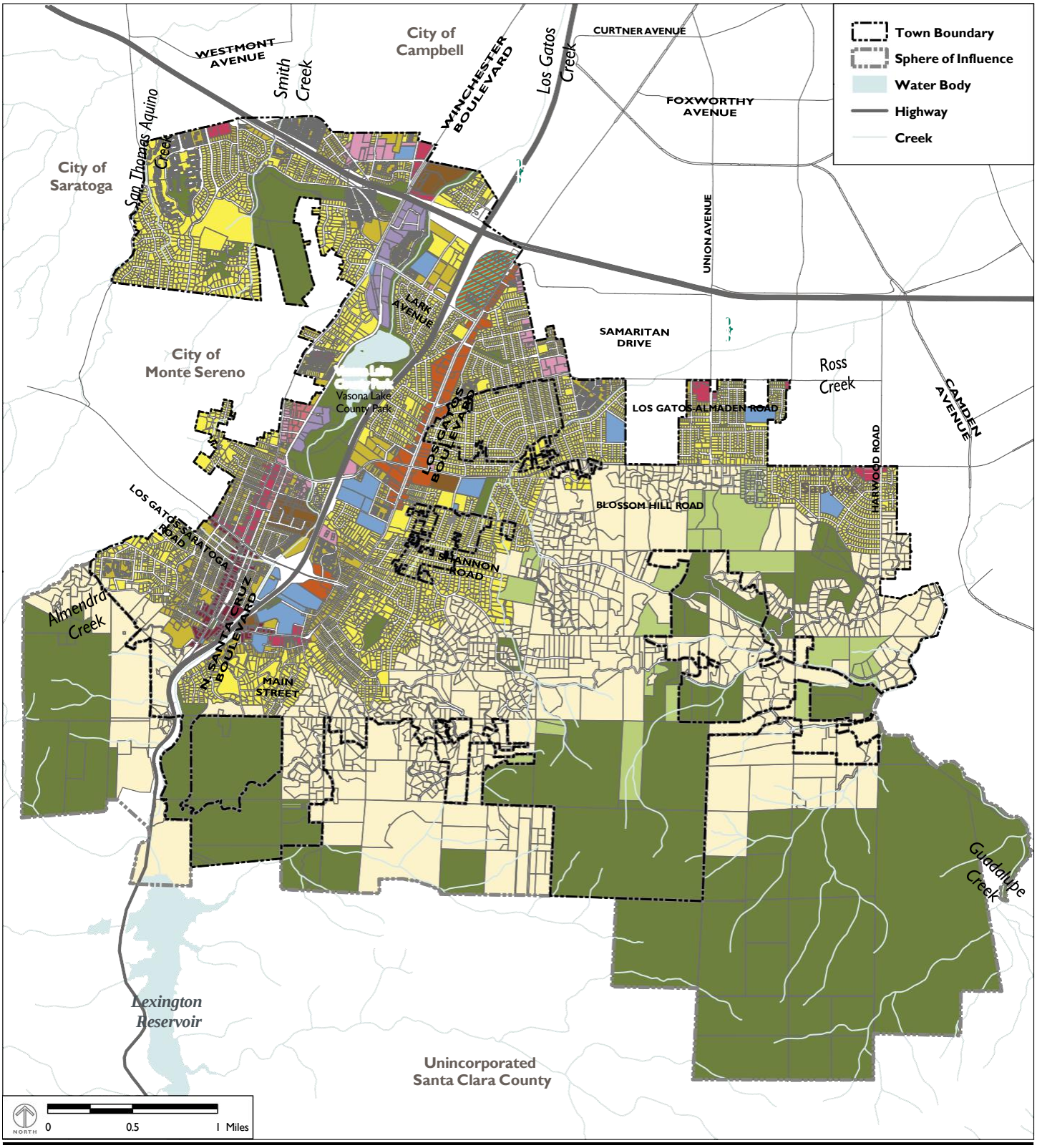
Approximately 292 acres within the Town are vacant parcels of varying sizes that are scattered throughout the Town. Most of the vacant acreage in Los Gatos is located in the single-family residential area on the eastern side of the Town. Parcels here are generally larger than they are elsewhere in Los 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.

General Plan Land Use

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

FIGURE LU-3

2020 GENERAL PLAN LAND USE

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 Indus- trial 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 down- town 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 restaurants

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 ser- vice-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.

- **Housing Element Overlay Zone (HEOZ).** The HEOZ is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, the housing element overlay zone encourages the development of housing affordable to all income levels as described in the 2023-2031 Housing Element Sites Inventory to comply with the Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle Planning period and listed in Table LU-2.

TABLE LU-2 **HEOZ Development Standards**

Designation	Standards
Low Density Residential	**Density:** 0 – 5 du/ac **Lot Coverage:** Up to 50% **Max. Height:** 30 feet
Medium Density Residential	**Density:** 14 – 22 du/ac **Density in Very High Fire Hazard Severity Zones:** 5 – 12 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 35 feet
High Density Residential	**Density:** 30 – 40 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 45 feet
Mixed-Use	**Density:** 30 – 40 du/ac **FAR:** Up to 3.0 **Max. Height:** 45 feet
Neighborhood Commercial	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Central Business District	**Density:** 20 – 30 du/ac **FAR:** Up to 2.0 **Max. Height:** 45 feet
North Forty Specific Plan	As defined in Specific Plan

Office Professional	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Service Commercial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet
Light Industrial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet

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 former Southern Pacific Railroad right-of-way to the west. The District is composed of five subdivisions that predate 1900 and contain a number of residential and commercial structures of mixed architectural styles. This District was established by ordinance in 1991. All of Los Gatos's historic districts are defined by structures that contribute to the District. In every District, the transformation of these structures is tightly regulated. Demolition of contributing structures is strictly prohibited. In addition, all restoration, rehabilitation, and new construction of principal units must adhere to a series of guidelines for preserving architectural heritage and conforming to existing style. Any modifications to the original design are either restricted or prohibited.

3. Overlay Designation

The North Forty Specific Plan Overlay is applied to the approximately 40-acre property bounded by Los Gatos Boulevard to the east, Highway 17 to the west, Lark Avenue to the south, and Highway 85 to the North. This Overlay requires the preparation and adoption of a specific plan that will determine the mix of uses, dimensional standards, architectural standards, phasing, and infrastructure to support the development of the property prior to approval of any entitlements. Drawing on the draft North Forty Specific Plan prepared in 1999, the General Plan overlay designation is intended to help guide the future development of this property. The 2020 General Plan Environmental Impact Report assumed a maximum capacity of 750 mixed residential units and 580,000 square feet of retail and offices uses for the purposes of assessing environmental impacts associated with the development of the property. While this is the maximum development capacity under this General Plan, the specific plan may be approved with lower densities and square footage of residential and commercial uses, respectively. The North Forty Specific Pan will be based on the following general guidelines:

- Include a mixture of uses that will complement the Downtown and the rest of the community.
- Be based on sustainable and "smart" development practices.

- Include public gathering spaces such as a plaza and park.
- Provide for a variety of residential housing types, both rental- and owner-occupied. A minimum of 20 percent of the units shall be affordable to households at the moderate income level or below.
- Include high-quality architecture and design that reflects the rural and agricultural history of the site.
- Provide pedestrian-oriented buildings along the Los Gatos Boulevard frontage, with minimal parking oriented to the street.
- Take advantage of the grade change across the site.
- Continue the "boulevard treatment" along Los Gatos Boulevard, with interconnections from one parcel's drive aisle to the next.
- Include connections to existing intersections along Los Gatos Boulevard and Lark Avenue.
- Develop gateway or landmark features at Los Gatos Boulevard and Lark Avenue and at Los Gatos Boulevard and the Highway 85 off-ramp.
- Provide an easily accessible, fully connected street network that encourages walking.
- Provide a vegetative buffer and screening along Highways 17 and 85.
- Preserve Town character and views.

4. Other Plans

The Hillside Specific Plan and Los Gatos Boulevard Plan areas are each developed according to separate land use goals and in different areas of the Town. In addition to these approved Specific Plans, the Town will be developing a North Forty Specific Plan.

a. Hillside Specific Plan

The Hillside Specific Plan establishes land use policy for the Hillside Study Area, an area of mountainous terrain in the southeastern portion of the Town designated for Hillside Residential development. Adopted by Town Council in 1978, the Specific Plan establishes a series of policies and standards related

to land use, facilities, services, circulation, fire protection, safety, and open space. These policies and standards are intended to prevent deficiencies in access to water and sewer services, ensure conservation of the sensitive natural environment, and address differences in Town and County land use regulations.

Development in the Hillside Specific Plan area is prohibited outside of designated "least restrictive development areas" (LRDAs) unless it is compliant with conditions established in the Plan.

b. Los Gatos Boulevard Plan

Adopted by Town Council in 1997, the Los Gatos Boulevard Specific Plan is a policy framework for meeting a series of short, medium, and long range goals related to the commercial revitalization of Los Gatos Boulevard. This Specific Plan is based on a land use concept for which higher density, mixed-use commercial development in the north of the Specific Plan area transitions into residential and community clusters, and then into existing residential neighborhoods just south of the Specific Plan area. This Specific Plan contains policies and design standards targeting safe, attractive public improvements; pedestrian-oriented activity nodes; vital, commercial land use; distinct gateways, and site-appropriate private improvements.

c. Central Los Gatos Redevelopment Project

The Central Los Gatos Redevelopment Project, which focuses on an area located around Downtown Los Gatos, contains a mix of residential and non- residential land use designations. The Town of Los Gatos Redevelopment Agency has the authority to facilitate property acquisition and management, construction of public improvements, structural rehabilitation, and site assembly within the Project Area. The project was adopted in 1991, following the 1989 Loma Prieta earthquake. The main objectives of the project are to eliminate blight, assemble land parcels for improved development, strengthen the economic base of downtown, and improve undeveloped and underutilized areas.

G. Goals, Policies, and Actions

The following goals, policies, and actions guide future physical development throughout Los Gatos.

Goal LU-1	**To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.**

Policy LU-1.1 Encourage developers to engage in discussions as early as possible regarding the nature and scope of the project and possible impacts and mitigation requirements.

Policy LU-1.2 Ensure that new development preserves and promotes existing commercial centers consistent with the maintenance of a small-scale, small-town atmosphere and image.

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

Policy LU-1.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.

Policy LU-1.5 Encourage private/public funding, development, and operation of cultural amenities, activities, and centers consistent with the small-town character of Los Gatos.

Policy LU-1.6 Recognizing that our ability to preserve our small-town character is somewhat dependent on decisions in surrounding communities, continue and expand Town participation in planning processes in neighboring jurisdictions and regional bodies in order to develop innovative, effective, and coordinated land use, transportation, and hillside development plans and standards that will help preserve our small-town character.

Policy LU-1.7 Use task forces, ad hoc committees and other means as appropriate to involve residential and commercial interests in Town matters.

Policy LU-1.8 Commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos.

Goal LU-2 **To maintain a balanced, economically stable community within environmental goals.**

Policies

Policy LU-2.1 Minimize vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos.

Policy LU-2.2 Promote telecommuting and home-based businesses by allowing live-work and work-live uses in existing and future residential development.

Goal LU-3 **To coordinate with surrounding jurisdictions and other local and regional agencies that may affect Los Gatos's future development patterns and character.**

Policies

Policy LU-3.1 Cooperate with the County of Santa Clara to encourage the annexation of unincorporated islands into the Town. The Town will not require the installation of curbs, gutters, sidewalks, or street lights as a condition of annexation nor will these improvements be imposed on annexed areas unless the residents of the area request such improvements and are willing to participate in the cost of such improvements. This does not prevent the Town from requiring such improvements as a condition of approval of any zoning or subdivision approval if such conditions are normally made on those items and the improvements would be in keeping with the neighborhood.

Policy LU-3.2 Work with Santa Clara County to ensure that projects developed in the County meet Town policies and standards, do not induce further development, and do not un- duly burden the Town.

Goal LU-4	**To provide for well-planned, careful growth that reflects the Town's existing character and infrastructure.**

Policies

Policy LU-4.1 Integrate planning for the North Forty area, Los Gatos Boulevard, Vasona Light Rail area, and Downtown so that development in each area takes into consideration the Town as a whole.

Policy LU-4.2 Allow development only with adequate physical infra-structure (e.g. transportation, sewers, utilities, etc.) and social services (e.g. education, public safety, etc.).

Policy LU-4.3 Only approve projects for which public costs can be justified by the overall benefit to the community.

Policy LU-4.4 Project applicants shall evaluate and provide appropriate mitigation measures to reduce impacts on urban services including schools, utilities, police, and fire.

Policy LU-4.5 Discourage corridor lots. Corridor lots shall only be allowed if the use of a corridor lot decreases the amount of public street required for the subdivision, contributes to the surrounding neighborhood, and is in context with the existing scale and established character of the neighborhood. The subdivider shall also demonstrate that the use of a corridor lot benefits surrounding properties.

Goal LU-5	**To encourage public involvement in Town planning processes.**

Policy

Policy LU-5.1 Use task forces, ad hoc committees, and other means as appropriate to involve residential and commercial interests in Town matters.

Action

Action LU-5.1 Utilize traditional communication tools and new media and technology to provide clear and current information on Town processes and decisions and to encourage public participation in Town government.

Goal LU-6	**To preserve and enhance the existing character and sense of place in residential neighborhoods.**

Policies

Policy LU-6.1 Protect existing residential areas from the impacts of non-residential development.

Policy LU-6.2 Allow non-residential activity in residential areas only when the character and quality of the neighborhood can be maintained.

Policy LU-6.3 Protect existing residential areas from adjacent non-residential uses by assuring that buffers are developed and maintained.

Policy LU-6.4 Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood.

Policy LU-6.5 The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood.

Policy LU-6.6 In order to reduce landfill, conserve resources, and preserve neighborhood character, demolitions shall be discouraged in established residential neighborhoods and applicants shall submit structural reports to determine whether the demolition of any principal structure is justified. If allowed, the replacement house should be similar in size and scale to other homes in the neighborhood and maintain the neighborhood character.

Policy LU-6.7 Continue to encourage a variety of housing types and sizes that is balanced throughout the Town and within neighborhoods, and that is also compatible with the character of the surrounding neighborhood.

Policy LU-6.8 New construction, remodels, and additions shall be compatible and blend with the existing neighborhood.

Policy LU-6.9 The Housing Element assumes that sites designated medium and high density residential will be developed at the upper end of the density range. If the Town approves a development at a lower density on one of these sites, staff shall identify one or more other sites to maintain the Town's capacity to meet its housing needs as identified in the Housing Element, subject to neighborhood compatibility and mitigation of traffic impacts.

Policy LU-6.10 Require applicants to submit letters of justification to show how new residential development contributes to the balance of types and sizes of housing available in Los Gatos.

Actions

Action LU-6.1 Develop standards for traffic, noise, intensity, and overall size for non-residential uses in residential zones.

Action LU-6.2 The conditional use permit approvals for non-residential uses in residential zones shall be reviewed by the Planning Commission on an as-needed basis for any adverse im- pacts, nuisances, or any required modifications.

Goal LU-7	**To use available land efficiently by encouraging appropriate infill development.**

Policies

Policy LU-7.1 Allow redevelopment of unused school sites commensurate with the surrounding residential neighborhood and availability of services.

Policy LU-7.2 To ensure compatibility with surrounding neighborhoods, infill projects shall demonstrate that the development meets the criteria contained in the Development Policy for In-Fill Projects and the deciding body shall make findings consistent with this policy.

Policy LU-7.3 Infill projects shall contribute to the further development of the surrounding neighborhood (e.g. improve circulation, contribute to or provide neighborhood unity, eliminate a blighted area) and shall not detract from the existing quality of life.

Policy LU-7.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.

Goal LU-8	**To uphold and enforce adopted land use regulations.**

Policies

Policy LU-8.1 Maintain a Code Compliance function to effectively enforce the land use regulations in the Town Code.

Policy LU-8.2 Town staff shall identify major violations (illegal units, sign violations, illegal uses, tree removals, grading violations, etc.) without waiting for public complaint. Town staff shall act on minor violations (illegally parked cars, boats, trailers and campers, etc.) based on public com- plaints. Additional violations that may be observed during investigation of a complaint shall also be acted on.

Goal LU-9	To provide residents with adequate commercial and industrial services.

Policies

Policy LU-9.1 Ensure that new development preserves and promotes existing commercial centers consistent with the maintenance of a small-scale, small-town atmosphere and image.

Policy LU-9.2 Maintain a variety of commercial uses, including a strong Downtown commercial area combined with Los Gatos Boulevard and strong neighborhood commercial centers to meet the shopping needs of residents and to preserve the small-town atmosphere.

Policy LU-9.3 Encourage a mix of retail and office uses in commercial areas, except in the Central Business District designation, where retail should be emphasized and office should be limited to upper floors and other areas as defined by the Town Code.

Policy LU-9.4 Encourage existing light industry and service commercial uses to remain or be replaced with similar uses.

Policy LU-9.5 Encourage the development and retention of locally owned stores and shops.



Policy LU-9.6 Encourage development that maintains and expands resident-oriented services and/or creates employment opportunities for local residents consistent with overall land use policies of the Town.



Policy LU-9.7 "Broadening the tax base" shall never be the sole reason for allowing new commercial development or approving a change in a commercial land use.

Policy LU-9.8 Retail sales tax "leakage" should be kept to a minimum by providing in-town convenience and comparative shopping opportunities.

Policy LU-9.9 Buffers shall be required as conditions of approval for non-residential projects that are adjacent to residential areas and may consist of landscaping, sound barriers, building setbacks, or open space.

Policy LU-9.10 Prohibit new commercial or industrial zoning adjacent to school sites and carefully consider the impacts of new school sites in industrial and commercial land use designations.

Action

Action LU-9.1 The Town should identify those businesses that are needed in the Town and actively recruit those businesses.

Goal LU-10	**To preserve Downtown Los Gatos as the historic center of the Town, with goods and services for local residents, while maintaining the existing Town identity, environment, and commercial viability.**

Policies

Policy LU-10.1 Encourage the development and retention of small businesses and independent stores and shops Downtown that are consistent with small-town character and scale.

Policy LU-10.2 Recognize and encourage the different functions, land use patterns, and use mixes of the various commercial areas within the Downtown. These include:

a. The pedestrian scale and orientation of the Central Business District.

b. The neighborhood-serving commercial land use pattern of areas north of Saratoga Avenue to Blossom Hill Road.

c. The mixed use commercial activities along Santa Cruz Avenue and the service commercial activities along University Avenue between Andrews Street and Blossom Hill Road.

Policy LU-10.3 Establish and maintain strong boundaries between the Central Business District designation and adjacent residential neighborhoods.

Policy LU-10.4 Encourage mixed uses to increase residential opportunities in commercial zones Downtown, taking into consideration potential impacts to loss of commercial opportunities.

Goal LU-11	**To plan for development of a variety of uses in the North Forty area in a coordinated and comprehensive way.**

Policies

Policy LU-11.1 Zoning shall be changed as part of development applications to provide consistency with the Vasona Light Rail Element and other elements of this General Plan and with any future specific plan prepared for this area.

Policy LU-11.2 The Town shall encourage uses that serve Town residents. These include, but are not limited to, open space, playfields, office, retail, and other commercial uses. Residential uses may be permitted as part of mixed-use development and only with acceptable mitigation of adverse noise, air quality, and other environmental hazards.

Policy LU-11.3 Provide coordinated infrastructure in the North Forty area.

Policy LU-11.4 Include a variety of regional destination and local-serving commercial uses in the North Forty area, following a logical land use pattern that takes advantage of the site opportunities while protecting adjacent uses.

Policy LU-11.5 Avoid negative effects on the long-term development potential of the area surrounding the North Forty area.

Policy LU-11.6 Incorporate multi-modal links from the North Forty area to the Vasona Light Rail station into the North Forty Specific Plan.

Action

Action LU-11.1 Prepare and adopt a specific plan for the North Forty area prior to development of the site.

Goal LU-12	**To ensure an appropriate mix of land use types along Los Gatos Boulevard in order to maintain the economic vitality of the corridor and continue to serve the needs of Town residents.**

Policies

Policy LU-12.1 Encourage redevelopment and assemblage of parcels that have experienced a high vacancy rate over a prolonged period of time, possibly including appropriate and compatible rezoning.

Policy LU-12.2 Encourage a mix of uses along Los Gatos Boulevard, including, where appropriate, mixed-use parcels that are compatible with surrounding uses.

Policy LU-12.3 New landscaping, streetscape improvements and new development along Los Gatos Boulevard shall incorporate pedestrian amenities, scale, and design.

Policy LU-12.4 Encourage mixed uses to increase residential opportunities in commercial zones.

Policy LU-12.5 Retain and enhance auto dealerships.

Policy LU-12.6 Neighborhood commercial, multi-family residential, and office uses shall be concentrated south of Los Gatos–Almaden Road.

Policy LU-12.7 New and relocating auto-related businesses shall be located north of Los Gatos–Almaden Road, adjacent to existing auto dealerships, or on a vacant site previously used for permitted auto sales.

Policy LU-12.8 Uses on Los Gatos Boulevard south of Roberts Road shall be residential or office; existing non-residential uses shall not be intensified; and existing vacant property and residential uses shall be developed as Single Family Residential.

Policy LU-12.9 Encourage replacement of vacated business south of Los Gatos–Almaden Road and north of Roberts Road/Shannon Road with neighborhood commercial, multi-family, or office uses.

Goal LU-13	**To promote appropriate and compatible development along Los Gatos Boulevard that complements the whole Town and serves residents and families.**

Policies

Policy LU-13.1 Development shall transition from higher intensity uses at the north end of Los Gatos Boulevard to existing residential uses at the south end of Los Gatos Boulevard.

Policy LU-13.2 Commercial activity along Los Gatos Boulevard shall complement the whole Town and shall provide a dependable source of income, employment opportunities, goods, and services.

Policy LU-13.3 New projects along Los Gatos Boulevard shall incorporate a family and resident orientation.

Policy LU-13.4 New development along Los Gatos Boulevard shall be designed to minimize adverse impacts on adjacent residential areas.

Policy LU-13.5 Establish and maintain appropriate boundaries between the commercial uses along Los Gatos Boulevard and adjacent residential neighborhoods.

Policy LU-13.6 Provide more pedestrian/bike areas and links to adjacent residential areas to foster neighborhood use of commercial centers.

Policy LU-13.7 Allow auto dealers and other commercial property owners and merchants to conduct occasional promotional sales activities with a "festival" atmosphere with appropriate restrictions to reduce traffic congestion and impacts on neighboring commercial and residential uses.

Actions

Action LU-13.1 Work with existing auto dealers and other commercial property owners and merchants to develop an appropriate commercial image specifically for Los Gatos Boulevard.

Action LU-13.2 Use the adopted Los Gatos Boulevard Plan and Commercial Design Guidelines to review development proposals and exterior improvements to existing buildings.

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DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.555. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as a key housing opportunity for mixed income affordable housing projects. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.5560. HEOZ and underlying zoning.

A property that has the HEOZ designation may be developed based on the standards provided in this division or, where standards are not specified, then based on the standards provided in the underlying zone.

Pursuant to Government Code Section 65583.2(i), by right development will be allowed when 20 percent or more of the units are affordable to lower income households.

Sec. 29.80.590. HEOZ general development standards.

Proposed development within the HEOZ shall be designed and constructed in conformity with the development standards for the corresponding zoning and General Plan Land Use designation in Table 1A (Overlay Zones Development Standards).

Table 1A (HEOZ Development Standards)

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan

Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
Service Commercial	LM	As authorized by Section 29.70.125	N/A	1.0	35 feet	none
Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

DATE: August 22, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for a Request to Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Amend the Town Code to Modify the Affordable Housing Overlay Zone Division 5 of Article VIII Overlay Zones and Historic Preservation to be the Housing Element Overlay Zone as Division 5 of Article VIII Overlay Zones and Historic Preservation. An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments. No Further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. **Project Location: Town Wide**. Applicant: Town of Los Gatos.

REMARKS:

Exhibit 4 contains public comments received between 11:01 a.m., Friday, August 18, 2023, and 11:00 a.m., Tuesday, August 22, 2023.

EXHIBITS:

Previously received with the August 23, 2023, Staff Report:

1. Draft Findings
2. Draft General Plan Amendment
3. Draft Zoning Code Ordinance Amendments, Division 5. Housing Element Overlay Zone

Received with this Addendum Report:

4. Public Comments received between 11:01 a.m., Friday, August 18, 2023, and 11:00 a.m., Tuesday, August 22, 2023.

PREPARED BY: Jocelyn Shoopman and Erin Walters
Associate Planner and Associate Planner

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

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From: Craig Steen [redacted]
Sent: Saturday, August 19, 2023 12:11 PM
To: Housing Element <HEUpdate@losgatosca.gov>
Subject: Renewed information & projections

[EXTERNAL SENDER]
Given the exhaustive research and subsequent editorial columns by Thomas Elias in the Los Gatos Weekly, not only have we learned that the state auditor challenged some of the numbers of new units needed stated by the Housing Authority, but there is extensive availability of unused commercial space owing to "work at home" tech businesses....BUT..THE REAL MESSAGE IS THAT THERE WILL UNDOUBTEDLY BE A REFERENDUM ON THE BALLOT IN '24 WHICH WILL SURELY PASS THUS NEGATING ALL PREVIOUS HOUSING/LAND USE REQUIREMENTS....so before you spend more tax dollars trying to satisfy unpopular density requirements....let's acknowledge the inevitable conclusion of our housing dilemma as it will be determined by respective towns/cities and the requirements of planners voted in by the residents.....Yes, this is not popular with Bonta and various members of our legislature, which apparently refuse to acknowledge ongoing dissatisfaction with their proposals....thank-you

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DATE: August 23, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for a Request to Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Amend the Town Code to Modify the Affordable Housing Overlay Zone Division 5 of Article VIII Overlay Zones and Historic Preservation to be the Housing Element Overlay Zone as Division 5 of Article VIII Overlay Zones and Historic Preservation. An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments. No Further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. **Project Location: Town Wide**. Applicant: Town of Los Gatos.

REMARKS:

Exhibit 5 contains a comparison of the development standards for the 2020 General Plan and the proposed Housing Element Overlay Zone.

EXHIBITS:

Previously received with the August 23, 2023, Staff Report:

1. Draft Findings
2. Draft General Plan Amendment
3. Draft Zoning Code Ordinance Amendments, Division 5. Housing Element Overlay Zone

Previously received with the August 22, 2023, Addendum Report:

4. Public Comments received between 11:01 a.m., Friday, August 18, 2023, and 11:00 a.m., Tuesday, August 22, 2023.

PREPARED BY: Jocelyn Shoopman and Erin Walters
Associate Planner and Associate Planner

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

SUBJECT: General Plan Amendment and Housing Element Overlay Zone/Z-23-002 and GP-23-002
DATE: August 23, 2023

Received with this Desk Item Report:

5. 2020 General Plan and HEOZ Comparison Table

Comparison Table of the Development Regulations for the 2020 General Plan and Housing Element Overlay Zone (HEOZ)

	Density Range (du/ac)		**Maximum Height (feet)**		**Lot Coverage (%)**		**Floor Area Ratio**	
Land Use Designations	*2020 General Plan*	*HEOZ*	*2020 General Plan*	*HEOZ*	*2020 General Plan*	*HEOZ*	*2020 General Plan*	*HEOZ*
Low Density Residential	0 – 5	0 – 5	30*	30	40%*	Up to 50%	Pursuant to calculation in Section 29.40.075 of Town Code*	Pursuant to calculation in Section 29.40.075 of Town Code**
Medium Density Residential	5 – 12	14 – 22 or 5 – 12 if in VHFHS zone	30 or 35*	35	40%*	Up to 75%	Pursuant to calculation in Section 29.40.075 of Town Code or none*	Pursuant to calculation in Section 29.40.075 of Town Code**
High Density Residential	12 – 20	30 – 40	35*	45	40%*	up to 75%	None*	None**
Mixed-Use Commercial	10 – 20*	30 – 40	35	45	Up to 50%	Up to 50%**	None*	Up to 3.0
Neighborhood Commercial	10 – 20*	10 – 20	35	35	Up to 50%	Up to 50%**	None*	Up to 1.0
Central Business District	10 – 20*	20 – 30	45	45	None*	None**	Up to 0.6	Up to 2.0
North Forty Specific Plan	20	30 – 40	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan
Office Professional	10 – 20*	10-20	35 feet	35 feet	Up to 50%	N/A	None*	1.0
Service Commercial	None	None	35 feet	35 feet	Up to 50%	N/A	None*	1.0
Light Industrial	None	None	35 feet	35 feet	Up to 50%	N/A	None*	1.0
* The 2020 General Plan is silent on this development standard. The applicable regulation under the Zoning Ordinance has been provided for context.								
** The 2023-2031 Draft Revised Housing Element is silent on this development standard and so development would be evaluated based on the underlying designation in the 2020 General Plan Land Use Element.								

EXHIBIT 5

2020 General Plan Land Use Categories

2020 General Plan Land Use Category	Related Zoning
Low Density Residential	R-1:8
Medium Density Residential	R-1D, R-D, and R-M
High Density Residential	R-M
Mixed-Use Commercial	CH
Neighborhood Commercial	C-1
Central Business District	C-2
North Forty Specific Plan	NF-SP
Office Professional	O
Service Commercial	LM
Light Industrial	CM

A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Jeffrey Barnett, Chair Steve Raspe, Vice Chair Susan Burnett Melanie Hanssen Kathryn Janoff Emily Thomas
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

P R O C E E D I N G S:

CHAIR BARNETT: We'll now move on to Agenda Item 4, which is a Request to Forward a Recommendation to the Town Council for a Request to Amend the General Plan to Include a Description of the Housing Element Overlay Zone, and Amend the Town Code to Modify the Affordable Housing Overlay Zone, Division 5 of Article VIII, Overlay Zones and Historic Preservation, to be the Housing Element Overlay Zone as Division 5 of Article VIII, Overlay Zones and Historic Preservation.

Per Staff an Environmental Impact Report was prepared and certified for the 2040 General Plan Update on June 30th of last year, which includes the proposed General Plan Amendments. No further environmental analysis is required.

The Zoning Code Amendment Application is Z-23-002, and the General Plan Amendment Application is GP-23-002. The property location is Statewide, and the Applicant is the Town of Los Gatos.

Could we have a Staff Report?

ERIN WALTERS: Good evening, Erin Walters, Associate Planner. I will be presenting this evening. Good evening, Planning Commissioners.

The six-cycle Housing Element includes Implementation Program BG for the General Plan Amendment and Program BF for the Zoning Code Amendments that involve rezoning the parcels within the Town to allow modified development standards. The purpose of these modified development standards is to provide the development capacity required by the State law to meet the Town's RHNA.

On July 20, 2023 a special meeting of the General Plan Committee reviewed the request and recommended approval of the General Plan Amendments to the Planning Commission and Town Council.

Tonight the Commission will consider and make a recommendation to Council on the request to amend the 2020 General Plan Land Use Element and Zoning Ordinance by adding a description of the Housing Element Overlay Zone, which is also referred to as the HEOZ. This motion does not include applying the HEOZ to any specific property and does not propose any specific development.

The language on pages LU-17 and LU-18 in the 2020 General Plan Land Use Element is proposed to be amended to

describe the newly created HEOZ. Table LU-2 is provided on page 4 of the Staff Report and describes the HEOZ development standards for each land use designation.

Tonight the Commission will also consider and make recommendation to Town Council on a request to amend the Zoning Code to replace the Affordable Housing Overlay Zone, known as AHOZ, with the new Housing Element Overlay Zone per Division 5, Article VIII, Overlay Zones and Historic Preservation. This action satisfies Item 1 of Implementation Program BF of the Housing Element and can be found in Exhibit 3.

Exhibit 5 of the Desk Item report provides a comparison of the development standards for the 2020 General Plan and proposed Housing Element Overlay Zone.

Staff recommends that the Planning Commission consider the General Plan Amendment and Zoning Amendments and forward a recommendation of approval of the amendments to Town Council per the findings that you can find in Exhibit 1.

An Addendum was provided yesterday that includes public comments that were provided after the preparation of the Staff Report as well as the Desk Item that was provided today.

This concludes Staff's presentation and we're happy to answer any questions you may have.

CHAIR BARNETT: Thank you for that report. Are there questions by Commissioners? I wonder if you or another member of the Staff could contrast Item 4 and Item 5 on our calendar tonight?

JENNIFER ARMER: Just to make sure that it's very clear, we do have two interrelated issues on the agenda tonight.

This is Item 4, and this is the creation of this overlay zone. It is proposing to put language and a table that describes this overlay zone both into the 2020 General Plan Land Use Element and putting those details into the Zoning Code.

Whereas Item 5, which we will hear next, involves taking that new overlay zone and applying it to the parcels within the Housing Element Sites Inventory. In addition, there are a few changes to specific land use designations, and we'll get into those details as part of Item 5.

CHAIR BARNETT: Thank you very much. We'll now open the public portion of the public meeting. Commissioner Burnett.

COMMISSIONER BURNETT: I just wanted to clarify with Staff on numbers 5 and 6 on page 261, that those will be separately amended in Implementation Program UVNZ?

JENNIFER ARMER: Yes, that's correct.

COMMISSIONER BURNETT: Thank you.

CHAIR BARNETT: Other questions of Staff? If not, I'll open the public portion of the public meeting and invite comments from members of the public. If you haven't already turned in a card, this would be a good time to do that. We have two here. When you're called on to speak, please come to the microphone and state your name and address, and you have three minutes to speak. We'll begin with Rosemary Harper.

ROSEMARY HARPER: Good evening, Commissioners. It's a pleasure to be here before you. I am Rosemary Harper. I live on Alberto Way, 453 Los Gatos Commons; it's a 55 and older community.

We are very, very concerned about development of the property on the corner of Alberto Way and Highway 9. This is the second time around for this property. Prior it was going to be a business development and now we're moving to residential.

I'm concerned about the height of the property. Four stories are overwhelming to the area around it; nothing is over two stories over there.

The volume of the increased traffic on a dead-end street with one way in and one way out. In an emergency such as what happened in Maui, it would be impossible for all the residents to be able to evacuate.

The construction of this proposed property would greatly impact the residents on this street, and the air quality is also of a concern.

As you consider this piece of property and the development I wish you would consider us as residents that have lived there for quite some time and the more increased traffic and high-density living. Thank you very much.

CHAIR BARNETT: Thank you. Before you go, let's see if you have any questions being presented by fellow commissioners, and it doesn't look like any.

I have a disclosure to make that many years ago in my legal practice if represented Los Gatos Commons.

ROSEMARY HARPER: Yes, I remember you. I've been in your office. Happy retirement.

CHAIR BARNETT: Thank you. That was a long time ago and I'm sure that my experience will not be of influence in this case. Next speaker would be Lee Quintana.

LEE QUINTANA: Good evening, again. I just have a few comments.

One is that I believe that there is such an interrelationship between Item 4 and Item 5 that they should both be considered at the same time and at the same meeting, and since there is a recommendation on Item 5 that it be continued, I suggest that the same be done for this item.

Part of my comments actually relate to Item 5, and since there's a question on how it relates to Item 4, I'll talk about it under Item 5, but to me the two are related. The two are complicated and hard to understand and I think they need to be addressed together, so I ask you to continue this item as you are recommended to continue Item 5.

CHAIR BARNETT: Thank you, Ms. Quintana. Are there questions by the Commissioners? I don't see any. Thank you very much. Mr. Paulson, do we have anyone on Zoom?

JOEL PAULSON: Thank you, Chair. Anyone who would like to speak on Item 4, raise your hand, please. I don't see any hands raised, Chair.

CHAIR BARNETT: Thank you. I note that the Staff recommendation is to forward a recommendation of approval to the Town Council on the following items: Amend the 2020 General Plan Land Use Element to include a description of the Housing Element Overlay Zone (HEOZ), and amend the Town Code to modify the Affordable Housing Overlay Zone (AHOZ) to Division 5, Article VIII, Overlay Zones and Historic to be HEOZ.

At this point I'll ask if Commissioners have any comments on the recommendation? Commissioner Hanssen.

COMMISSIONER HANSSEN: As you guys know, I am Chair of the Housing Element and chaired the 2040 General Plan Update, of which the Land Use Element and the Community Design Element have been referended, and so that's why we're here, because we have the Housing Element and because we have a very large target for planning for additional housing.

We're using the 2020 General Plan right now and the land use density and height standards are not sufficient to get the product that we would need to plan

appropriately for the 1,993 units that we're tasked with by the State, as well as the buffer.

I have a question for Staff, and we asked this before, I think, at the General Plan Committee, but Table LU-2, it was my understanding that this is the minimum density improvements that we would need to be able to achieve the density on the sites that are listed in the Site Inventory, which are the only sites this will be applied to, because we're not amending the actual land use standards in the General Plan other than for these sites?

ERIN WALTERS: Thank you for the question. Yes, that is true.

COMMISSIONER HANSSEN: A follow up question I would have is the only reason to continue on this, in my opinion, would be if there were some disagreement about the actual land use standards that we were making for the houses in the Site Inventory, which I don't think that's a question, because it's been asked multiple times that this is the minimum that we need to do to be able to meet our Regional Housing Needs allocation.

I would be in favor of approving Item 4. I do understand the interrelationship between Item 4 and Item 5, but basically we have no other way to meet our numbers

other than to put this Housing Element Overlay Zone, which is basically spot zoning at higher density for the sites that are in the Site Inventory only.

CHAIR BARNETT: Thank you. Other comments? Commissioner Thomas.

COMMISSIONER THOMAS: Thank you, Chair. I just want to echo what Commissioner Hanssen said. Two of the subcommittees that I served on was the General Plan Update Committee and the Housing Element Advisory Board.

I know that changes to zoning can be really scary for residents, but I think as Commissioner Hanssen said, this is really to address the specific areas that have already been targeted for hopefully development or redevelopment in order to meet those RHNA numbers that are mandated by the State, so I also support this recommendation as is.

CHAIR BARNETT: Thank you. Other comments? I don't see any. I noted the approval of the General Plan Amendment and zoning changes requires making of the approvals and findings on page 265 of the Staff Report, and I'm looking for a motion. Commissioner Janoff.

COMMISSIONER JANOFF: I move that we forward a recommendation to the Town Council for a request to amend

the General Plan to include a description of the Housing Element Overlay Zone and amend the Town Code to modify the Affordable Housing Overlay Zone, Division 5 of Article VIII, Overlay Zones and Historic Preservation to be the Housing Element Overlay Zone as Division 5 of Article VIII, Overlay Zones and Historic Preservation.

An Environmental Impact Report was prepared and certified for the 2040 General Plan Update on June 20, 2022, which included the proposed General Plan Amendments. No further environmental analysis is required.

Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002.

The project location is Townwide and the Applicant is the Town of Los Gatos.

I can make the required findings for CEQA, and I can find that we have the required consistency with the Town's General Plan as noted in Exhibit 1.

CHAIR BARNETT: Thank you for that complicated motion. A second? Commissioner Thomas.

COMMISSIONER THOMAS: I second.

CHAIR BARNETT: Discussion by the Commission? Commissioner Burnett.

COMMISSIONER BURNETT: I did ask Staff on this, when we say project locations Townwide, I want it clarified that we're not saying Townwide, we're saying at the Site Inventory only.

ERIN WALTERS: Yes, that's true.

CHAIR BARNETT: Any questions or comments? If not, please raise your hand in support of the motion. It's unanimous. Thank you very much. And I assume there are no appeal rights, because it's a recommendation?

JENNIFER ARMER: That is correct.

CHAIR BARNETT: Thank you.

(END)

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DATE: November 6, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Adopt a Resolution to Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Replace the Affordable Housing Overlay Zone Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,' With the Housing Element Overlay Zone As Division 5 of Article VIII, 'Overlay Zones and Historic Preservation.'" An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Town Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. Applicant: Town of Los Gatos. Project Planners: Jocelyn Shoopman and Erin Walters.

REMARKS:

There was an error included in the Draft Resolution for the General Plan Amendment provided in Attachment 1. A revised Draft Resolution for the General Plan Amendment has been provided in Attachment 8 for the Town Council's consideration.

ATTACHMENTS:

Attachments Previously Received with the November 7, 2023, Staff Report:

1. Draft Resolution for the General Plan Amendment with Exhibit A
2. Draft Ordinance for the Zoning Amendment with Exhibit A
3. Draft Town Code Amendments in Tracked Changes

PREPARED BY: Jocelyn Shoopman, Associate Planner and
Erin Walters, Associate Planner

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

Attachments Previously Received with the November 7, 2023, Staff Report (continued):

4. August 23, 2023, Planning Commission Staff Report with Exhibits 1-3
5. August 23, 2023, Planning Commission Addendum with Exhibit 4
6. August 23, 2023, Planning Commission Desk Item with Exhibits with Exhibit 5
7. August 23, 2023, Planning Commission Verbatim Minutes

Attachment Received with this Addendum:

8. Revised Draft Resolution for the General Plan Amendment with Exhibit A

Draft Resolution to be modified by Town Council deliberations and direction.

DRAFT RESOLUTION 2023-__

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING THE 2020 GENERAL PLAN LAND USE ELEMENT TO INCLUDE A DESCRIPTION OF THE HOUSING ELEMENT OVERLAY ZONE.

GENERAL PLAN AMENDMENT APPLICATION GP-23-002

PROPERTY LOCATION: TOWN WIDE
APPLICANT: TOWN OF LOS GATOS

WHEREAS, the General Plan Committee at its meeting of July 20, 2023, recommended that the 2020 General Plan Land Use Element be amended to include a description of the Housing Element Overlay Zone; and

WHEREAS, the Planning Commission at its meeting on August 23, 2023, reviewed the proposed General Plan amendment and forwarded a recommendation of approval to the Town Council; and

WHEREAS, the Town Council at its meeting on October 3, 2023, reviewed the proposed General Plan amendment, held a public hearing, and adopted a resolution to amend the 2020 General Plan Land Use Element to include a description of the Housing Element Overlay Zone;

WHEREAS, however, because the project description in the public hearing notice did not include the Planning Commission's recommendation, the item has been re-noticed for the Town Council's consideration; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed General Plan amendment and held a public hearing; and

WHEREAS, the Town Council considered all facts and information related to the request to amend the 2020 General Plan Land Use Element to include a description of the Housing Element Overlay Zone as shown on Exhibit A.

ATTACHMENT 8

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS RESOLVES AS FOLLOWS:

1. The Town Council finds as follows:
   A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments; and
   B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements, in that the amendments will provide for the development of housing for the sites in the Sites Inventory to comply with the Town's Regional Housing Needs Allocation; and
   C. The Town has complied with the requirements set forth in Government Code Section 65350 and following.
2. The 2020 General Plan Land Use Element is amended to include the description of the Housing Element Overlay Zone shown in Exhibit A to this Resolution.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the ____day of _____2023, by the following vote:

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: _____

DRAFT

3 LAND USE ELEMENT

A. Introduction

Los Gatos is a mature, predominantly built-out community. While there is little room for growth or change in the physical environment, land use is dynamic and change is constant from within and outside the community. Managing change in an effort to maintain our quality of life is a priority of this General Plan and the Community.

The Land Use Element is the framework of the General Plan and is intended to inform and shape the future physical development of Los Gatos. This Element sets forth the patterns of development activity and land uses that will support and enhance the character of the Town. Although all General Plan Elements are of equal importance, the Land Use Element is the most frequently used and referenced section of the General Plan.

Planning for neighborhood preservation and protection is one of the most important purposes of the Town's General Plan. Preserving the small-town heritage, natural setting, and architectural diversity are also important to this community. One of Los Gatos's most outstanding assets is the visual diversity of its individual neighborhoods. Existing development represents a variety of architectural styles from various eras, embodying a variety of sizes, design features, and building materials, resulting in neighborhoods with their own unique identity. For example, Downtown Los Gatos is the historic heart of Town with a pedestrian-scale setting of mixed land uses and architecturally historic buildings. It is a unique area that sets the spirit and style of the entire Town.

Maintaining neighborhood quality suggests conservation of existing housing, good street design, traffic control in residential neighborhoods, and development review that adheres to quality design. Factors such as new or excessive traffic, aging or inadequate infrastructure, and even economic pressures may cause disruption of neighborhoods. Neighborhood preservation also includes balancing the intensity of land uses with the existing residential density.

Los Gatos also focuses on maintaining a "full-service" town that provides a range of goods and services that support the economic vitality of the Town. The commercial centers of Los Gatos are therefore also important to the community. Under the Los Gatos Boulevard Plan, the community expressed interest in creating a shopping experience and destination that complements but does not compete with the Downtown.

Residential and non-residential uses produce different impacts on the community. The impacts on traffic, noise, schools, open space, and other quality-of-life issues will vary, depending on the final mixture of residential and non-residential uses approved within the area. The overall planning for the area needs to limit the adverse impacts on the quality of life of all of the residents of Los Gatos and to provide for open space.

The Land Use Element describes land use designations, special planning areas, and existing land uses in Los Gatos. The Land Use Element is divided into the following sections:

- **Introduction:** A description of the requirements and contents of the Land Use Element.
- **Existing Land Uses:** A description of existing land uses in Los Gatos.
- **General Plan Land Use Designations:** A description of the characteristics and intensity of the different land use designations in Los Gatos, including a map identifying the location of these land use designations.
- **Special Planning Areas:** A description of special planning areas, including Historic Districts and Specific Plan Overlays.
- **Goals, Policies, and Actions:** A list of goal, policy, and action statements that provide guidance to Los Gatos on land use decisions.

B. Authority for the Element

California Government Code Section 65302(a) and Public Resources Code Section 2762(a) require that the Land Use Element provide the following information:

- Distribution, location, and extent of land uses for categories of public or private uses. Such categories include, but are not limited to housing, business, industry, open space, natural resources, recreation and enjoyment of scenic beauty, education, and public buildings and grounds.
- Population density and building intensity standards for land use designations.

The Land Use Element has the broadest scope of any of the State-required components of the General Plan. In addition to the State's requirements set forth in the Government Code, it has also been legally established that, while the location of a particular land use may be expressed in general terms, a property owner must be able to identify the General Plan Land Use Designation for his/her parcel from the land use diagram contained in the Land Use Element.

Among the important implementation mechanisms for the Land Use Element are Specific Plans and the Town Code. The California Government Code requires that the Town Code and zoning map be consistent with its General Plan Land Use Element and land use map, and that all provisions of Specific Plans adopted by the Town must be consistent with the General Plan that they implement.

C. Relationship of Land Use Element to other Elements and Plans

Because the Land Use Element sets the framework of the General Plan, the Land Use Element relates directly to all goals and policies of the other Elements and unifies the General Plan by providing the overall policy context for the other Elements. The relationship of the Land Use Element to other elements and plans is described below.

- The Land Use Element addresses circulation by setting out, in its map and policies, the location and size of all roadways in the Town coordinated with the land uses the roads will serve. It also notes the planned capacities of all other infrastructure systems that will be necessary to protect the health and welfare of the Town's citizens.
- The location, type, and density of residential units are key components of the Land Use Element. The Housing Element uses the density ranges specified in the Land Use Element to identify sites to meet the Town's housing needs.
- The mandates of the Safety Element are reflected in the designation and location of land use, the permitted activities within designated areas, and the patterns of land use that support defensible space, the Town's contingency plan, and fire and other hazard mitigation.
- The Land Use Element addresses buffers between noise sensitive uses and noise sources.
- The Town conserves resources through policies for the wise use of land, water, and energy.
- Air quality is improved by land use patterns that minimize vehicle travel within the Town.
- The Conservation Element goals address protecting and enhancing the natural environment. Programs that retain natural features such as tree preservation, limited grading, and water conservation maintain the natural character of Los Gatos.
- The Open Space Element refers to the location, character, and use of parks, recreational facilities, and preserved, unimproved land.
- Land use designations protect and preserve open spaces.
- The Land Use Element reflects the Town's high priority for quality design.

- The Land Use and Community Design Elements preserve historical buildings and historic areas, limiting the size of houses, while careful de- sign of new infill developments protects the character of Los Gatos.
- California State law requires that all Specific Plans and zoning regulations be consistent with the General Plan. The Hillside Specific Plan, the North Forty Specific Plan, the Redevelopment Plan, and other plans that may be adopted as necessary will be consistent with this General Plan.

D. Existing Land Uses

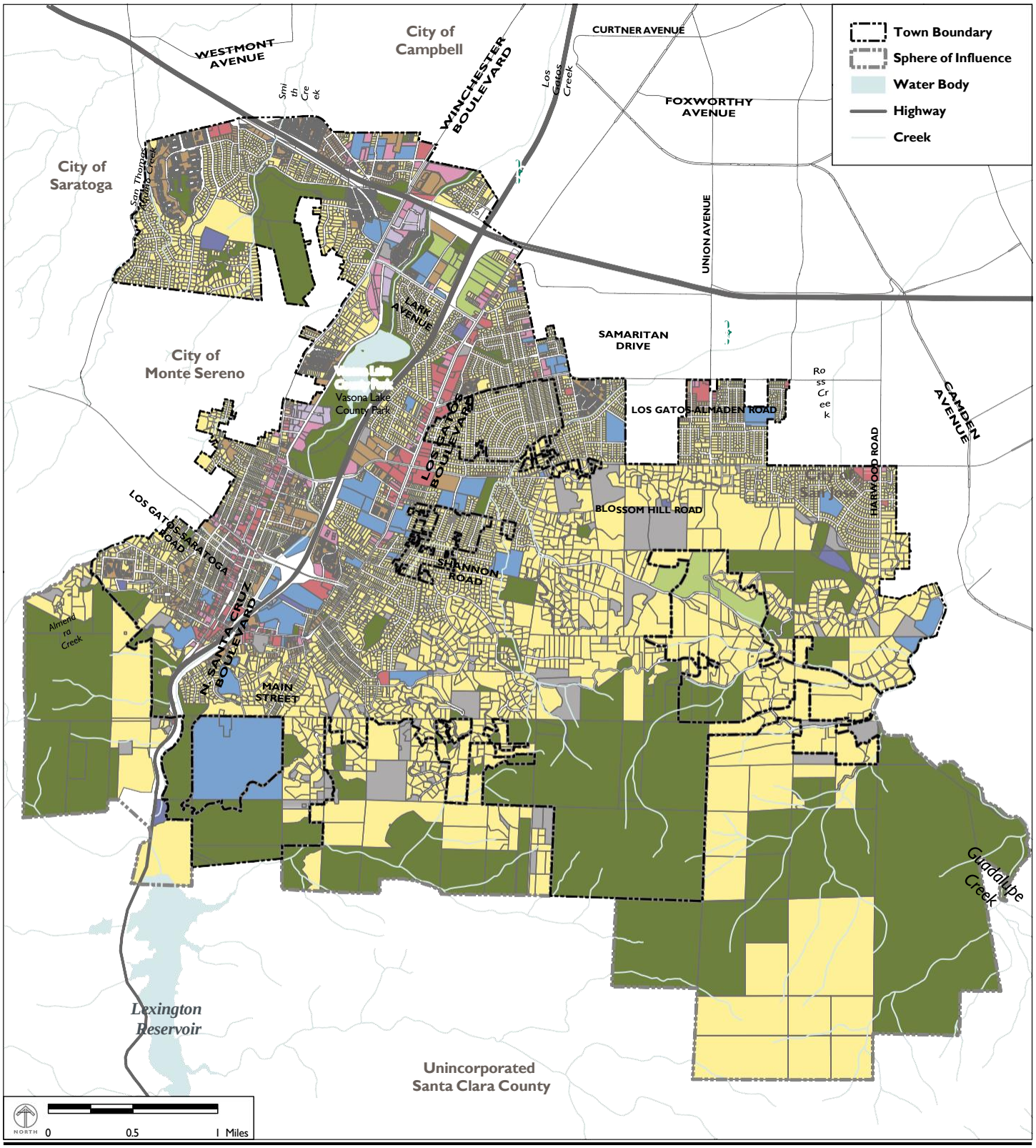
This section contains qualitative and quantitative descriptions of existing land uses in the Town of Los Gatos and Los Gatos's Sphere of Influence (SOI). "Existing land uses" refers to the existing built environment, regardless of the General Plan land use designation or zoning designation applied by the Town. This initial assessment is based on data from the Santa Clara County Office of the Assessor. Existing land uses are illustrated in Figure LU-1 and listed in Table LU-1.

1. Residential – Single Family

Approximately 3,183 acres of land in Los Gatos are dedicated to parcels that contain a single, detached residence and related structures. Single-family residential land use is located throughout the Town, with the exception of the public and open spaces in the southern area of the Town and along commercial corridors immediately adjacent to Los Gatos Boulevard and Santa Cruz Avenue. In the SOI, approximately 2,728 acres of land are dedicated to single-family residential land.

2. Residential – Multi-Family

This land use category refers to parcels that contain more than one housing unit. It includes duplexes, triplexes, fourplexes, condominiums, and apartment buildings. This residential land use totals approximately 407 acres in the Town. There is no multi-family housing in the SOI. Multi-family uses are largely clustered in and around the Highway 17 corridor, either between



Source: Santa Clara County Office of the Assessor, 2006; DC&E, 2008.

Existing Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Office/Professional
- Light Industrial
- Public Utilities
- Public/Quasi-Public
- Agricultural
- Open Space/Recreation
- Vacant

FIGURE LU-1

EXISTING LAND USE

TABLE LU-1 EXISTING LAND USES

Land Use Category	Number of Acres	Percent of Town Acreage	Percent of SOI Acreage
Residential – Single Family	5,911	51.2%	51.9%
Residential – Multi-Family	407	6.5%	0%
Commercial	164	2.6%	0%
Office Professional	126	2%	0%
Light Industrial	37	0.6%	0%
Public/Quasi-Public	440	4.7%	2.8%
Public Utilities	39	0.5%	0.1%
Agricultural	112	1%	1%
Open Space/Recreation	3,841	26.2%	42.2%
Vacant	399	4.7%	2%
Total	**11,476**	**100%**	**100%**

Source: County of Santa Clara, Office of the Assessor, 2006.

Los Gatos Boulevard and Highway 17 or in the area south of Vasona Lake County Park. A significant pocket of multi-family housing is also located in the northwest corner of the Town, just south of the City of Campbell.

3. Commercial

Commercial land refers to parcels that contain either retail businesses—those offering specific products for sale—or businesses that provide day-to-day services such as grocery stores, restaurants, spas and salons, dry cleaners, and nurseries. There are approximately 164 acres of commercial uses in Los Gatos and 1 acre in the SOI. Most commercial parcels in Los Gatos are located along the Santa Cruz Avenue or Los Gatos Boulevard corridors.

4. Office Professional

Office Professional land use refers to parcels that contain offices for medical, legal, insurance, consulting, and similar contracted services. Office and professional uses account for 125 acres in Los Gatos. Like commercial parcels, office professional parcels are concentrated along the Town's primary commercial corridors. An additional cluster of office and professional uses is located near the Highway 17/85 interchange.

5. Light Industrial

The Light Industrial land use category refers to parcels used primarily for production, manufacturing, and research and development. Additional uses include self-storage and automobile service garages. There are approximately 37 acres of light industrial land uses in Los Gatos. Light industrial uses are concentrated in two small pockets, one just south of Highway 85 and east of Winchester Boulevard, and another along University Avenue, north of Blossom Hill Road.

6. Public/Quasi-Public

Public/Quasi-Public land uses include schools, libraries, police and fire stations, faith communities, and hospitals. These uses are distributed through- out Los Gatos, mostly in single parcels or small groups of parcels. Public/Quasi-Public land uses comprise approximately 291 acres of land in the Town and approximately 149 acres in the SOI.

7. Public Utilities

Public Utilities refer to uses related to communications and energy production and distribution. There are approximately 37 acres in the Town devoted to utilities divided between parcels scattered throughout Los Gatos. Many of these parcels are owned by San Jose Water Company and PG&E and are sites of communications infrastructure.

8. Agricultural

Agricultural land is used for raising and harvesting crops, breeding livestock, and/or housing equipment used for agricultural purposes. According to the Santa Clara County Assessor's Office, about 64 acres of land scattered

throughout Los Gatos, and approximately 48 acres in the SOI, are devoted to existing agricultural uses. One of the largest areas of agricultural land is the North Forty site, which contains orchard trees, including walnut and fruit trees. Wine grapes can be found in the Santa Cruz Mountains hillside areas.

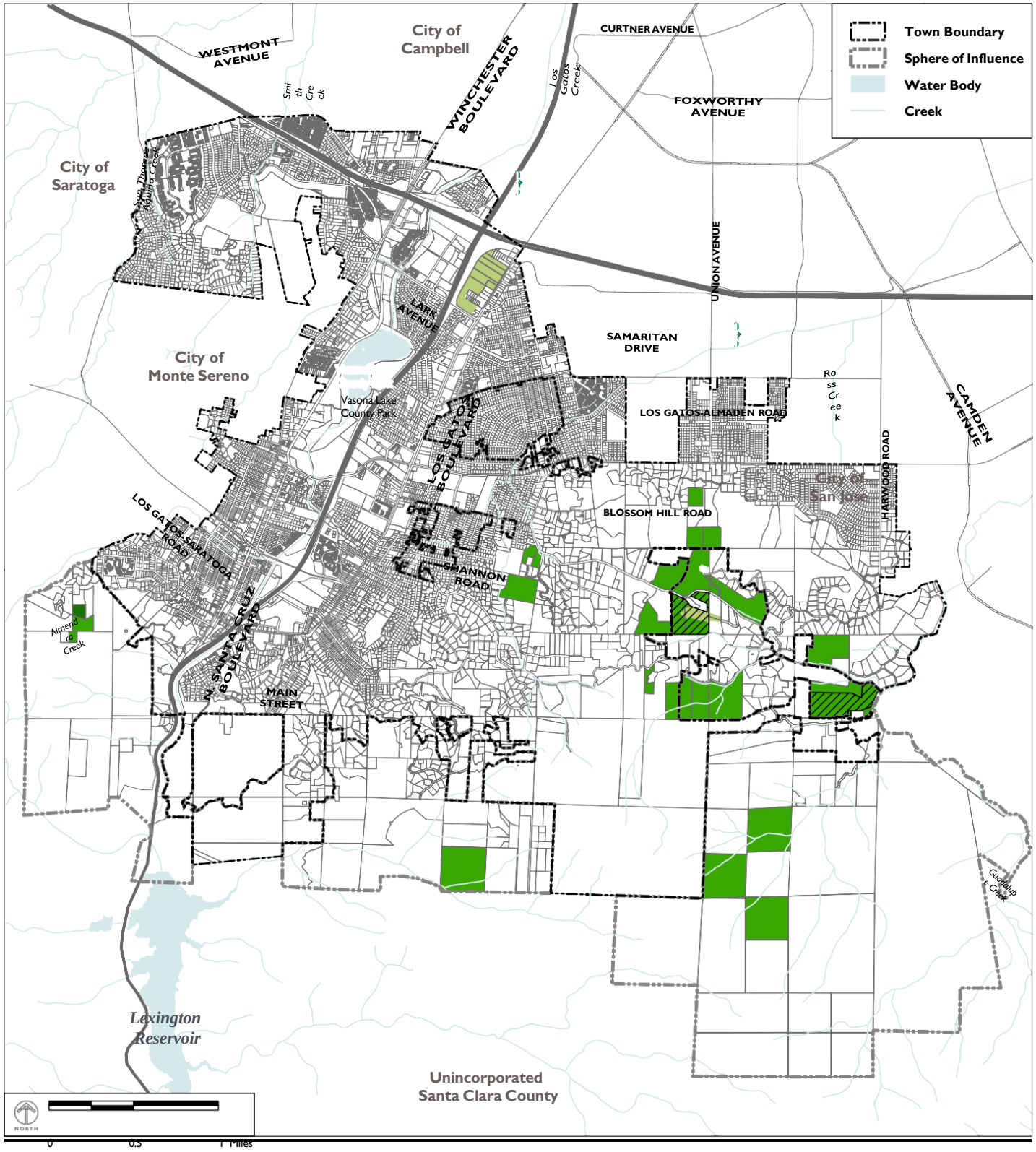
The California Land Conservation Act of 1965, better known as the Williamson Act, works to preserve agricultural and open space lands through restrictive use contracts administered by counties and cities under State regulations. Private landowners voluntarily restrict their land to agricultural and compatible open space uses under minimum 10-year rolling term contracts, with counties and cities also acting voluntarily. In return, the property tax on a Williamson Act parcel is assessed at a rate consistent with its actual use, rather than potential market value.

Figure LU-2 shows the location of all Williamson Act lands and their designation as well as farmland not covered by the Williamson Act. Approximately 136 acres of land within the Town limits and 358 acres of land within the SOI are designated Williamson Act land.[1] Of these, only 3.85 acres are considered "prime agricultural lands" under the definition of the Land Conservation Act. All of these lands occur in the Town's SOI. In addition to Williamson Act lands, approximately 32 acres of Unique Farmland are located within Town limits and 8 acres within the SOI. "Unique Farmland" is a designation ap- plied by the State Department of Conservation to land that is capable of producing specific high value crops. In Los Gatos, it is applied to the orchards on the North Forty site.

9. Open Space/Recreation

Open Space/Recreation refers to indoor and outdoor recreational facilities, including public open spaces such as regional parks, community centers,

[1] This number is higher than the number of acres in existing Agricultural use because Williamson Act include parcels that are classified by the Assessor as Agriculture, Open Space, and Single Family Residential. Single Family Residential may be considered an acceptable classification by the Assessor since Williamson Act contracts may include provisions for a limited number of dwelling units on the property.



Source: State of California Department of Conservation 2006.

Williamson Act Lands

- **Prime Agricultural Land**
- **Non-Prime Agricultural Land**
- **Non-Prime/Non-Renewal Agricultural Land**

State Farmland Designation

- **Unique Farmland**

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

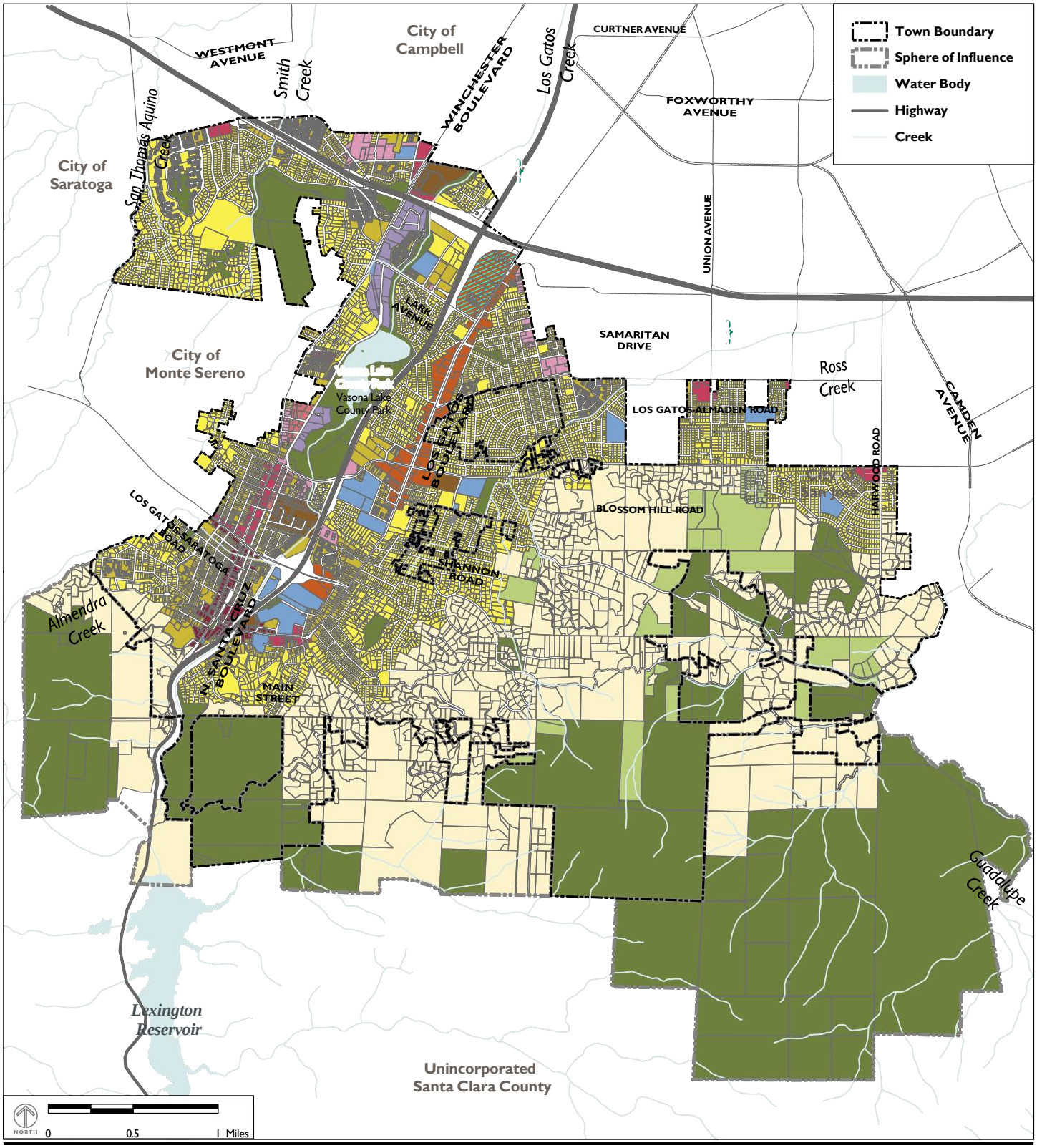
Approximately 292 acres within the Town are vacant parcels of varying sizes that are scattered throughout the Town. Most of the vacant acreage in Los Gatos is located in the single-family residential area on the eastern side of the Town. Parcels here are generally larger than they are elsewhere in Los 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.

General Plan Land Use

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

FIGURE LU-3

2020 GENERAL PLAN LAND USE

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 Indus- trial 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.

a. 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.

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

The Central Business District designation applies exclusively to the down- town 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.

c. 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 restaurants.

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 ser- vice-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.
- **Housing Element Overlay Zone (HEOZ).** The HEOZ is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, the housing element overlay zone encourages the development of housing affordable to all income levels as described in the 2023-2031 Housing Element Sites Inventory to comply with the Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle Planning period and listed in Table LU-2.

TABLE LU-2 HEOZ Development Standards

Designation	Standards
Low Density Residential	**Density:** 0 – 5 du/ac **Lot Coverage:** Up to 50% **Max. Height:** 30 feet
Medium Density Residential	**Density:** 14 – 22 du/ac **Density in Very High Fire Hazard Severity Zones:** 5 – 12 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 35 feet
High Density Residential	**Density:** 30 – 40 du/ac **Lot Coverage:** Up to 75% **Max. Height:** 45 feet
Mixed-Use	**Density:** 30 – 40 du/ac **FAR:** Up to 3.0 **Max. Height:** 45 feet
Neighborhood Commercial	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Central Business District	**Density:** 20 – 30 du/ac **FAR:** Up to 2.0 **Max. Height:** 45 feet
North Forty Specific Plan	**Density:** 30 – 40 du/ac **FAR:** As defined in Specific Plan **Max. Height:** As defined in Specific Plan

Office Professional	**Density:** 10 – 20 du/ac **FAR:** Up to 1.0 **Max. Height:** 35 feet
Service Commercial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet
Light Industrial	**Density:** none **FAR:** Up to 1.0 **Max. Height:** 35 feet

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 former Southern Pacific Railroad right-of-way to the west. The District is composed of five subdivisions that predate 1900 and contain a number of residential and commercial structures of mixed architectural styles. This District was established by ordinance in 1991. All of Los Gatos's historic districts are defined by structures that contribute to the District. In every District, the transformation of these structures is tightly regulated. Demolition of contributing structures is strictly prohibited. In addition, all restoration, rehabilitation, and new construction of principal units must adhere to a series of guidelines for preserving architectural heritage and conforming to existing style. Any modifications to the original design are either restricted or prohibited.

3. Overlay Designation

The North Forty Specific Plan Overlay is applied to the approximately 40-acre property bounded by Los Gatos Boulevard to the east, Highway 17 to the west, Lark Avenue to the south, and Highway 85 to the North. This Overlay requires the preparation and adoption of a specific plan that will determine the mix of uses, dimensional standards, architectural standards, phasing, and infrastructure to support the development of the property prior to approval of any entitlements. Drawing on the draft North Forty Specific Plan prepared in 1999, the General Plan overlay designation is intended to help guide the future development of this property. The 2020 General Plan Environmental Impact Report assumed a maximum capacity of 750 mixed residential units and 580,000 square feet of retail and offices uses for the purposes of assessing environmental impacts associated with the development of the property. While this is the maximum development capacity under this General Plan, the specific plan may be approved with lower densities and square footage of residential and commercial uses, respectively. The North Forty Specific Pan will be based on the following general guidelines:

- Include a mixture of uses that will complement the Downtown and the rest of the community.
- Be based on sustainable and "smart" development practices.

- Include public gathering spaces such as a plaza and park.
- Provide for a variety of residential housing types, both rental- and owner-occupied. A minimum of 20 percent of the units shall be affordable to households at the moderate income level or below.
- Include high-quality architecture and design that reflects the rural and agricultural history of the site.
- Provide pedestrian-oriented buildings along the Los Gatos Boulevard frontage, with minimal parking oriented to the street.
- Take advantage of the grade change across the site.
- Continue the "boulevard treatment" along Los Gatos Boulevard, with interconnections from one parcel's drive aisle to the next.
- Include connections to existing intersections along Los Gatos Boulevard and Lark Avenue.
- Develop gateway or landmark features at Los Gatos Boulevard and Lark Avenue and at Los Gatos Boulevard and the Highway 85 off-ramp.
- Provide an easily accessible, fully connected street network that encourages walking.
- Provide a vegetative buffer and screening along Highways 17 and 85.
- Preserve Town character and views.

4. Other Plans

The Hillside Specific Plan and Los Gatos Boulevard Plan areas are each developed according to separate land use goals and in different areas of the Town. In addition to these approved Specific Plans, the Town will be developing a North Forty Specific Plan.

a. Hillside Specific Plan

The Hillside Specific Plan establishes land use policy for the Hillside Study Area, an area of mountainous terrain in the southeastern portion of the Town designated for Hillside Residential development. Adopted by Town Council in 1978, the Specific Plan establishes a series of policies and standards related

to land use, facilities, services, circulation, fire protection, safety, and open space. These policies and standards are intended to prevent deficiencies in access to water and sewer services, ensure conservation of the sensitive natural environment, and address differences in Town and County land use regulations.

Development in the Hillside Specific Plan area is prohibited outside of designated "least restrictive development areas" (LRDAs) unless it is compliant with conditions established in the Plan.

b. Los Gatos Boulevard Plan

Adopted by Town Council in 1997, the Los Gatos Boulevard Specific Plan is a policy framework for meeting a series of short, medium, and long range goals related to the commercial revitalization of Los Gatos Boulevard. This Specific Plan is based on a land use concept for which higher density, mixed-use commercial development in the north of the Specific Plan area transitions into residential and community clusters, and then into existing residential neighborhoods just south of the Specific Plan area. This Specific Plan contains policies and design standards targeting safe, attractive public improvements; pedestrian-oriented activity nodes; vital, commercial land use; distinct gateways, and site-appropriate private improvements.

c. Central Los Gatos Redevelopment Project

The Central Los Gatos Redevelopment Project, which focuses on an area located around Downtown Los Gatos, contains a mix of residential and non- residential land use designations. The Town of Los Gatos Redevelopment Agency has the authority to facilitate property acquisition and management, construction of public improvements, structural rehabilitation, and site assembly within the Project Area. The project was adopted in 1991, following the 1989 Loma Prieta earthquake. The main objectives of the project are to eliminate blight, assemble land parcels for improved development, strengthen the economic base of downtown, and improve undeveloped and underutilized areas.

G. Goals, Policies, and Actions

The following goals, policies, and actions guide future physical development throughout Los Gatos.

Goal LU-1	**To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.**

Policy LU-1.1 Encourage developers to engage in discussions as early as possible regarding the nature and scope of the project and possible impacts and mitigation requirements.

Policy LU-1.2 Ensure that new development preserves and promotes existing commercial centers consistent with the maintenance of a small-scale, small-town atmosphere and image.

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

Policy LU-1.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.

Policy LU-1.5 Encourage private/public funding, development, and operation of cultural amenities, activities, and centers consistent with the small-town character of Los Gatos.

Policy LU-1.6 Recognizing that our ability to preserve our small-town character is somewhat dependent on decisions in surrounding communities, continue and expand Town participation in planning processes in neighboring jurisdictions and regional bodies in order to develop innovative, effective, and coordinated land use, transportation, and hillside development plans and standards that will help preserve our small-town character.

Policy LU-1.7 Use task forces, ad hoc committees and other means as appropriate to involve residential and commercial interests in Town matters.

Policy LU-1.8 Commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos.

Goal LU-2 **To maintain a balanced, economically stable community within environmental goals.**

Policies

Policy LU-2.1 Minimize vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos.

Policy LU-2.2 Promote telecommuting and home-based businesses by allowing live-work and work-live uses in existing and future residential development.

Goal LU-3 **To coordinate with surrounding jurisdictions and other local and regional agencies that may affect Los Gatos's future development patterns and character.**

Policies

Policy LU-3.1 Cooperate with the County of Santa Clara to encourage the annexation of unincorporated islands into the Town. The Town will not require the installation of curbs, gutters, sidewalks, or street lights as a condition of annexation nor will these improvements be imposed on annexed areas unless the residents of the area request such improvements and are willing to participate in the cost of such improvements. This does not prevent the Town from requiring such improvements as a condition of approval of any zoning or subdivision approval if such conditions are normally made on those items and the improvements would be in keeping with the neighborhood.

Policy LU-3.2 Work with Santa Clara County to ensure that projects developed in the County meet Town policies and standards, do not induce further development, and do not un- duly burden the Town.

Goal LU-4	**To provide for well-planned, careful growth that reflects the Town's existing character and infrastructure.**

Policies

Policy LU-4.1 Integrate planning for the North Forty area, Los Gatos Boulevard, Vasona Light Rail area, and Downtown so that development in each area takes into consideration the Town as a whole.

Policy LU-4.2 Allow development only with adequate physical infra-structure (e.g. transportation, sewers, utilities, etc.) and social services (e.g. education, public safety, etc.).

Policy LU-4.3 Only approve projects for which public costs can be justified by the overall benefit to the community.

Policy LU-4.4 Project applicants shall evaluate and provide appropriate mitigation measures to reduce impacts on urban services including schools, utilities, police, and fire.

Policy LU-4.5 Discourage corridor lots. Corridor lots shall only be allowed if the use of a corridor lot decreases the amount of public street required for the subdivision, contributes to the surrounding neighborhood, and is in context with the existing scale and established character of the neighborhood. The subdivider shall also demonstrate that the use of a corridor lot benefits surrounding properties.

Goal LU-5	**To encourage public involvement in Town planning processes.**

Policy

Policy LU-5.1 Use task forces, ad hoc committees, and other means as appropriate to involve residential and commercial interests in Town matters.

Action

Action LU-5.1 Utilize traditional communication tools and new media and technology to provide clear and current information on Town processes and decisions and to encourage public participation in Town government.

Goal LU-6	**To preserve and enhance the existing character and sense of place in residential neighborhoods.**

Policies

Policy LU-6.1 Protect existing residential areas from the impacts of non-residential development.

Policy LU-6.2 Allow non-residential activity in residential areas only when the character and quality of the neighborhood can be maintained.

Policy LU-6.3 Protect existing residential areas from adjacent non-residential uses by assuring that buffers are developed and maintained.

Policy LU-6.4 Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood.

Policy LU-6.5 The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood.

Policy LU-6.6 In order to reduce landfill, conserve resources, and preserve neighborhood character, demolitions shall be discouraged in established residential neighborhoods and applicants shall submit structural reports to determine whether the demolition of any principal structure is justified. If allowed, the replacement house should be similar in size and scale to other homes in the neighborhood and maintain the neighborhood character.

Policy LU-6.7 Continue to encourage a variety of housing types and sizes that is balanced throughout the Town and within neighborhoods, and that is also compatible with the character of the surrounding neighborhood.

Policy LU-6.8 New construction, remodels, and additions shall be compatible and blend with the existing neighborhood.

Policy LU-6.9 The Housing Element assumes that sites designated medium and high density residential will be developed at the upper end of the density range. If the Town approves a development at a lower density on one of these sites, staff shall identify one or more other sites to maintain the Town's capacity to meet its housing needs as identified in the Housing Element, subject to neighborhood compatibility and mitigation of traffic impacts.

Policy LU-6.10 Require applicants to submit letters of justification to show how new residential development contributes to the balance of types and sizes of housing available in Los Gatos.

Actions

Action LU-6.1 Develop standards for traffic, noise, intensity, and overall size for non-residential uses in residential zones.

Action LU-6.2 The conditional use permit approvals for non-residential uses in residential zones shall be reviewed by the Planning Commission on an as-needed basis for any adverse im- pacts, nuisances, or any required modifications.

Goal LU-7	**To use available land efficiently by encouraging appropriate infill development.**

Policies

Policy LU-7.1 Allow redevelopment of unused school sites commensurate with the surrounding residential neighborhood and availability of services.

Policy LU-7.2 To ensure compatibility with surrounding neighborhoods, infill projects shall demonstrate that the development meets the criteria contained in the Development Policy for In-Fill Projects and the deciding body shall make findings consistent with this policy.

Policy LU-7.3 Infill projects shall contribute to the further development of the surrounding neighborhood (e.g. improve circulation, contribute to or provide neighborhood unity, eliminate a blighted area) and shall not detract from the existing quality of life.

Policy LU-7.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.

Goal LU-8	**To uphold and enforce adopted land use regulations.**

Policies

Policy LU-8.1 Maintain a Code Compliance function to effectively enforce the land use regulations in the Town Code.

Policy LU-8.2 Town staff shall identify major violations (illegal units, sign violations, illegal uses, tree removals, grading violations, etc.) without waiting for public complaint. Town staff shall act on minor violations (illegally parked cars, boats, trailers and campers, etc.) based on public com- plaints. Additional violations that may be observed during investigation of a complaint shall also be acted on.

Goal LU-9	To provide residents with adequate commercial and industrial services.

Policies

Policy LU-9.1 Ensure that new development preserves and promotes existing commercial centers consistent with the maintenance of a small-scale, small-town atmosphere and image.

Policy LU-9.2 Maintain a variety of commercial uses, including a strong Downtown commercial area combined with Los Gatos Boulevard and strong neighborhood commercial centers to meet the shopping needs of residents and to preserve the small-town atmosphere.

Policy LU-9.3 Encourage a mix of retail and office uses in commercial areas, except in the Central Business District designation, where retail should be emphasized and office should be limited to upper floors and other areas as defined by the Town Code.

Policy LU-9.4 Encourage existing light industry and service commercial uses to remain or be replaced with similar uses.

Policy LU-9.5 Encourage the development and retention of locally owned stores and shops.



Policy LU-9.6 Encourage development that maintains and expands resident-oriented services and/or creates employment opportunities for local residents consistent with overall land use policies of the Town.



Policy LU-9.7 "Broadening the tax base" shall never be the sole reason for allowing new commercial development or approving a change in a commercial land use.

Policy LU-9.8 Retail sales tax "leakage" should be kept to a minimum by providing in-town convenience and comparative shopping opportunities.

Policy LU-9.9 Buffers shall be required as conditions of approval for non-residential projects that are adjacent to residential areas and may consist of landscaping, sound barriers, building setbacks, or open space.

Policy LU-9.10 Prohibit new commercial or industrial zoning adjacent to school sites and carefully consider the impacts of new school sites in industrial and commercial land use designations.

Action

Action LU-9.1 The Town should identify those businesses that are needed in the Town and actively recruit those businesses.

Goal LU-10	**To preserve Downtown Los Gatos as the historic center of the Town, with goods and services for local residents, while maintaining the existing Town identity, environment, and commercial viability.**

Policies

Policy LU-10.1 Encourage the development and retention of small businesses and independent stores and shops Downtown that are consistent with small-town character and scale.

Policy LU-10.2 Recognize and encourage the different functions, land use patterns, and use mixes of the various commercial areas within the Downtown. These include:

a. The pedestrian scale and orientation of the Central Business District.

b. The neighborhood-serving commercial land use pattern of areas north of Saratoga Avenue to Blossom Hill Road.

c. The mixed use commercial activities along Santa Cruz Avenue and the service commercial activities along University Avenue between Andrews Street and Blossom Hill Road.

Policy LU-10.3 Establish and maintain strong boundaries between the Central Business District designation and adjacent residential neighborhoods.

Policy LU-10.4 Encourage mixed uses to increase residential opportunities in commercial zones Downtown, taking into consideration potential impacts to loss of commercial opportunities.

Goal LU-11	**To plan for development of a variety of uses in the North Forty area in a coordinated and comprehensive way.**

Policies

Policy LU-11.1 Zoning shall be changed as part of development applications to provide consistency with the Vasona Light Rail Element and other elements of this General Plan and with any future specific plan prepared for this area.

Policy LU-11.2 The Town shall encourage uses that serve Town residents. These include, but are not limited to, open space, playfields, office, retail, and other commercial uses. Residential uses may be permitted as part of mixed-use development and only with acceptable mitigation of adverse noise, air quality, and other environmental hazards.

Policy LU-11.3 Provide coordinated infrastructure in the North Forty area.

Policy LU-11.4 Include a variety of regional destination and local-serving commercial uses in the North Forty area, following a logical land use pattern that takes advantage of the site opportunities while protecting adjacent uses.

Policy LU-11.5 Avoid negative effects on the long-term development potential of the area surrounding the North Forty area.

Policy LU-11.6 Incorporate multi-modal links from the North Forty area to the Vasona Light Rail station into the North Forty Specific Plan.

Action

Action LU-11.1 Prepare and adopt a specific plan for the North Forty area prior to development of the site.

Goal LU-12	**To ensure an appropriate mix of land use types along Los Gatos Boulevard in order to maintain the economic vitality of the corridor and continue to serve the needs of Town residents.**

Policies

Policy LU-12.1 Encourage redevelopment and assemblage of parcels that have experienced a high vacancy rate over a prolonged period of time, possibly including appropriate and compatible rezoning.

Policy LU-12.2 Encourage a mix of uses along Los Gatos Boulevard, including, where appropriate, mixed-use parcels that are compatible with surrounding uses.

Policy LU-12.3 New landscaping, streetscape improvements and new development along Los Gatos Boulevard shall incorporate pedestrian amenities, scale, and design.



Policy LU-12.4 Encourage mixed uses to increase residential opportunities in commercial zones.



Policy LU-12.5 Retain and enhance auto dealerships.

Policy LU-12.6 Neighborhood commercial, multi-family residential, and office uses shall be concentrated south of Los Gatos–Almaden Road.

Policy LU-12.7 New and relocating auto-related businesses shall be located north of Los Gatos–Almaden Road, adjacent to existing auto dealerships, or on a vacant site previously used for permitted auto sales.

Policy LU-12.8 Uses on Los Gatos Boulevard south of Roberts Road shall be residential or office; existing non-residential uses shall not be intensified; and existing vacant property and residential uses shall be developed as Single Family Residential.

Policy LU-12.9 Encourage replacement of vacated business south of Los Gatos–Almaden Road and north of Roberts Road/Shannon Road with neighborhood commercial, multi-family, or office uses.

Goal LU-13	**To promote appropriate and compatible development along Los Gatos Boulevard that complements the whole Town and serves residents and families.**

Policies

Policy LU-13.1 Development shall transition from higher intensity uses at the north end of Los Gatos Boulevard to existing residential uses at the south end of Los Gatos Boulevard.

Policy LU-13.2 Commercial activity along Los Gatos Boulevard shall complement the whole Town and shall provide a dependable source of income, employment opportunities, goods, and services.

Policy LU-13.3 New projects along Los Gatos Boulevard shall incorporate a family and resident orientation.

Policy LU-13.4 New development along Los Gatos Boulevard shall be designed to minimize adverse impacts on adjacent residential areas.

Policy LU-13.5 Establish and maintain appropriate boundaries between the commercial uses along Los Gatos Boulevard and adjacent residential neighborhoods.

Policy LU-13.6 Provide more pedestrian/bike areas and links to adjacent residential areas to foster neighborhood use of commercial centers.

Policy LU-13.7 Allow auto dealers and other commercial property owners and merchants to conduct occasional promotional sales activities with a "festival" atmosphere with appropriate re- strictions to reduce traffic congestion and impacts on neighboring commercial and residential uses.

Actions

Action LU-13.1 Work with existing auto dealers and other commercial property owners and merchants to develop an appropriate commercial image specifically for Los Gatos Boulevard.

Action LU-13.2 Use the adopted Los Gatos Boulevard Plan and Commercial Design Guidelines to review development proposals and exterior improvements to existing buildings.

DATE: November 1, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Adopt a Resolution to Amend the General Plan Land Use Designation of 16492 Los Gatos Boulevard and Assessor Parcel Number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial; Amend the General Plan Land Use Designation of Caltrans Right-of-Way Adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential; and Introduce an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 (Single-Family Residential) to R-M (Multiple-Family Residential) for a Caltrans Right-of-Way Property Located Adjacent to 14685 Oka Road; and Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element:
APN's 424-06-116, 424-07-116, 424-08-029, 424-08-058, 424-08-059, 424-08-060, 424-08-074, and 532-07-085; 620 and 14000 Blossom Hill Road; 16210, 16240, 16245, 16250, 16260, 16270, and 16392 Burton Road; Cal Trans Right-of-Way Adjacent to 14685 Oka Road; 110 and 206 Knowles Drive; 445 Leigh Avenue; 440 Los Gatos Almaden Road; 16603 Lark Avenue; 14823, 14831, 14849, 14859, 14917, 14925, 15795, 16151, 16203, and 16492 Los Gatos Boulevard; 165 Los Gatos Saratoga Road; and 14800 and 14840 Oka Road."

An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003 and General Plan Amendment Application GP-23-003. Applicant: Town of Los Gatos.

PREPARED BY: Jocelyn Shoopman, Associate Planner and
Erin Walters, Associate Planner

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

RECOMMENDATION:

Approve a recommendation of the Planning Commission to adopt a resolution (Attachment 1) to amend the General Plan land use designation of 16492 Los Gatos Boulevard and assessor parcel number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial; and amend the General Plan land use designation of Caltrans right-of-way adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential; and introduce an ordinance (Attachment 2) titled "An Ordinance of the Town Council of the Town of Los Gatos Amending the Zoning Code from R-1:8 (Single-Family Residential) to R-M (Multiple-Family Residential) for a Caltrans Right-of-Way Property Located Adjacent to 14685 Oka Road; and apply the Housing Element Overlay Zone (HEOZ) to provide for increases to the allowable density, height, floor area ratio, and lot coverage for residential development on the sites included in the Sites Inventory Analysis of the 2023-2031 Housing Element" as listed in the subject line above.

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing and Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income groups within the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for this sixth cycle planning period is 1,993 units.

On January 30, 2023, the Town Council adopted the 2023-2031 Housing Element with modifications to the Sites Inventory, finding that it was in substantial compliance with State law. Two of the Implementation Programs contained in the Housing Element adopted by Town Council are the basis for the items under consideration and described in further detail below.

On March 31, 2023, the Revised Draft Housing Element was submitted to HCD and included four additional parcels to the sites inventory based on the receipt of property owner interest forms. On May 30, 2023, the Town received HCD's findings/comment letter on the Revised Draft Housing Element submitted in March.

The Town resubmitted the Draft Revised 2023-2031 Housing Element to HCD for review and comment on October 2, 2023. The materials distributed to HCD and additional materials on the ongoing Housing Element update process can be viewed online at: https://www.losgatosca.gov/1735/Housing-Element.

BACKGROUND (continued):

On August 23, 2023, the Planning Commission opened the public hearing on this item, heard public comments, and continued the item to September 13, 2023. On September 13, 2023, the Planning Commission heard additional public comments, and made a recommendation to Town Council for approval. The staff reports and attachments for the August 23, 2023, and September 13, 2023 Planning Commission meetings were previously provided as part of the October 3, 2023 Town Council staff report and can be viewed at the following link: https://meetings.municode.com/adaHtmlDocument

On October 3, 2023, the Town Council continued the item to November 7, 2023, pending a potential discussion with HCD regarding the adequacy of the Town's Sites Inventory. Staff has a meeting scheduled with the Town's HCD reviewer on November 7, 2023, and will provide a verbal update on the results of the meeting at the November 7, 2023, Town Council meeting.

DISCUSSION:

As described in the August 23, 2023 Planning Commission staff report (Attachment 3), the proposed General Plan land use designation changes included in the Draft Resolution (Attachment 1) and the zoning designation changes included in the Draft Ordinance (Attachment 2) are implementing two of the programs in the Housing Element by updating the development regulations on the properties listed above to make them consistent with the development assumptions shown in the Sites Inventory.

On July 20, 2023, at a special meeting, the General Plan Committee (GPC) reviewed the proposed modifications described above and recommended approval of the General Plan amendments to the Planning Commission and Town Council.

On September 13, 2023, the Planning Commission reviewed the proposed modifications described above and recommended approval to Town Council.

This agenda item includes all of the sites reviewed by the Planning Commission with the exception of certain sites because of anticipated Council Member recusals and the removal of site A-1 as described below. The application of the HEOZ to the sites that require recusals will be considered as separate agenda items:

- 401 - 409 Alberto Way; and 50 Los Gatos Saratoga Road: Will be considered as Item 18.
- 15300, 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard: Will be considered as Item 19.
- 101 South Santa Cruz Avenue: Will be considered as Item 20.
- 50 Park Avenue and 61 Montebello Way: The Regional Housing Needs Allocation (RHNA) capacity only accepts net new units. Site A-1 has a minimum capacity of five units,

DISCUSSION (continued):

whereas there are 11 housing units on-site. Due to the housing capacity resulting in less than the exiting number of units on-site, and in response to the HCD Findings/Comment Letter received by the Town on May 30, 2023, the site has been removed from the Sites Inventory.

PUBLIC COMMENTS:

Public notification has included a legal ad in the paper, noticing property owners, tenants, and properties located within 300 feet of all the sites listed within the Town. The meeting has also been publicized on the Town's website and through the Town's social media platforms. No comments have been received as of the preparation of this staff report.

ENVIRONMENTAL ASSESSMENT:

An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan and Zoning Code amendments. No further Environmental Analysis is required.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that no further environmental analysis is required (Attachments 1 and Attachment 2);
2. Make the required finding that the General Plan amendments are internally consistent with the existing goals and policies of the General Plan and its elements, in that the amendments will provide for the development of housing for the sites in the Sites Inventory to comply with the Town's RHNA (Attachment 1);
3. Make the required finding that the proposed zone changes are consistent with the General Plan and its elements in that the proposed zone changes are consistent with the proposed General Plan land use designations (Attachment 2); and
4. Adopt a resolution to approve General Plan Amendment application GP-23-003 (Attachment 1); and
5. Introduce an ordinance of the Town Council of the Town of Los Gatos for Zone Change application Z-23-003 (Attachment 2).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Continue this item to a date certain with specific direction to staff; or
2. Refer this item back to the Planning Commission with specific direction.

Attachments:
1. Draft Resolution with Exhibit A – Location Maps
2. Draft Ordinance with Exhibit A – Location Maps

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Draft Resolution to be modified by Town Council deliberations and direction.

DRAFT RESOLUTION
RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING THE GENERAL PLAN LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL FOR A PROPERTY AT 16492 LOS GATOS BOULEVARD AND ASSESSOR PARCEL NUMBER (APN) 532-07-086; AND FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL FOR THE CALTRANS RIGHT-OF-WAY PROPERTY ADJACENT TO 14685 OKA ROAD.

WHEREAS, the Housing Element contains implementation programs to amend the General Plan land use designation of 16492 Los Gatos Boulevard and assessor parcel number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial; and Caltrans right-of-way adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential; and

WHEREAS, the General Plan Committee at its meeting of July 20, 2023, recommended approval of these General Plan amendments; and

WHEREAS, the Planning Commission met on August 23, 2023, to hold a public hearing and receive public comments; and

WHEREAS, the Planning Commission received further public comments and recommended approval of the General Plan amendments at its regular meeting of September 13, 2023; and

WHEREAS, the Town Council met on October 3, 2023, to hold a public hearing and continued the item to November 7, 2023;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed General Plan amendments; and

WHEREAS, the Town Council considered all facts and information related to a request to change the General Plan Land Use designation for the above mentioned properties as shown in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby changes the General Plan Land Use designation of 16492 Los Gatos Boulevard and assessor parcel number (APN)

ATTACHMENT 1

532-07-086 from Low Density Residential to Neighborhood Commercial; and Caltrans right-of-way adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential.

WHEREAS, the Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan amendments; and

B. The General Plan amendments are internally consistent with the existing goals and policies of the General Plan and its corresponding Elements; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.; and

WHEREAS, the effective date is 30 days after the date of adoption; and

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of November 2023, by the following vote:

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: _____

DRAFT



16492 Los Gatos Boulevard and APN 532-07-086

TOWN OF LOS GATOS

Application No. GP-23-003 **A.P.N. #** 523-07-085 and 532-07-086

Change of the general plan map amending the Town General Plan

From: Low Density Residential

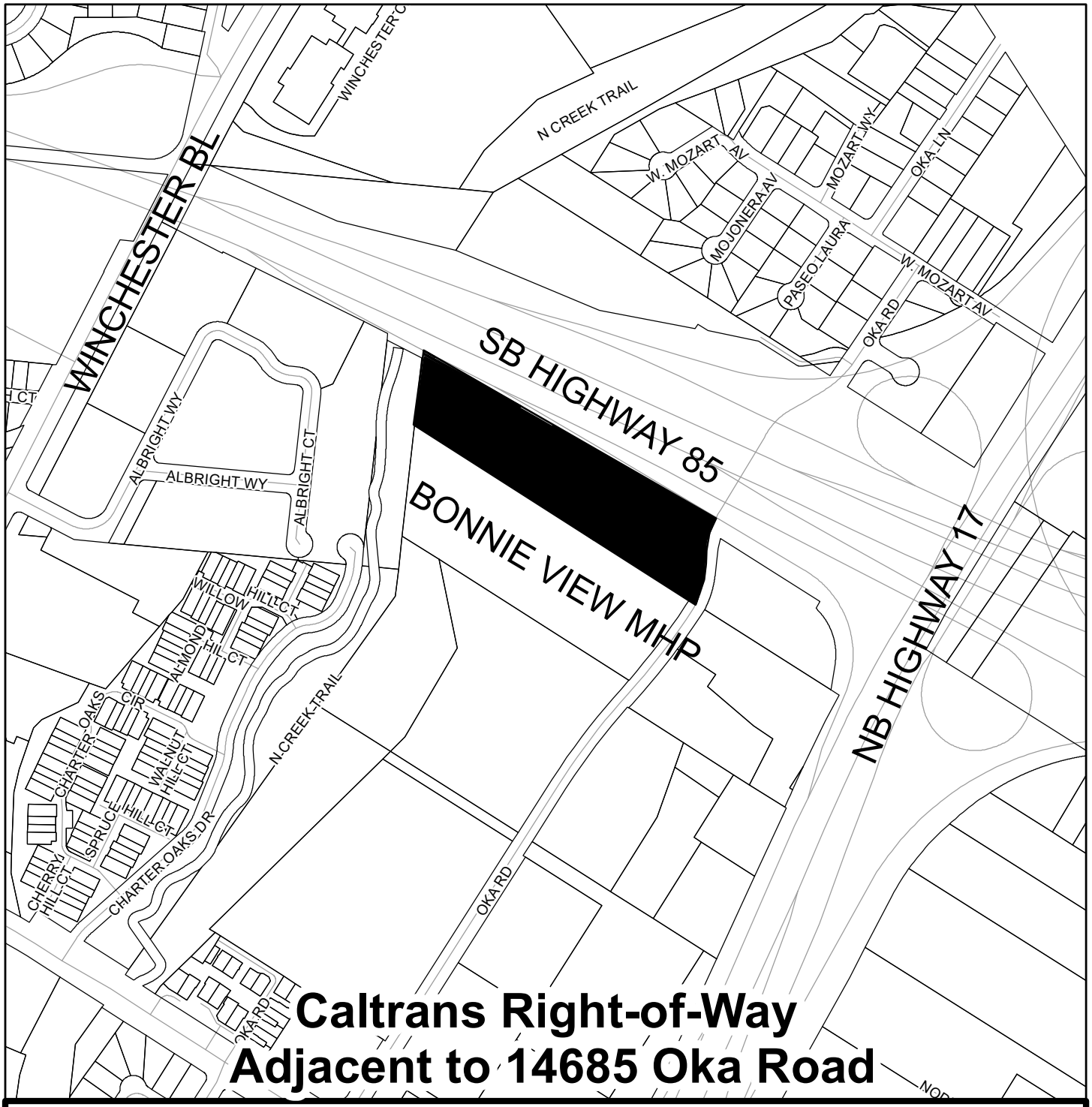
To: Neighborhood Commercial

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Resolution:**

Clerk Administrator **Mayor**

EXHIBIT A



Caltrans Right-of-Way
Adjacent to 14685 Oka Road

TOWN OF LOS GATOS

Application No. GP-23-003 **A.P.N. #** No APN

Change of the general plan map amending the Town General Plan

From: Low Density Residential
To: Medium Density Residential

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Resolution:**

Clerk Administrator **Mayor**

Draft Ordinance: subject to modification by Town Council based on deliberations and direction

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING THE ZONING CODE FROM R-1:8 (SINGLE-FAMILY RESIDENTIAL) TO R-M (MULTIPLE-FAMILY RESIDENTIAL) FOR A CALTRANS RIGHT-OF-WAY PROPERTY LOCATED ADJACENT TO 14685 OKA ROAD; AND APPLY THE HOUSING ELEMENT OVERLAY ZONE (HEOZ) TO PROVIDE FOR INCREASES TO THE ALLOWABLE DENSITY, HEIGHT, FLOOR AREA RATIO, AND LOT COVERAGE FOR RESIDENTIAL DEVELOPMENT ON THE FOLLOWING SITES INCLUDED IN THE SITES INVENTORY ANALYSIS OF THE 2023-2031 HOUSING ELEMENT: APN'S 424-06-116, 424-07-116, 424-08-029, 424-08-058, 424-08-059, 424-08-060, 424-08-074, AND 532-07-085; 620 AND 14000 BLOSSOM HILL ROAD; 16210, 16240, 16245, 16250, 16260, 16270, AND 16392 BURTON ROAD; CAL TRANS RIGHT-OF-WAY ADJACENT TO 14685 OKA ROAD; 110 AND 206 KNOWLES DRIVE; 445 LEIGH AVENUE; 440 LOS GATOS ALMADEN ROAD; 16603 LARK AVENUE; 14823, 14831, 14849, 14859, 14917, 14925, 15795, 16151, 16203, AND 16492 LOS GATOS BOULEVARD; 165 LOS GATOS SARATOGA ROAD; AND 14800 AND 14840 OKA ROAD

WHEREAS, the sites located at 16151 Los Gatos Boulevard and 620 Blossom Hill Road were added to the Town of Los Gatos' Draft Revised Housing Element based on the receipt of a property owner interest form;

WHEREAS, all other sites included in the Town of Los Gatos' adopted Housing Element were identified as sites with the potential for redevelopment with housing;

WHEREAS, the Town wishes to apply a Housing Element Overlay Zone to the sites identified in the sites inventory in order to encourage redevelopment with housing;

WHEREAS, the Planning Commission met on August 23, 2023, to hold a public hearing and receive public comments and continued the item to September 13, 2023;

WHEREAS, the Planning Commission received further public comments and recommended approval of the Zoning Code amendments at its regular meeting of September 13, 2023;

WHEREAS, the Town Council met on October 3, 2023, to hold a public hearing and continued the item to November 7, 2023;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023;

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Zoning Code amendments; and

WHEREAS, the Town Council considered all facts and information related to a request to change the Zoning for the above mentioned properties as shown in Exhibit A.

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

SECTION I

The Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments; and
B. The zone changes are consistent with the General Plan and its elements in that the proposed zonings are consistent with the proposed General Plan land use designations; and
C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and
D. The Town Council considered all facts and information related to the proposal to apply the Housing Element Overlay Zone to the sites shown in Exhibit A.

SECTION II

The Town Code of the Town of Los Gatos is hereby amended to change the zoning of the Caltrans right-of-way property adjacent to 14685 Oka Road from R-1:8 (Single-Family Residential) to R-M (Multiple-Family Residential); and the properties at APN'S 424-06-116, 424-07-116, 424-08-029, 424-08-058, 424-08-059, 424-08-060, 424-08-074, and 532-07-085; 620 and 14000 Blossom Hill Road; 16210, 16240, 16245, 16250, 16260, 16270, and 16392 Burton Road; Cal Trans Right-of-Way Adjacent to 14685 Oka Road; 110 and 206 Knowles Drive; 445 Leigh Avenue; 440 Los Gatos Almaden Road; 16603 Lark Avenue; 14823, 14831, 14849, 14859, 14917, 14925, 15795, 16151, 16203, and 16492 Los Gatos Boulevard; 165 Los Gatos Saratoga Road; and 14800 and 14840 Oka Road to apply the Housing Element Overlay Zone (HEOZ) to each parcel as shown in Exhibit A.

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November 2023, 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 _____ 2023. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

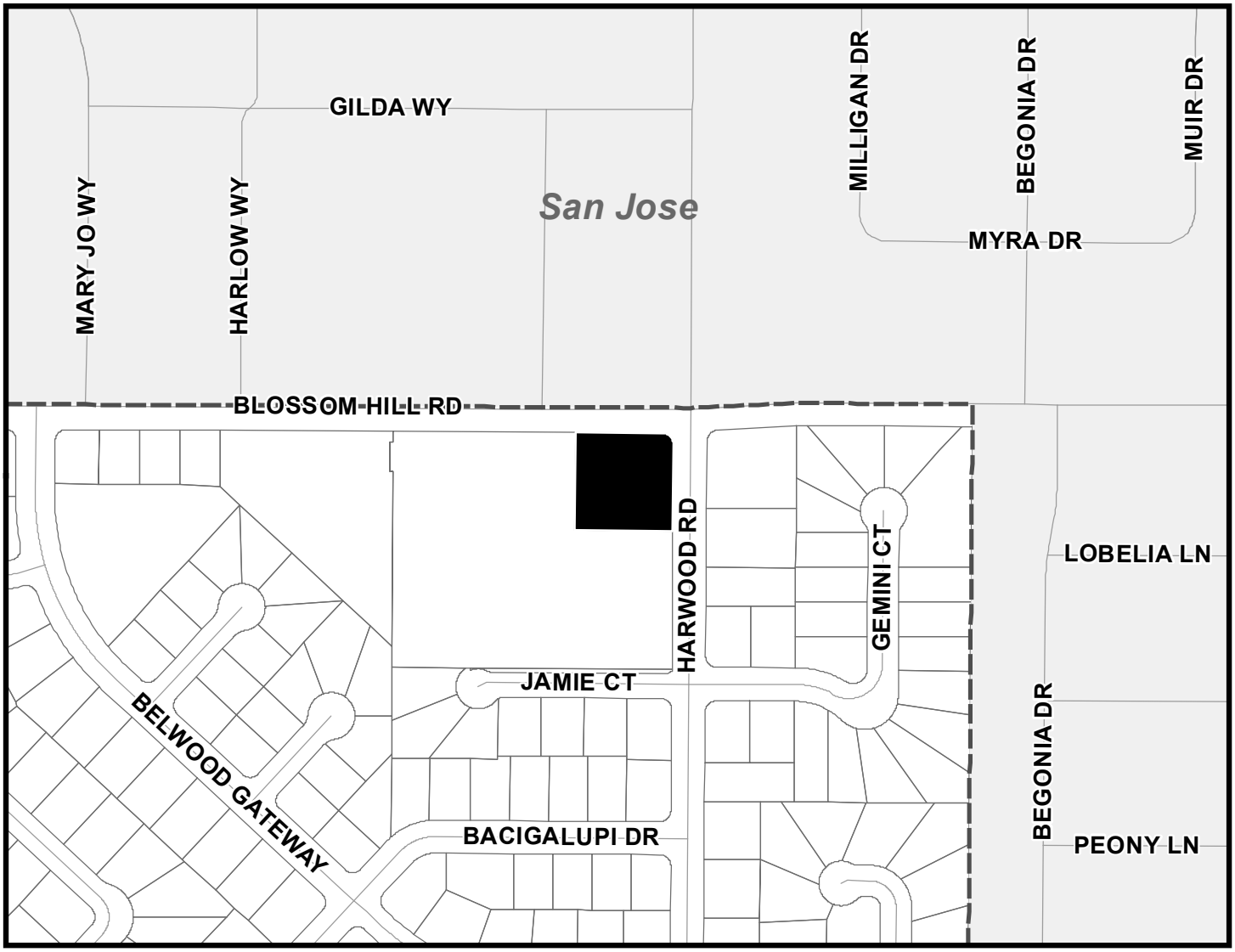
TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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DRAFT



Address: 14000 Blossom Hill Road

A.P.N. # 527-32-028

TOWN OF LOS GATOS

Application No. Z-23-003

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: C-1**

☐ **Prezoning** **To: C-1:HEOZ**

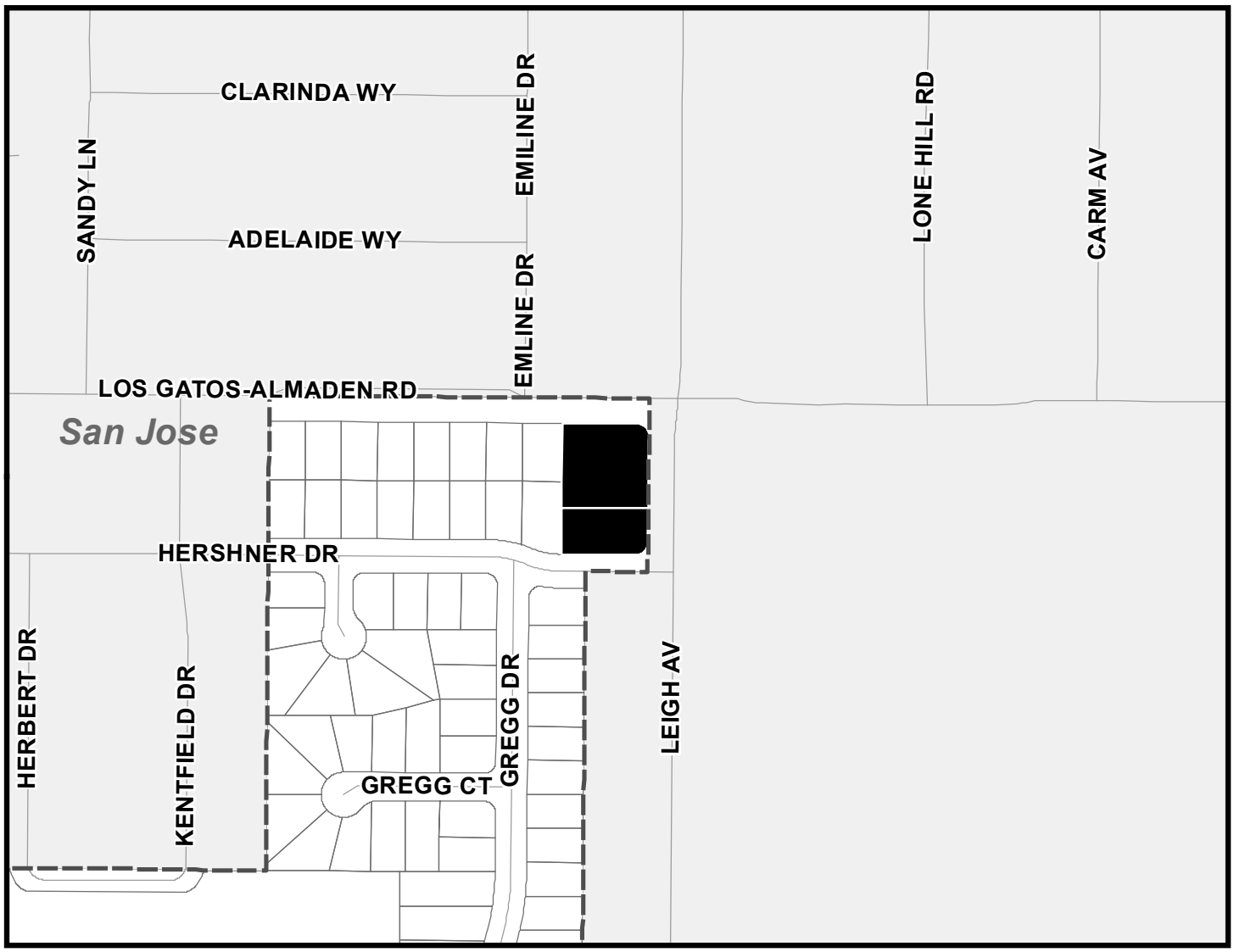
N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**

EXHIBIT A



Address: 440 Los Gatos-Almaden Road and 445 Leigh Avenue

A.P.N. # 527-49-048 and 527-49-049

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: C-1**

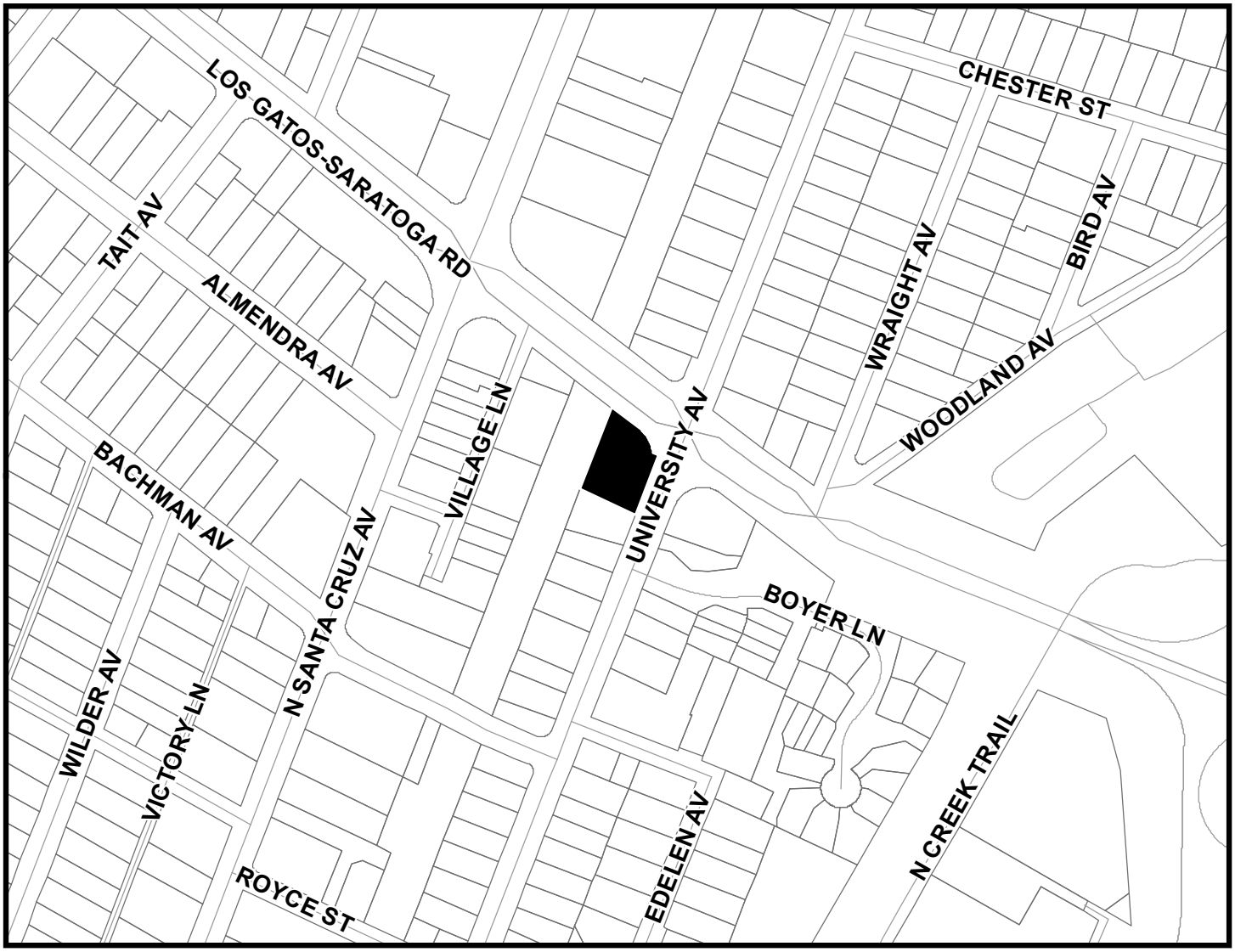
☐ **Prezoning** **To: C-1:HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 165 Los Gatos-Saratoga Road

A.P.N. # 529-04-083

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: C-2**

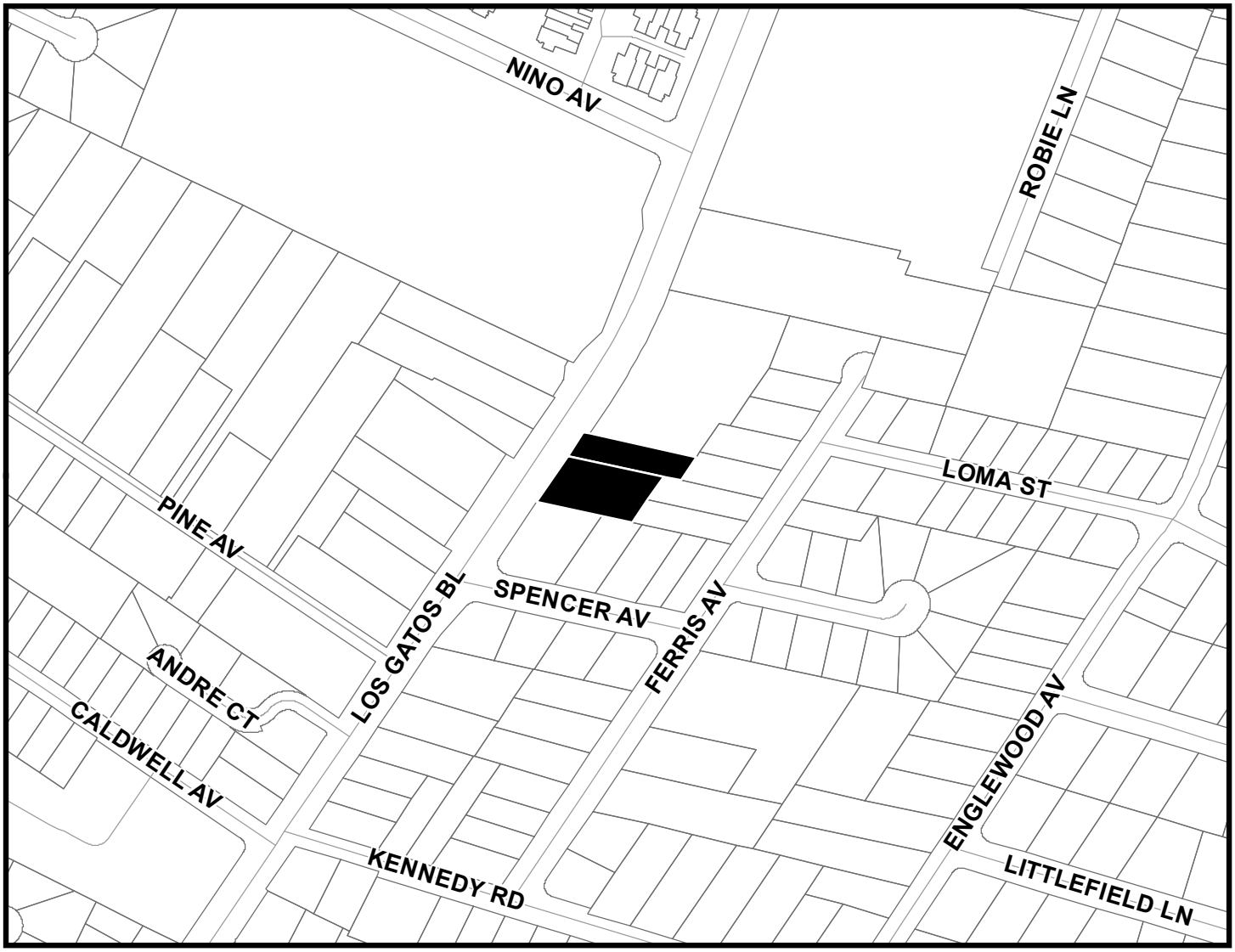
☐ **Prezoning** **To: C-2:HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 16492 Los Gatos Boulevard and APN 53207085

A.P.N. # 532-07-086 and 532-07-085

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: C-1**

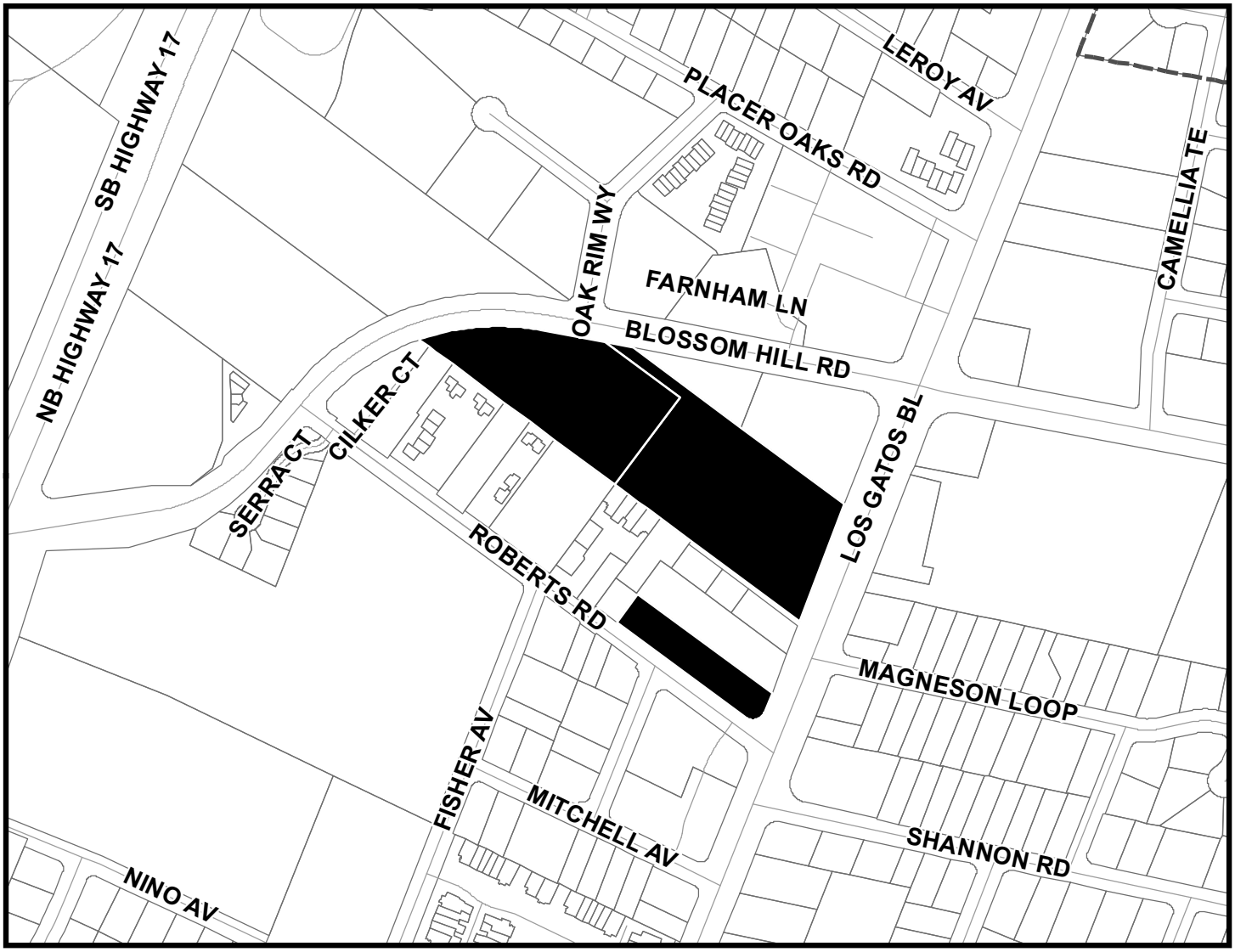
☐ **Prezoning** **To: C-1:HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 16151 and 16203 Los Gatos Boulevard; and 620 Blossom Hill Road

A.P.N. # 529-16-040, 529-16-069, and 529-16-041

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: CH**

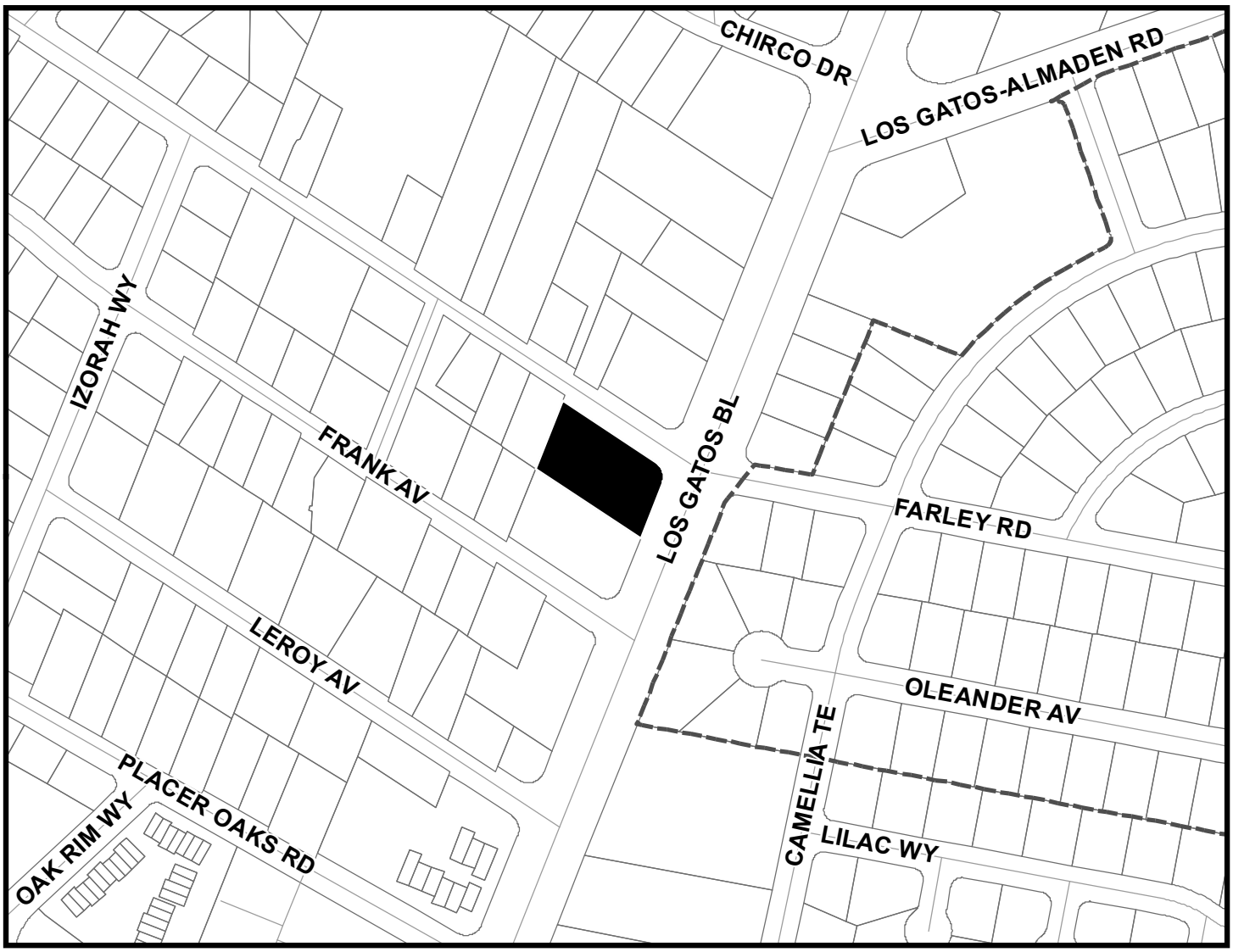
☐ **Prezoning** **To: CH-HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 15795 Los Gatos Boulevard

A.P.N. # 529-15-059

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: CH**

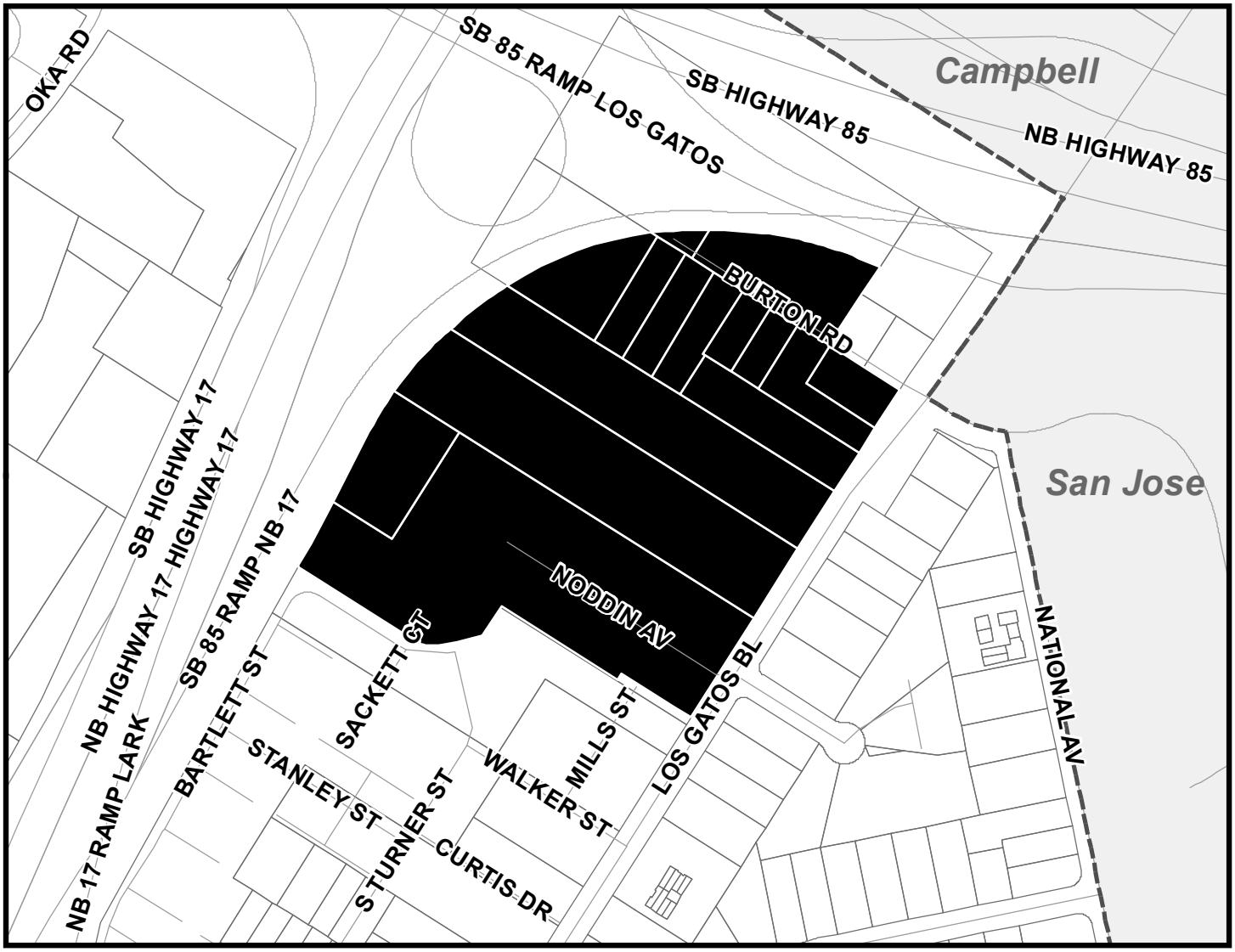
☐ **Prezoning** **To: CH-HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 16245, 16210, 16240, 16250, 16260, 16270, and 16392 Burton Road; 14823, 14831, 14849, 14859, 14917, 14925 Los Gatos Boulevard; and APNs 42406116, 42407115, and 42407116

A.P.N. # 424-06-115, 424-07-054, 424-07-010, 424-07-009, 424-07-053, 424-07-052, 424-07-095, 424-07-065, 424-07-063, 424-07-064, 424-07-094, 424-07-081, 424-07-115, 424-06-116, 424-07-115, and 424-07-116

TOWN OF LOS GATOS

Application No. Z-23-003

Change of zoning map amending the Town Zoning Ordinance.

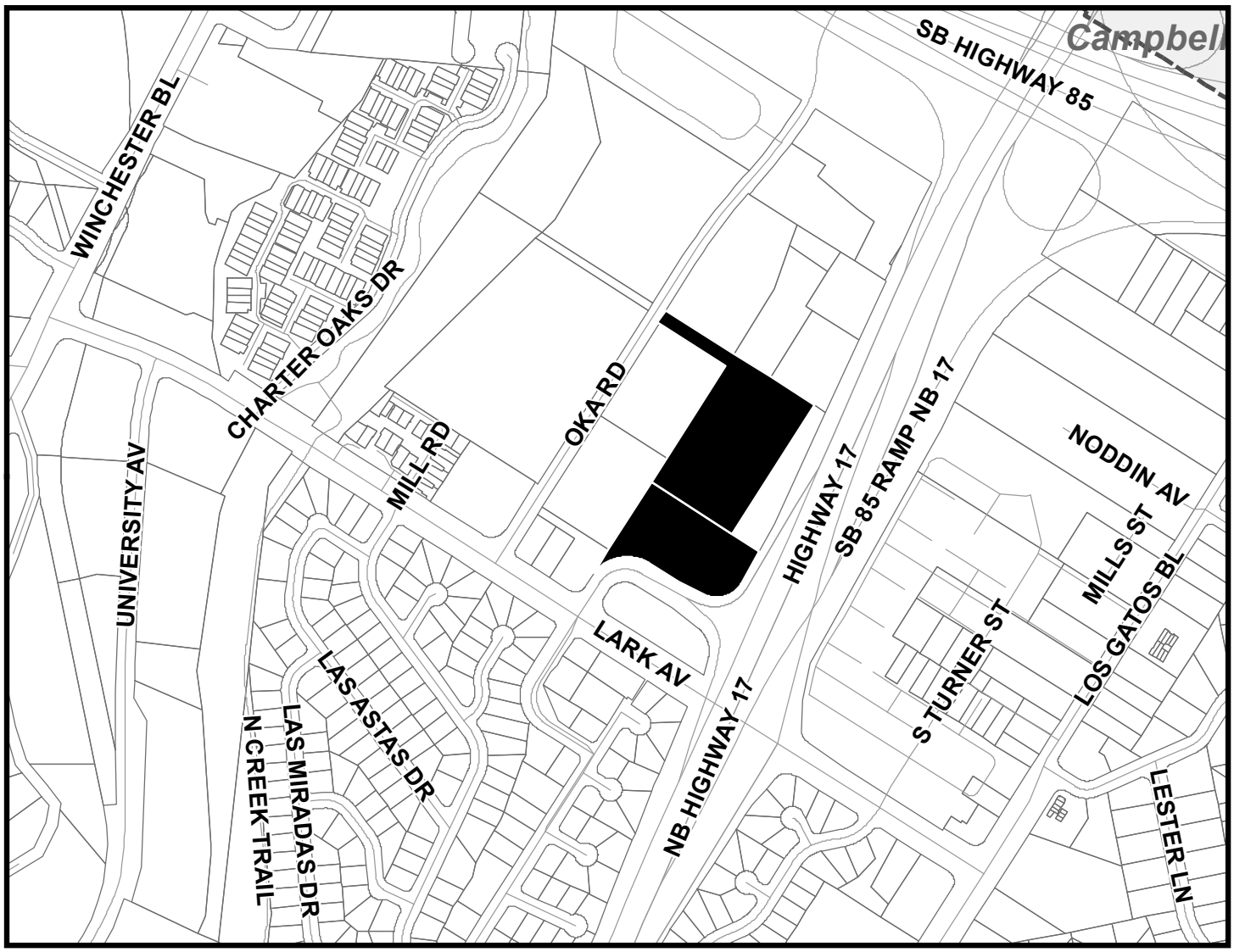
☒ **Zone Change** **From: North Forty Specific Plan**

☐ **Prezoning** **To: North Forty Specific Plan:HEOZ**

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 16603 Lark Avenue and 14840 Oka Road

A.P.N. # 424-08-017 and 424-08-021

TOWN OF LOS GATOS

Application No. Z-23-003

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: R-M:5-12**

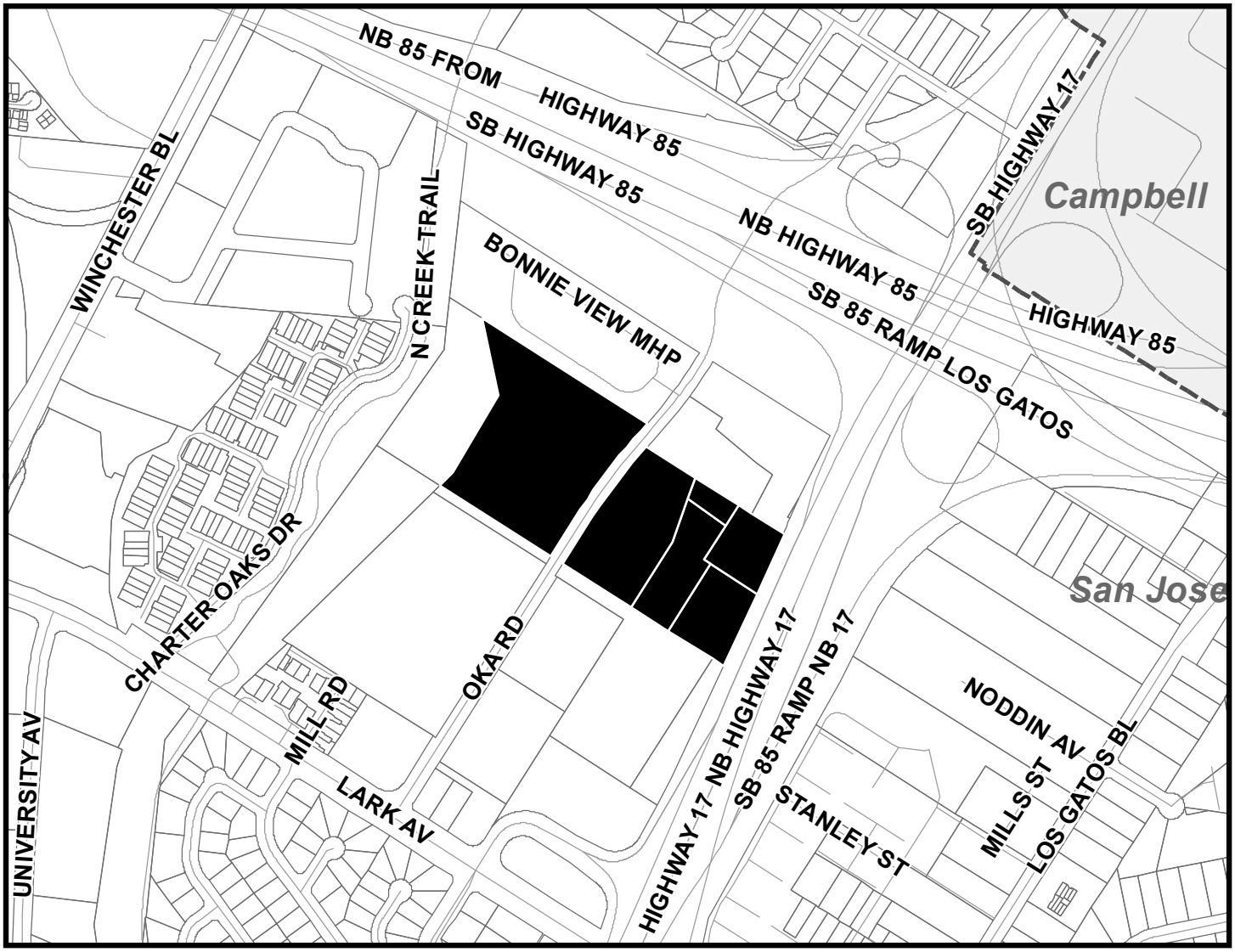
☐ **Prezoning** **To: R-M:5-12:HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 14800 Oka Lane and APNs 42408029, 42408058, 42408059, 42408060, 42408074

A.P.N. # 424-08-057, 424-08-029, 424-08-058, 424-08-059, 424-08-060, and 424-08-074

TOWN OF LOS GATOS

Application No. Z-23-003

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: R-1:8**

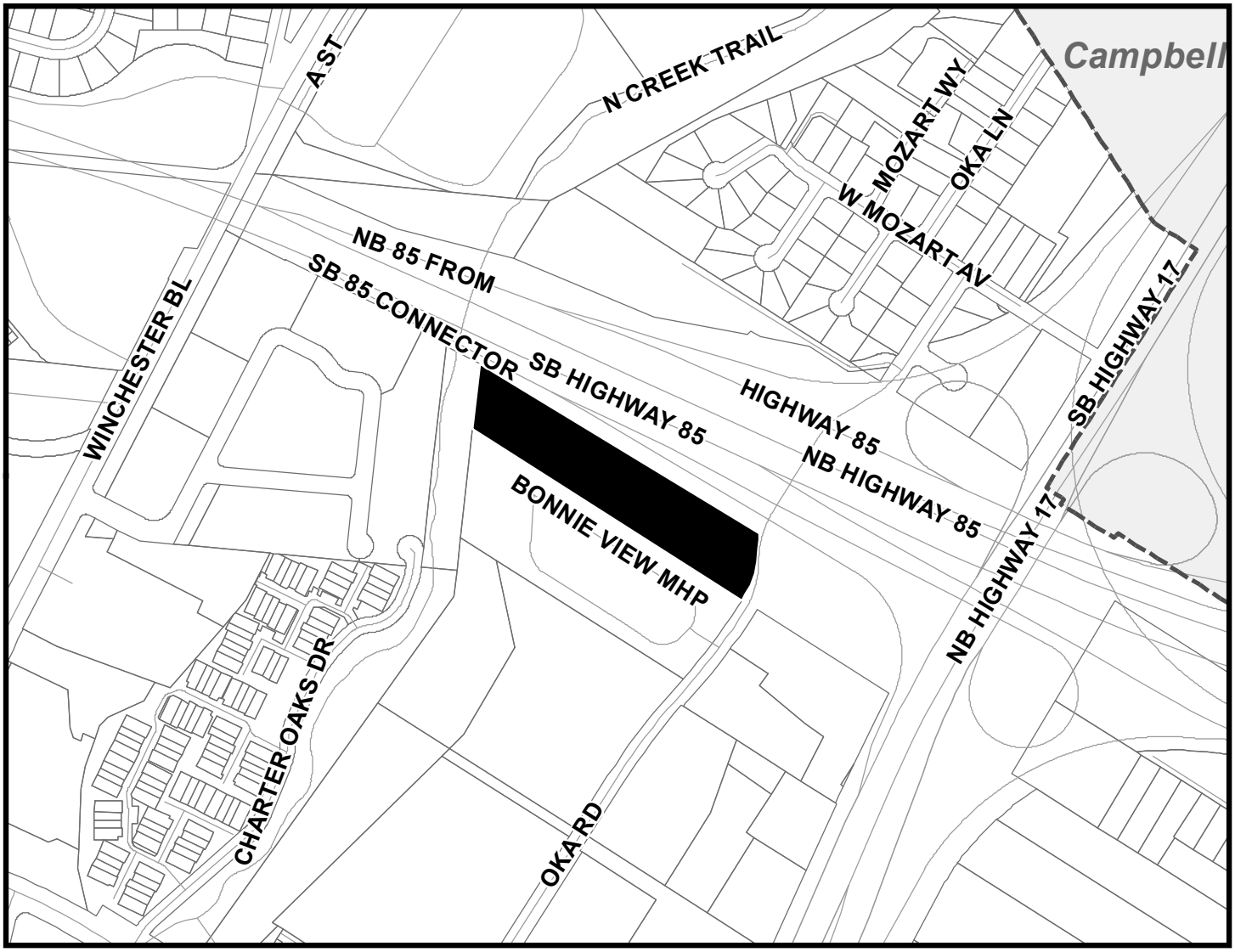
☐ **Prezoning** **To: R-1:8:HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: Caltrans Right-of-Way Adjacent to 14685 Oka Road

A.P.N. # No APN

TOWN OF LOS GATOS

Application No. Z-23-003

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: Not Zoned**

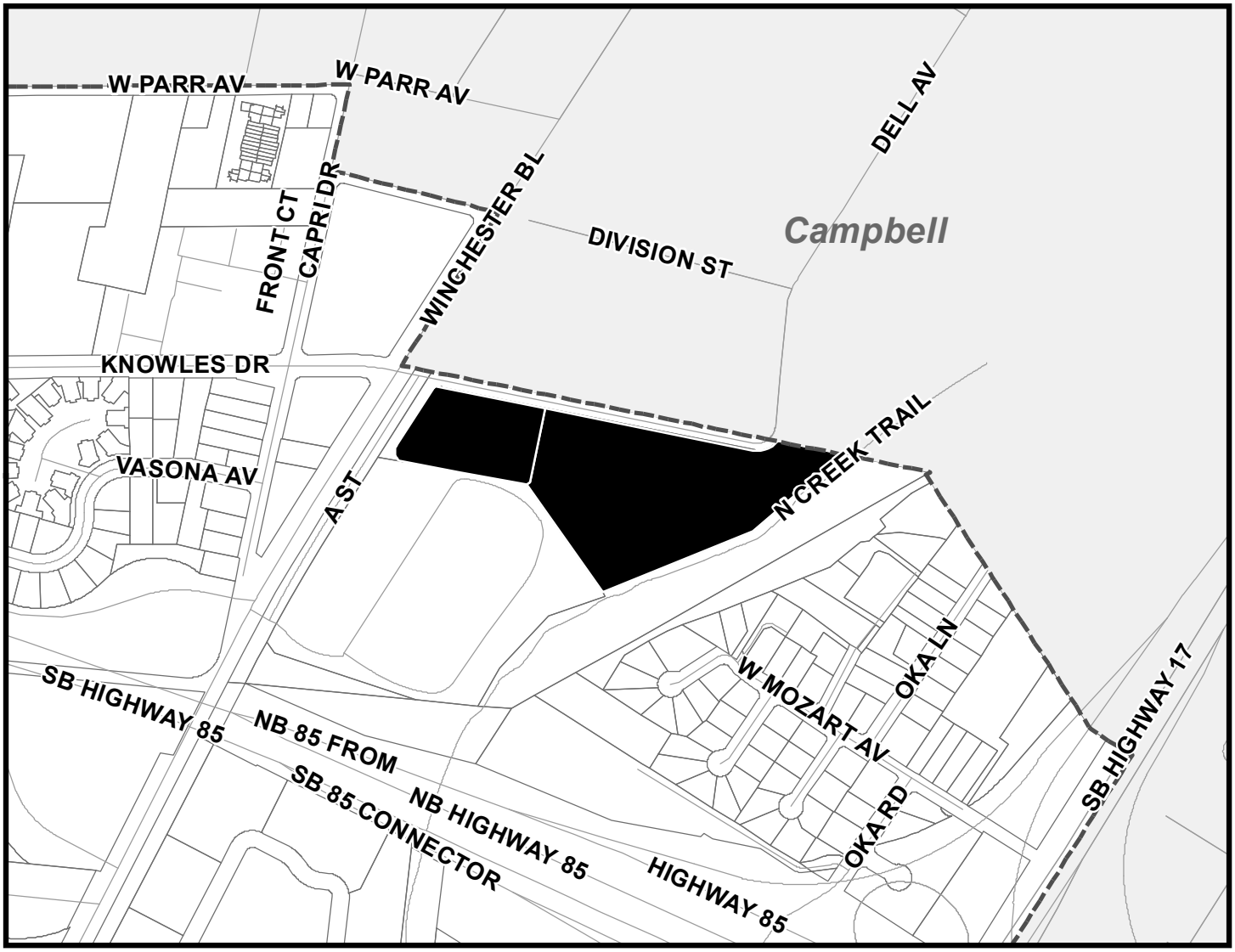
☐ **Prezoning** **To: R-M:HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**



Address: 110 and 206 Knowles Drive

A.P.N. # 424-32-077 and 424-32-076

TOWN OF LOS GATOS

Application No. Z-23-003

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: CM and CM:AHOZ**

☐ **Prezoning** **To: CM:HEOZ**

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**

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DATE: November 6, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Adopt a Resolution to Amend the General Plan Land Use Designation of 16492 Los Gatos Boulevard and Assessor Parcel Number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial; Amend the General Plan Land Use Designation of Caltrans Right-of-Way Adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential; and Introduce an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 (Single-Family Residential) to R-M (Multiple-Family Residential) for a Caltrans Right-of-Way Property Located Adjacent to 14685 Oka Road; and Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element:
APN's 424-06-116, 424-07-116, 424-08-029, 424-08-058, 424-08-059, 424-08-060, 424-08-074, and 532-07-085; 620 and 14000 Blossom Hill Road; 16210, 16240, 16245, 16250, 16260, 16270, and 16392 Burton Road; Cal Trans Right-of-Way Adjacent to 14685 Oka Road; 110 and 206 Knowles Drive; 445 Leigh Avenue; 440 Los Gatos Almaden Road; 16603 Lark Avenue; 14823, 14831, 14849, 14859, 14917, 14925, 15795, 16151, 16203, and 16492 Los Gatos Boulevard; 165 Los Gatos Saratoga Road; and 14800 and 14840 Oka Road."

An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003 and General Plan Amendment Application GP-23-003. Applicant: Town of Los Gatos.

PREPARED BY: Jocelyn Shoopman, Associate Planner and Erin Walters, Associate Planner

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

REMARKS:

There was an error included in the Draft Resolution for the General Plan Amendment provided in Attachment 1. A revised Draft Resolution for the General Plan Amendment has been provided in Attachment 3 for the Town Council's consideration.

Attachment 4 contains public comment received after 11:00 a.m. Wednesday, November 1, 2023, and before 11:01 a.m. on Monday, November 6, 2023.

ATTACHMENTS:

Attachments Previously Received with the November 7, 2023, Staff Report:
1. Draft Resolution with Exhibit A – Location Maps
2. Draft Ordinance with Exhibit A – Location Maps

Attachments Received with this Addendum:
3. Revised Draft Resolution with Exhibit A – Location Maps
4. Public Comment Received Between 11:01 a.m. Wednesday, November 1, 2023, and 11:00 a.m., Monday, November 6, 2023

Draft Resolution to be modified by Town Council deliberations and direction.

DRAFT RESOLUTION
RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING THE GENERAL PLAN LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL FOR A PROPERTY AT 16492 LOS GATOS BOULEVARD AND ASSESSOR PARCEL NUMBER (APN) 532-07-086; AND FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL FOR THE CALTRANS RIGHT-OF-WAY PROPERTY ADJACENT TO 14685 OKA ROAD.

WHEREAS, the Housing Element contains implementation programs to amend the General Plan land use designation of 16492 Los Gatos Boulevard and assessor parcel number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial; and Caltrans right-of-way adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential; and

WHEREAS, the General Plan Committee at its meeting of July 20, 2023, recommended approval of these General Plan amendments; and

WHEREAS, the Planning Commission met on August 23, 2023, to hold a public hearing and receive public comments; and

WHEREAS, the Planning Commission received further public comments and recommended approval of the General Plan amendments at its regular meeting of September 13, 2023; and

WHEREAS, the Town Council met on October 3, 2023, to hold a public hearing and continued the item to November 7, 2023;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed General Plan amendments; and

WHEREAS, the Town Council considered all facts and information related to a request to change the General Plan Land Use designation for the above mentioned properties as shown in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby changes the General Plan Land Use designation of 16492 Los Gatos Boulevard and assessor parcel number (APN)

ATTACHMENT 3

532-07-086 from Low Density Residential to Neighborhood Commercial; and Caltrans right-of-way adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential.

WHEREAS, the Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan amendments; and

B. The General Plan amendments are internally consistent with the existing goals and policies of the General Plan and its corresponding Elements; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.; and

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the ___ day of _____ 2023, by the following vote:

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: _____

DRAFT



16492 Los Gatos Boulevard and APN 532-07-086

TOWN OF LOS GATOS

Application No. GP-23-003 **A.P.N. #** 523-07-085 and 532-07-086

Change of the general plan map amending the Town General Plan

From: Low Density Residential

To: Neighborhood Commercial

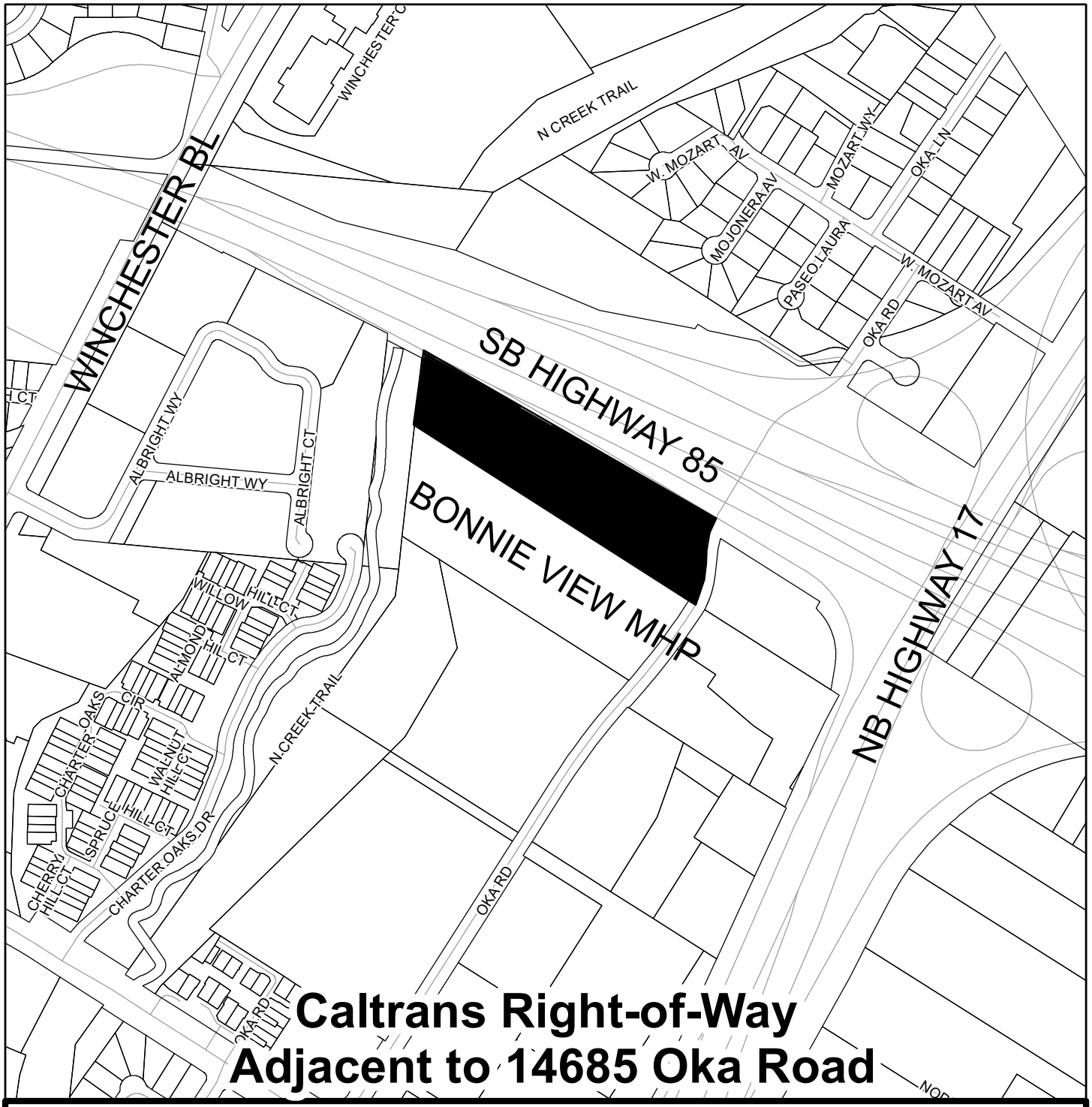
N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Resolution:**

Clerk Administrator **Mayor**

EXHIBIT A



Caltrans Right-of-Way Adjacent to 14685 Oka Road

TOWN OF LOS GATOS

Application No. GP-23-003 **A.P.N. #** No APN

Change of the general plan map amending the Town General Plan

From: Low Density Residential

To: Medium Density Residential

N

Forwarded by Planning Commission **Date:**

Approved by Town Council **Date:** **Resolution:**

Clerk Administrator **Mayor**

From: Chris Cowan <[redacted]>
Sent: Monday, November 6, 2023 9:21 AM
To: Council <Council@losgatosca.gov>
Subject: Public Comment - Los Gatos Town Council Agenda, 11/7/23, Public Hearing, Item 17, Proposed increase in building density on Oka Road

[EXTERNAL SENDER]

Honorable Town Council,

I am writing to voice my opposition to the proposed increase in building density on Oka Road. Increasing the building density on Oka Road is a dangerous proposal. Oka Road only has a single point of entry/exit for traffic. In the event of an emergency, residents will be trapped. This problem is not considered by standard traffic calculations and cannot be remedied by traffic measures or signal settings.

A proposed increase in building density on Oka Road was already rejected by the Los Gatos Town Council in recent years because of this potential for dangerous conditions. I request that the current Town Council reject the proposed increase in building density on Oka Road, and reiterate that existing zoning should be maintained long-term to avoid dangerous conditions.

Best Regards,
Chris Cowan
Homeowner, Oka Road neighborhood

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DATE: November 1, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Site Inventory Analysis of the 2023-2031 Housing Element: 401 through 409 Alberto Way, 50 Los Gatos-Saratoga Road, 529-24-001, and 529-24-003." An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

RECOMMENDATION:

Approve a recommendation of the Planning Commission to introduce an ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Site Inventory Analysis of the 2023-2031 Housing Element: 401 through 409 Alberto Way, 50 Los Gatos-Saratoga Road, 529-24-001, and 529-24-003."

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing and Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income

PREPARED BY: Jocelyn Shoopman, Associate Planner and
Erin Walters, Associate Planner

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

BACKGROUND (continued):

groups within the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle planning period is 1,993 units.

On January 30, 2023, the Town Council adopted the 2023-2031 Housing Element with modifications to the Sites Inventory, finding that it was in substantial compliance with State law. Two of the Implementation Programs contained in the Housing Element adopted by Town Council are the basis for the items under consideration and described in further detail below.

On May 30, 2023, the Town received HCD's findings/comment letter on the Revised Draft Housing Element. The findings/comment letter is in reference to the Town's Housing Element submitted to HCD on March 31, 2023.

The Town resubmitted the Draft Revised 2023-2031 Housing Element to HCD for review and comment on October 2, 2023. The materials distributed to HCD and additional materials on the ongoing Housing Element update process can be viewed online at: https://www.losgatosca.gov/1735/Housing-Element.

On August 23, 2023, the Planning Commission opened the public hearing on this item, heard public comments, and continued the item to September 13, 2023 (see Item 6 of the October 3, 2023, Town Council Agenda).

On September 13, 2023, the Planning Commission heard additional public comments, and made a recommendation to Town Council for approval (see Item 17 of the November 7, 2023 Town Council Agenda).

On October 3, 2023, the Town Council continued the item to November 7, 2023, pending a potential discussion with HCD regarding the adequacy of the Town's Sites Inventory. Staff has a meeting scheduled with the Town's HCD reviewer on November 7, 2023, and will provide a verbal update on the results of the meeting at the November 7, 2023, Town Council meeting.

DISCUSSION:

As described in more depth in the Item 17 staff report materials of the November 7, 2023, Town Council Agenda, this item is the introduction of an ordinance to apply the Housing Element Overlay Zone to 401 through 409 Alberto Way, 50 Los Gatos-Saratoga Road, 529-24-001, and 529-24-003.

PUBLIC COMMENTS:

Public notification has included a legal ad in the paper, noticing property owners, tenants, and properties located within 300 feet of all the sites listed within the Town. The meeting has also been publicized on the Town's website and through the Town's social media platforms. Public comments were previously provided with the October 3, 2023, Town Council staff report and desk item and can be viewed at the following link: https://meetings.municode.com/adaHtmlDocument No comments have been received as of the preparation of this staff report.

ENVIRONMENTAL ASSESSMENT:

An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments. No further Environmental Analysis is required.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that no further environmental analysis is required (Attachments 1);
2. Make the required finding that the proposed zone changes are consistent with the General Plan and its elements in that the proposed zone changes are consistent with the proposed General Plan land use designations (Attachment 1); and
3. Introduce an ordinance of the Town Council of the Town of Los Gatos, by title only, for Zone Change application Z-23-003 (Attachment 1).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer this item back to the Planning Commission with specific direction; or

Attachment:
1. Draft Ordinance with Exhibit A

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Draft Ordinance: subject to modification by Town Council based on deliberations and direction

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO APPLY THE HOUSING ELEMENT OVERLAY ZONE (HEOZ) TO PROVIDE FOR INCREASES TO THE ALLOWABLE DENSITY, HEIGHT, FLOOR AREA RATIO, AND LOT COVERAGE FOR RESIDENTIAL DEVELOPMENT ON THE FOLLOWING SITES INCLUDED IN THE SITES INVENTORY ANALYSIS OF THE 2023-2031 HOUSING ELEMENT: 401 THROUGH 409 ALBERTO WAY, 50 LOS GATOS-SARATOGA ROAD, 529-24-001, AND 529-24-003.

WHEREAS, the Town of Los Gatos' Housing Element contains a sites inventory that identifies sites with the potential for redevelopment with housing;

WHEREAS, the Town wishes to apply a Housing Element Overlay Zone to the sites identified in the sites inventory in order to encourage redevelopment with housing;

WHEREAS, the Planning Commission met on August 23, 2023, to receive public comments;

WHEREAS, the Planning Commission received further public comments and recommended approval of the application of the Housing Element Overlay Zone to the sites identified in sites inventory of the Housing Element adopted on January 30th and the Revised Draft Housing Element at its regular meeting of September 13, 2023;

WHEREAS, the Town Council met on October 3, 2023, to hold a public hearing and continued the item to November 7, 2023;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Zone Code amendments.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS AS FOLLOWS:

SECTION I

The Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included

ATTACHMENT 1

the proposed Zoning Code amendments; and

B. The zone changes are consistent with the General Plan and its elements in that the proposed zonings are consistent with the proposed General Plan land use designations; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and

D. The Town Council considered all facts and information related to the proposal to apply the Housing Element Overlay Zone to the sites shown in Exhibit A.

SECTION II

The Housing Element Overlay Zone is hereby applied to the properties at 401 through 409 Alberto Way, 50 Los Gatos-Saratoga Road, APN Nos. 529-24-001, and 529-24-003 as shown in Exhibit A to this Ordinance.

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November 2023, 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 ____ 2023. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DRAFT

DATE: _____

ATTEST:

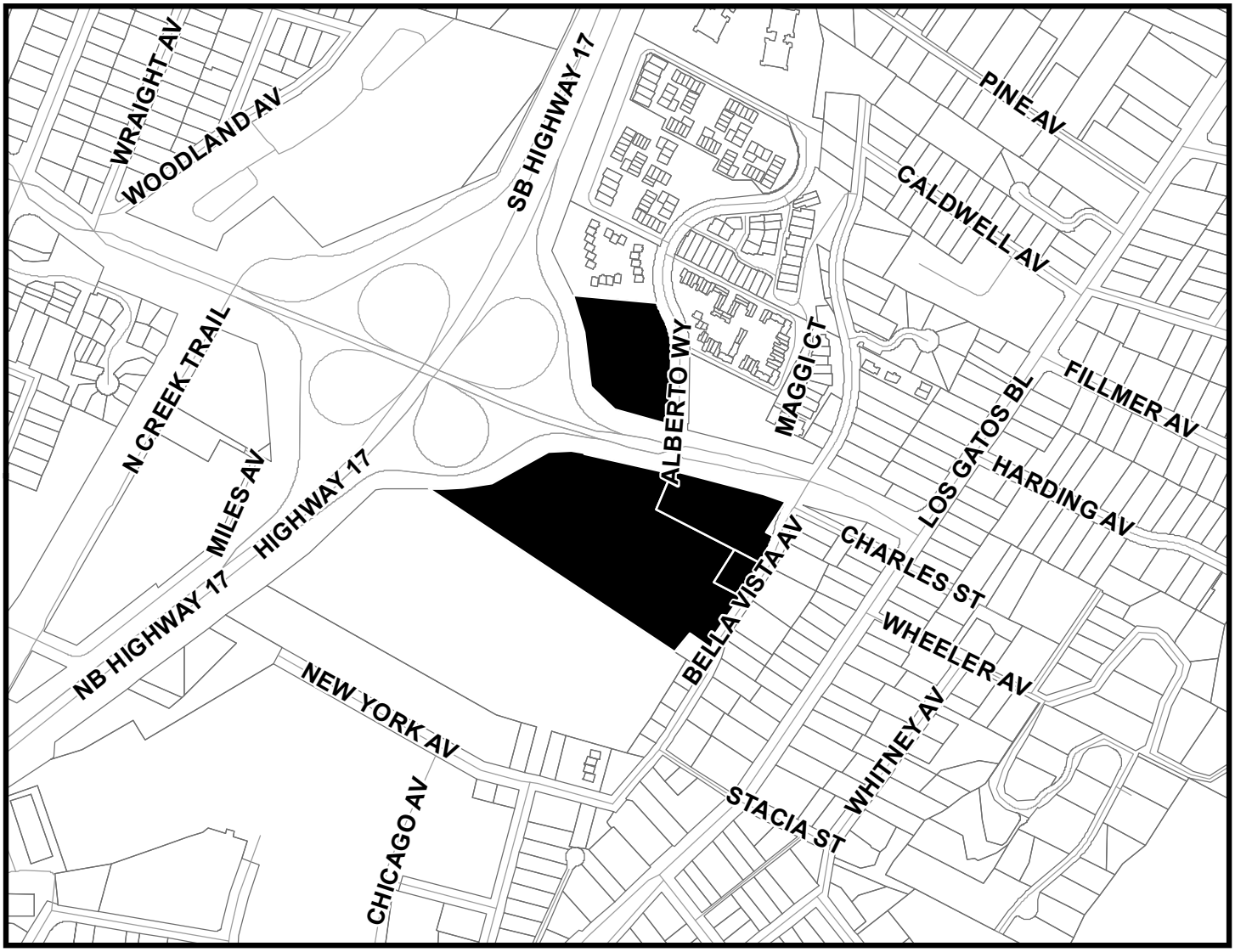
TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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Address: 401 through 409 Alberto Way; 50 Los Gatos-Saratoga Road; and APNs 52924001 and 52924003

A.P.N. # 529-23-018, 529-24-032, 529-24-001, and 529-24-003

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: CH**

☐ **Prezoning** **To: CH-HEOZ**

N

Forwarded by Planning Commission **Date:** 09/13/2023

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**

EXHIBIT A

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DATE: November 7, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Site Inventory Analysis of the 2023-2031 Housing Element: 401 through 409 Alberto Way, 50 Los Gatos-Saratoga Road, 529-24-001, and 529-24-003." An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

REMARKS:

Attachment 2 contains Public Comment received between 11:01 a.m. Monday, November 6, 2023, and 11:00 a.m. on Tuesday, November 7, 2023.

ATTACHMENTS:

Attachments Previously Received with the November 7, 2023, Staff Report:

1. Draft Ordinance with Exhibit A

Attachments Received with this Desk Item:

2. Public Comment received between 11:01 a.m. Monday, November 6, 2023, and 11:00 a.m. on Tuesday, November 7, 2023

PREPARED BY: Jocelyn Shoopman, Associate Planner and Erin Walters, Associate Planner

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

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-----Original Message-----
From: Jennifer Liebthal [redacted]
Sent: Tuesday, November 7, 2023 10:49 AM
To: Housing Element <HEUpdate@losgatosca.gov>
Subject: Nov 7 hearing affecting Alberto Way

[EXTERNAL SENDER]

Hello,

I received a notice regarding zoning changes that included Alberto way. Myself and all of our neighbors on the street have been fighting these changes for quite a while. There are several very important reasons why. My list of concerns are below.

1) Alberto Way is already a large community on a dead end street
2) there are senior facility on this street which need to have easy entry and exit access for emergency vehicles
3) current parking issues. There is not enough parking already for residents
4) safety aspects and excessive traffic getting onto Hwy9/17 at this location
5) our hillside views which is the reason most of us bought in this area and pay the prices we do will be blocked and as an entry to Los Gatos it will change charm you feel entering our lovely town

I strongly oppose these proposed zoning changes to Alberto way.

Thank you fit your time and consideration, Jennifer

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DATE: November 1, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 15300, 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard." An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

RECOMMENDATION:

Approve a recommendation of the Planning Commission to introduce an ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 15300, 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard."

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing and Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income

PREPARED BY: Jocelyn Shoopman, Associate Planner and
Erin Walters, Associate Planner

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

BACKGROUND (continued):

groups within the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for this sixth cycle planning period is 1,993 units.

On January 30, 2023, the Town Council adopted the 2023-2031 Housing Element with modifications to the Sites Inventory, finding that it was in substantial compliance with State law. Two of the Implementation Programs contained in the Housing Element adopted by Town Council are the basis for the items under consideration and described in further detail below.

On May 30, 2023, the Town received HCD's findings/comment letter on the Revised Draft Housing Element. The findings/comment letter is in reference to the Town's Housing Element submitted to HCD on March 31, 2023.

The Town resubmitted the Draft Revised Housing Element to HCD for review and comment on October 2, 2023. The materials distributed to HCD and additional materials on the ongoing Housing Element update process can be viewed online at: https://www.losgatosca.gov/1735/Housing-Element.

On August 23, 2023, the Planning Commission opened the public hearing on this item, heard public comments, and continued the item to September 13, 2023 (see Item 6 of the October 3, 2023, Town Council Agenda).

On September 13, 2023, the Planning Commission heard additional public comments, and made a recommendation to Town Council for approval (see Item 17 of the November 7, 2023, Town Council Agenda).

On October 3, 2023, the Town Council continued the item to November 7, 2023, pending a potential discussion with HCD regarding the adequacy of the Town's Sites Inventory. Staff has a meeting scheduled with the Town's HCD reviewer on November 7, 2023, and will provide a verbal update on the results of the meeting at the November 7, 2023, Town Council meeting.

DISCUSSION:

As described in more depth in the staff report materials for Item 17 of the November 7, 2023, Town Council Agenda, this item is introduction of an ordinance to apply the Housing Element Overlay Zone to 15300, 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard.

PUBLIC COMMENTS:

Public notification has included a legal ad in the paper, noticing property owners, tenants, and properties located within 300 feet of all the sites listed within the Town. The meeting has also been publicized on the Town's website and through the Town's social media platforms. No comments have been received as of the preparation of this staff report.

ENVIRONMENTAL ASSESSMENT:

An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments. No further Environmental Analysis is required.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that no further environmental analysis is required (Attachments 1);
2. Make the required finding that the proposed zone changes are consistent with the General Plan and its elements in that the proposed zone changes are consistent with the proposed General Plan land use designations (Attachment 1); and
3. Introduce an ordinance of the Town Council of the Town of Los Gatos for Zone Change application Z-23-003 (Attachment 1).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer this item back to the Planning Commission with specific direction; or
3. Take no action, leaving the General Plan and zoning designations unchanged.

Attachment:
1. Draft Ordinance with Exhibit A

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Draft Ordinance: subject to modification by Town Council based on deliberations and direction

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO APPLY THE HOUSING ELEMENT OVERLAY ZONE (HEOZ) TO PROVIDE FOR INCREASES TO THE ALLOWABLE DENSITY, HEIGHT, FLOOR AREA RATIO, AND LOT COVERAGE FOR RESIDENTIAL DEVELOPMENT ON THE FOLLOWING SITES INCLUDED IN THE SITES INVENTORY ANALYSIS OF THE 2023-2031 HOUSING ELEMENT: 15300, 15349, 15367, 15405, 15425, 15480, AND 15500 LOS GATOS BOULEVARD

WHEREAS, the site located at 15480 and 15500 Los Gatos Boulevard was added to the Town of Los Gatos' Draft Revised Housing Element based on the receipt of a property owner interest form;

WHEREAS, all other sites included in the Town of Los Gatos' adopted Housing Element were identified as sites with the potential for redevelopment with housing;

WHEREAS, the Town wishes to apply a Housing Element Overlay Zone to the sites identified in the sites inventory in order to encourage redevelopment with housing;

WHEREAS, the Planning Commission met on August 23, 2023, to receive public comments and continued the item to September 13, 2023; and

WHEREAS, the Planning Commission received further public comments and recommended approval of application of the Housing Element Overlay Zone to the sites identified in the Housing Element sites inventory at its regular meeting of September 13, 2023; and

WHEREAS, the Town Council met on October 3, 2023, to hold a public hearing and continued the item to November 7, 2023;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Zoning Code amendments.

ATTACHMENT 1

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS AS FOLLOWS:

SECTION I

The Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments; and

B. The Housing Element Overlay Zone is consistent with the General Plan and its elements in that the proposed zonings are consistent with the proposed General Plan land use designations and the sites inventory contained in the Housing Element; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and

D. The Town Council considered all facts and information related to the proposal to apply the Housing Element Overlay Zone to the sites shown in Exhibit A.

SECTION II

The Housing Element Overlay Zone is hereby applied to the properties at 15300, 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard as shown in Exhibit A to this Ordinance.

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November 2023, 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 _____ 2023. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

DRAFT

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

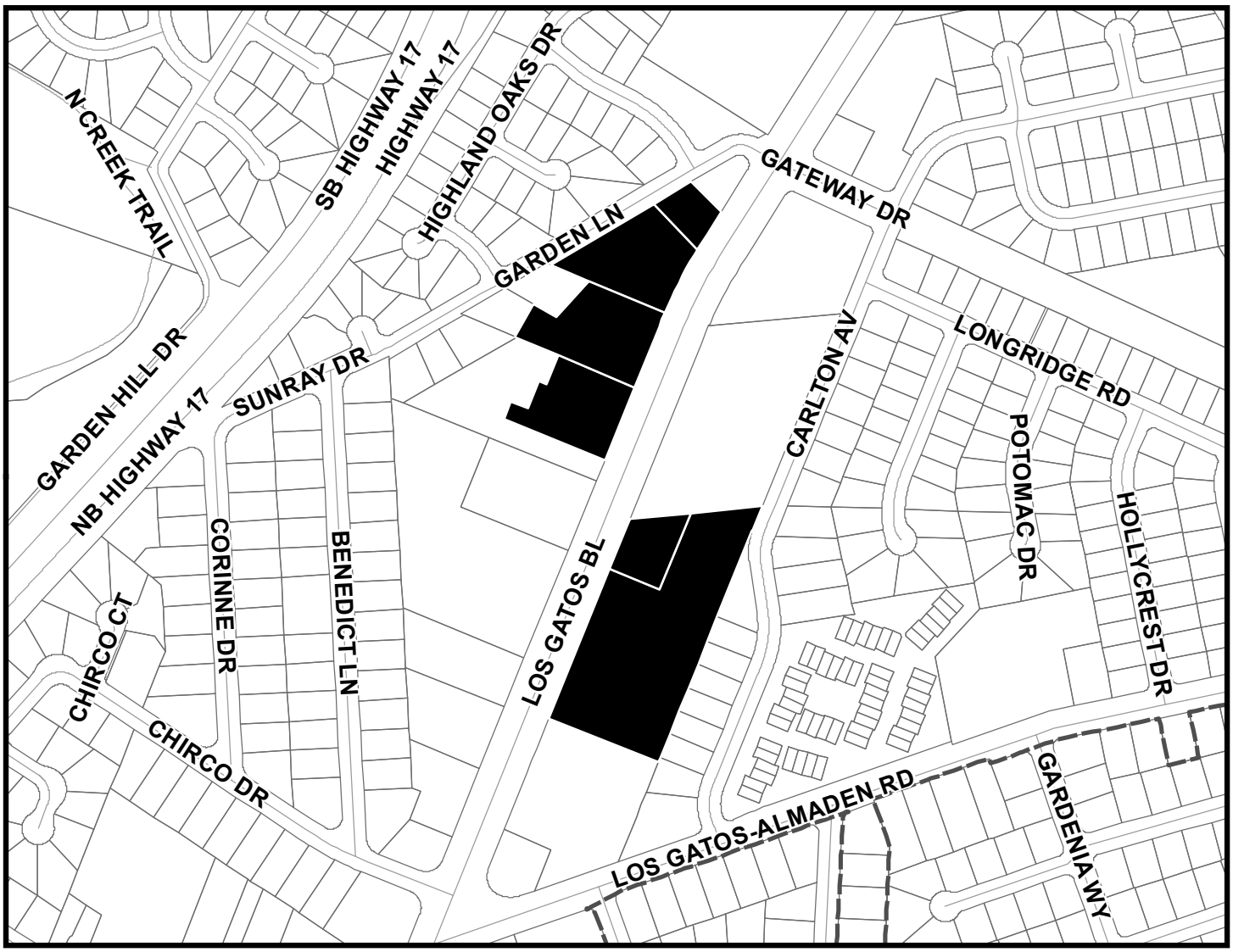
TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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Address: 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard

A.P.N. # 424-19-049, 424-19-048, 424-19-069, 424-19-067, 424-14-034, and 424-14-035

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: CH**

☐ **Prezoning** **To: CH-HEOZ**

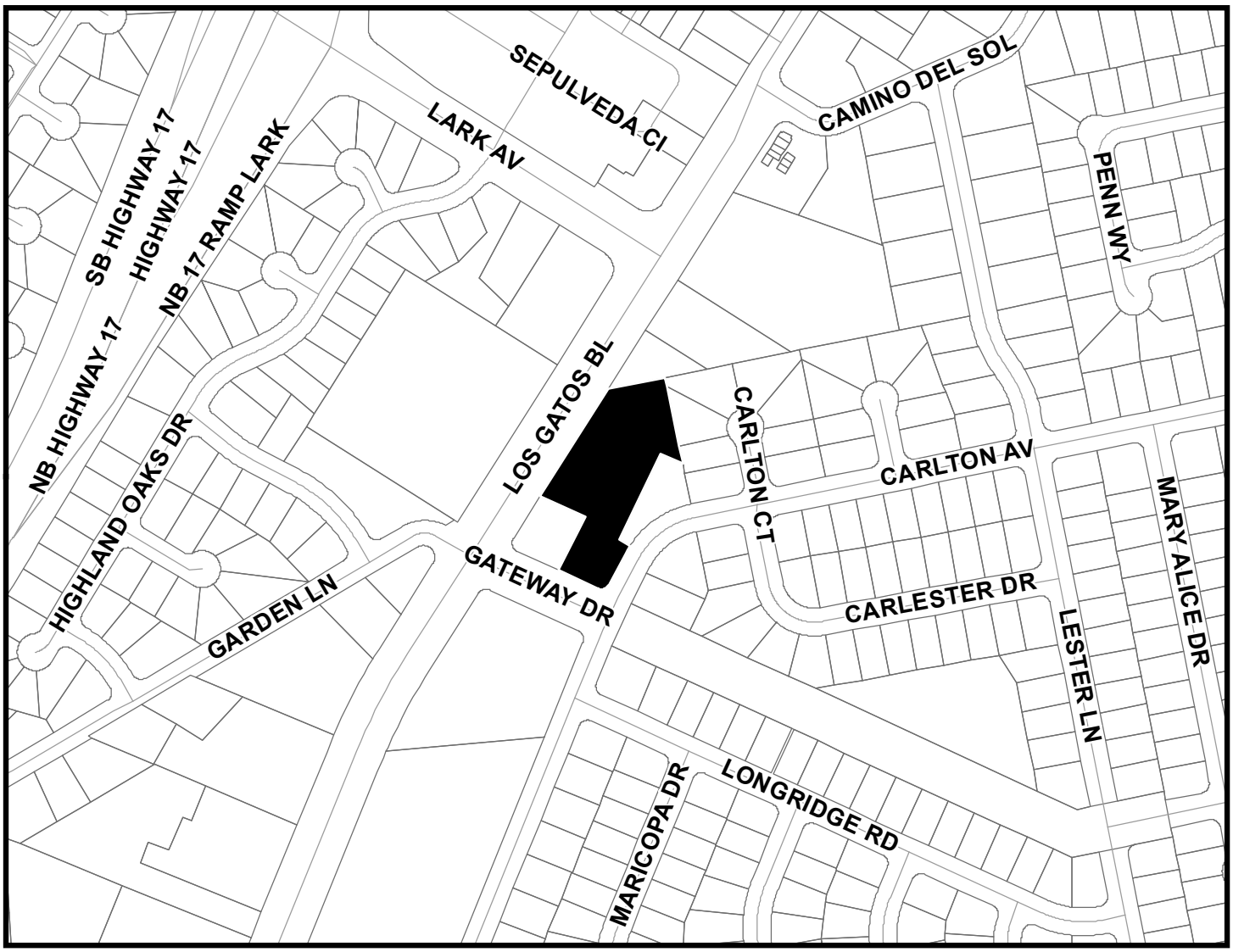
N

Forwarded by Planning Commission **Date:** 09/13/2023

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**

EXHIBIT A



Address: 15300 Los Gatos Boulevard

A.P.N. # 424-17-036

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: C-1**

☐ **Prezoning** **To: C-1:HEOZ**

N

Forwarded by Planning Commission **Date:** 09/13/2023

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**

DATE: November 1, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Site Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 101 South Santa Cruz Avenue." An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

RECOMMENDATION:

Approve a recommendation of the Planning Commission to introduce an ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Site Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 101 South Santa Cruz Avenue."

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing and Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income groups within the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight

PREPARED BY: Jocelyn Shoopman, Associate Planner and
Erin Walters, Associate Planner

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

BACKGROUND (continued):

years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle planning period is 1,993 units.

On January 30, 2023, the Town Council adopted the 2023-2031 Housing Element with modifications to the Sites Inventory, finding that it was in substantial compliance with State law. Two of the Implementation Programs contained in the Housing Element adopted by Town Council are the basis for the items under consideration and described in further detail below.

On May 30, 2023, the Town received HCD's findings/comment letter on the Revised Draft Housing Element that was submitted to HCD on March 31, 2023.

The Town resubmitted the Draft Revised 2023-2031 Housing Element to HCD for review and comment on October 2, 2023. The materials distributed to HCD and additional materials on the ongoing Housing Element update process can be viewed online at: https://www.losgatosca.gov/1735/Housing-Element.

On August 23, 2023, the Planning Commission opened the public hearing on this item, heard public comments, and continued the item to September 13, 2023 (see Item 6 of the October 3, 2023, Town Council Agenda).

On September 13, 2023, the Planning Commission heard additional public comments, and made a recommendation to Town Council for approval (see Item 17 of the November 7, 2023, Town Council Agenda).

On October 3, 2023, the Town Council continued the item to November 7, 2023, pending a potential discussion with HCD regarding the adequacy of the Town's Sites Inventory. Staff has a meeting scheduled with the Town's HCD reviewer on November 7, 2023, and will provide a verbal update on the results of the meeting at the November 7, 2023, Town Council meeting.

DISCUSSION:

As described in more depth in the staff report materials for Item 17 of the November 7, 2023, Town Council Agenda, this item is introduction of an ordinance to apply the Housing Element Overlay Zone to 101 South Santa Cruz Avenue.

PUBLIC COMMENTS:

Public notification has included a legal ad in the paper, noticing property owners, tenants, and properties located within 300 feet of all the sites listed within the Town. The meeting has also

PUBLIC COMMENTS (continued):

been publicized on the Town's website and through the Town's social media platforms. No comments have been received as of the preparation of this staff report.

ENVIRONMENTAL ASSESSMENT:

An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments. No further Environmental Analysis is required.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that no further environmental analysis is required (Attachments 1);
2. Make the required finding that the proposed zone change is consistent with the General Plan and its elements in that the proposed zone changes are consistent with the proposed General Plan land use designations (Attachment 1); and
3. Introduce an ordinance of the Town Council of the Town of Los Gatos for Zone Change application Z-23-003 (Attachment 1).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Continue this item to a date certain with specific direction to staff;
2. Refer this item back to the Planning Commission with specific direction; or
3. Take no action, leaving the General Plan and zoning designations unchanged.

Attachment:
1. Draft Ordinance with Exhibit A

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Draft Ordinance: subject to modification by Town Council based on deliberations and direction

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO APPLY THE HOUSING ELEMENT OVERLAY ZONE (HEOZ) TO PROVIDE FOR INCREASES TO THE ALLOWABLE DENSITY, HEIGHT, FLOOR AREA RATIO, AND LOT COVERAGE FOR RESIDENTIAL DEVELOPMENT ON THE FOLLOWING SITE INCLUDED IN THE SITES INVENTORY ANALYSIS OF THE 2023-2031 HOUSING ELEMENT: 101 SOUTH SANTA CRUZ AVENUE.

WHEREAS, the Town of Los Gatos' Housing Element contains a sites inventory that identifies sites with the potential for redevelopment with housing;

WHEREAS, the Town wishes to apply a Housing Element Overlay Zone to the sites identified in the sites inventory in order to encourage redevelopment with housing;

WHEREAS, the Planning Commission met on August 23, 2023, to receive public comments and continued the item to September 13, 2023;

WHEREAS, the Planning Commission received further public comments and recommended approval of the application of the Housing Element Overlay Zone to the sites identified in the Housing Element sites inventory at its regular meeting of September 13, 2023;

WHEREAS, the Town Council met on October 3, 2023, to hold a public hearing and continued the item to November 7, 2023;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Zoning Code amendments.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS AS FOLLOWS:

SECTION I

The Town Council finds as follows:

A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments; and

B. The zone change is consistent with the General Plan and its elements in that the proposed zonings are consistent with the proposed General Plan land use designations; and

ATTACHMENT 1

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and

D. The Town Council considered all facts and information related to the proposal to apply the Housing Element Overlay Zone to the site shown in Exhibit A.

SECTION II

The Housing Element Overlay Zone is hereby applied to the property at 101 South Santa Cruz Avenue as shown in Exhibit A to this ordinance.

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November 2023, 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 ____ 2023. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

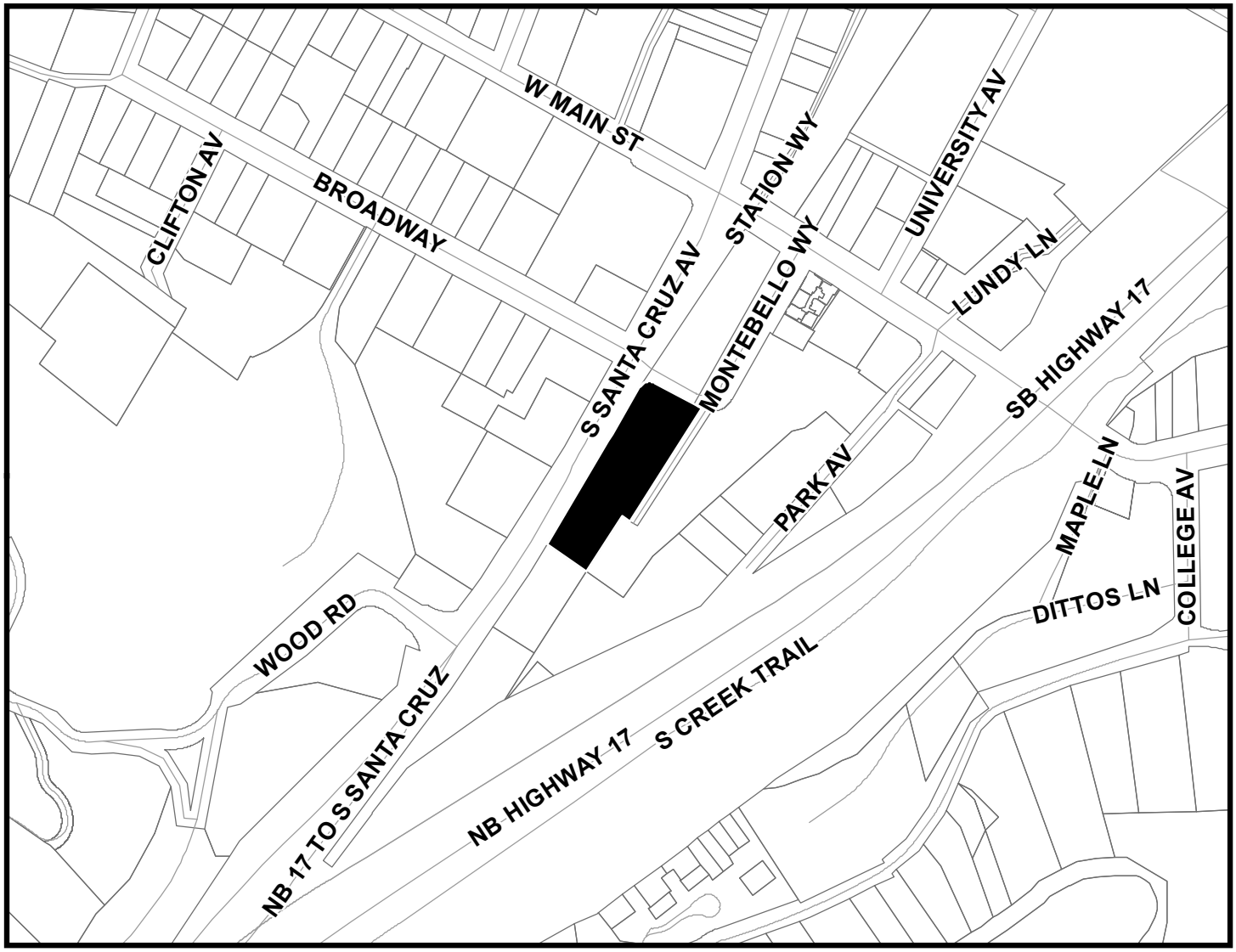
TOWN CLERK OF THE TOWN OF LOS GATOS

DRAFT

LOS GATOS, CALIFORNIA

DATE: _____

DRAFT



Address: 101 S. Santa Cruz Avenue

A.P.N. # 529-01-022

TOWN OF LOS GATOS

Application No. **Z-23-003**

Change of zoning map amending the Town Zoning Ordinance.

☒ **Zone Change** **From: C-2**

☐ **Prezoning** **To: C-2:HEOZ**

N

Forwarded by Planning Commission **Date:** 09/13/2023

Approved by Town Council **Date:** **Ord:**

Clerk Administrator **Mayor**

EXHIBIT A

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DATE: October 12, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Introduce an Ordinance Titled "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 and Correcting Outdated References in Town Code Sections Pertaining to Termination of Nonconforming Use Status, Requirements for a Two-Unit Development Under Senate Bill 9 (SB 9), and Civil Penalties." The Environmental Impacts of the Proposed Amendments to the Town Code were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3). Town Code Amendment Application A-23-002. Project Location: Town Wide. Applicant: Town of Los Gatos.

RECOMMENDATION:

Introduce an Ordinance, by title only, titled "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 and Correcting Outdated References in Town Code Sections Pertaining to Termination of Nonconforming Use Status, Requirements for a Two-Unit Development Under Senate Bill 9 (SB 9), and Civil Penalties" (Attachment 1).

BACKGROUND:

In 2016, the Governor signed several bills intended to address the State's housing crisis by creating new housing opportunities through accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Through 2022, the Governor continued to sign additional bills into law that further streamlined the permitting process for ADUs and JADUs. As a result, the Town updated the Town Code regarding ADUs/JADUs in 2017 and 2020 to comply with updated State laws.

PREPARED BY: Sean Mullin, AICP
Senior Planner

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

BACKGROUND (continued):

Since the current ADU/JADU regulations have been in place, additional bills have been signed into law and the Town has received clarification from the California Department of Housing and Community Development (HCD) on specific aspects of the Town's ADU/JADU regulations. Additionally, staff has received feedback from Town residents regarding privacy impacts caused by new ADUs on neighboring properties.

In September 2022, the Governor signed Senate Bill (SB) 897 and Assembly Bill (AB) 2221, which made substantial changes in the development standards applicable to ADUs, including height, front yard setbacks, owner-occupancy, permit review time limits, and fire sprinklers (Attachment 3, Exhibits 3 and 4). The new State ADU/JADU regulations took effect on January 1, 2023. Local ordinances that do not wholly conform to the new State regulations (Attachment 3, Exhibit 5) are superseded until conforming local ordinances are adopted.

Through an audit of the Town's current ADU Ordinance (Attachment 3, Exhibit 6) against the applicable sections of the CA Government Code (Attachment 3, Exhibit 5), staff determined that a complete overhaul of the Town's ADU regulations is necessary. The Draft Ordinance, included as Attachment 1, would align the Town's regulations with State law, respond to HCD feedback, introduce objective design standards, and address privacy impacts created by construction of new ADUs and JADUs.

On September 13, 2023, the Planning Commission considered the draft ADU Ordinance amendments, staff report (Attachment 3), and addendum (Attachment 4). The Planning Commission received and considered public comments on the Draft Ordinance, reviewed the proposed changes, and recommended approval to Town Council with the recommendation that parking requirements for all ADUs be eliminated as reflected in the verbatim minutes (Attachment 5) and summarized below.

DISCUSSION:

While the Draft Ordinance has mostly new provisions, the existing regulations have been carried forward, when possible. Attachment 6 shows existing language carried forward (highlighted in green), with a reference to where the existing language can be found in the Draft Ordinance (highlighted in yellow). The Planning Commission staff report (Attachment 3) provides a detailed section-by-section discussion of the Draft Ordinance and provides staff's assessment of the existing regulations and how and why they are modified under the Draft Ordinance. Below is a discussion of the additional modifications made to the Draft Ordinance in response to the Planning Commission's recommendation and additional consideration by staff.

DISCUSSION (continued):

Sec. 29.10.320. General requirements and restrictions.

Parking: The Planning Commission recommended that parking requirements be eliminated for all ADUs and JADUs. The following language has been removed from the Draft Ordinance:

(f) *Parking.* One (1) parking space per accessory dwelling unit or per 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 shall be provided prior to the issuance of a Building Permit or final inspection, for a new accessory dwelling unit.

(1) *Exceptions.* No parking space shall be required under any of the following conditions:
   a. No additional parking shall be required for a junior accessory dwelling unit.
   b. The accessory dwelling unit is located within one-half mile walking distance of public transit.
   c. The accessory dwelling unit is located within an architecturally and historically significant historic district.
   d. The accessory dwelling unit is contained within the proposed or existing space of, or constructed in substantially the same location and manner as, an existing primary dwelling or accessory structure.
   e. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
   f. When there is a car share vehicle (as defined by the California Vehicle Code) located within one (1) block of the accessory dwelling unit.
   g. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or multi-family dwelling on the same lot.
   h. 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.
   i. When the Director finds that the lot does not have adequate area to provide parking.

The language above has been replaced in the Draft Ordinance with the following, reflecting the Planning Commission's recommendation:

DISCUSSION (continued):

(f) *Parking.* No parking shall be required for a new accessory dwelling unit and/or junior accessory dwelling unit.

Design standards: The purposes of the objective design standards that are included in the Draft Ordinance are to ensure that the residential appearance of a property is maintained, protect the privacy of neighbors, and require that an ADU and/or JADU is compatible with the primary dwelling and the neighborhood. Upon further consideration after the Planning Commission hearing, staff recommends that the Council include the following additional objective design standards below to better achieve the purpose of maintaining the residential appearance of the property.

1. *Outside stairways*. Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street. This standard shall not preclude construction of an 800 square-foot accessory dwelling unit.
2. *Detached and/or attached accessory dwelling units*. A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling. An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.
3. *Attached garage conversion*. An existing attached garage that is converted to an accessory dwelling unit and/or junior accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.
4. *Detached garage conversion*. An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.

Staff has incorporated the additional recommended objective design standards into the Draft Ordinance included as Attachment 1. If the Council would not like to include them, a separate Draft Ordinance has been prepared without the additional recommended objective design standards included as Attachment 2.

PUBLIC OUTREACH:

Staff conducted outreach through the following media and social media resources, as well as direct communication with stakeholders as summarized below:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account;
- The Town's NextDoor page; and
- Direct email communication to local architects and designers.

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

ENVIRONMENTAL ASSESSMENT:

The environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to ADUs and JADUs.

CONCLUSION:

Staff recommends that the Town Council introduce the ordinance with the Planning Commission's and staffs' recommendations by taking the following steps:

1. Make the finding that the environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units (Attachment 1, Section VI);
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 (Attachment 1, Section VII); and
3. Introduce an ordinance of the Town Council of the Town of Los Gatos, by title only, amending Chapter 29, "Zoning Regulations," of the Town Code regarding accessory dwelling units. The proposed amendments also correct outdated references to sections of the Town Code included in sections pertaining to termination of nonconforming use status, requirements for a two-unit development under Senate Bill 9 (SB 9), and civil penalties (Attachment 1).

ALTERNATIVES:

Alternatively, the Town Council may:

1. Introduce the ordinance with the Planning Commission's recommendations and without staffs' recommendations by taking the following steps:
   a. Make the finding that the environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units (Attachment 2, Section VI);
   b. Make the required finding that the amendments to Chapter 29 of the Town Code in the Draft Ordinance are consistent with the General Plan (Attachment 2, Section VII); and
   c. Introduce an ordinance of the Town Council of the Town of Los Gatos, by title only, amending Chapter 29, "Zoning Regulations," of the Town Code regarding accessory dwelling units. The proposed amendments also correct outdated references to sections of the Town Code included in sections pertaining to termination of nonconforming use status, requirements for a two-unit development under Senate Bill 9 (SB 9), and civil penalties (Attachment 2); or
2. Continue this item to a date certain with specific direction to staff;
3. Refer this item back to the Planning Commission with specific direction; or
4. Take no action, leaving the Town Code unchanged.

Attachments:
1. Draft Ordinance including Planning Commission and staff recommendations
2. Draft Ordinance including Planning Commission recommendations only
3. September 13, 2023 Planning Commission Staff Report (with Exhibits 1-8)
4. September 13, 2023 Planning Commission Addendum
5. September 13, 2023 Planning Commission Verbatim Minutes
6. Updated Disposition of Current Ordinance

Draft Ordinance: subject to modification by Town Council based on deliberations and direction

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 AND CORRECTING OUTDATED REFERENCES IN TOWN CODE SECTIONS PERTAINING TO TERMINATION OF NONCONFORMING USE STATUS, REQUIREMENTS FOR A TWO-UNIT DEVELOPMENT UNDER SENATE BILL 9 (SB 9), AND CIVIL PENALTIES

WHEREAS, from 2016 through 2022, the Governor signed a number of bills intended to address the State's housing crisis by creating new housing opportunities through accessory dwelling units and junior accessory dwelling units; and

WHEREAS, in 2017 and 2020, the Town updated the Town Code regarding accessory dwelling units and junior accessory dwelling units to comply with State laws; and

WHEREAS, effective January 1, 2023, Senate Bill 897 and Assembly Bill 2221 amended Government Code Section 65852 to continue to address barriers to the development of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, these bills made substantial changes in the development standards applicable to accessory dwelling units and junior accessory dwelling units, including height, front yard setbacks, owner-occupancy, permit review time limits, and fire sprinklers; and

WHEREAS, the Town Council of the Town of Los Gatos adopted the 2023-2031 Housing Element on January 30, 2023, which includes policies that promote accessory dwelling units as a means to increase access to opportunity for lower-income households by encouraging infill of smaller units in single-family neighborhoods (Policy HE-1.7); ensure that at least 30 percent of the housing stock is rental units and continue to support the development of ADUs as a means of affordable rental housing (Policy HE-2.4); and Encourage homeowners to construct detached rental ADUs in order to increase the housing stock of smaller rental units (Policy HE-2.6); and

WHEREAS, the Town Council wishes to amend the Town Code to comply with State law and to implement Policies HE-1.7, HE-2.4, and HE-2.6 of the Town of Los Gatos 2023-2031 Housing Element; and

WHEREAS, the Town reviewed the changes in State law regarding accessory dwelling units and junior accessory dwelling units that have taken plan since the 2020 update to the Town Code and determined that a complete overhaul of the Town's accessory dwelling units and junior accessory dwelling units regulations was necessary; and

ATTACHMENT 1

WHEREAS, in drafting the revised accessory dwelling unit and junior accessory dwelling unit regulations, the Town considered changes in State law, feedback and clarification from the California Department of Housing and Community Development, and feedback from Town residents regarding privacy impacts caused by new accessory dwelling units on neighboring properties; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on September 13, 2023; and

WHEREAS, on September 13, 2023, 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 with the recommendation that parking requirements for all accessory dwelling units be eliminated; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, on November 7, 2023, the Town Council reviewed and commented on the proposed amendments regarding accessory dwelling units and the Town Council voted to introduce the Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Division 7, "Accessory Dwelling Units," of Chapter 29, "Zoning Regulations," is replaced with the following:

DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This Division is adopted to comply with amendments to Government Code §§ 65852.2, 65852.22, 65852.23, and 65852.26, which mandate 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.

The following words, terms, and phrases, when used in these accessory dwelling unit regulations, shall have the meanings ascribed to them in this section:

Accessory dwelling unit means a detached or attached residential dwelling unit that is located on the same parcel as a proposed or existing primary dwelling. It shall provide complete independent living facilities for one or more persons with permanent provisions for living,

sleeping, eating, cooking, and sanitation. 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.

Efficiency kitchen means a limited kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. Examples of cooking appliances that may be used are: microwave ovens, hot plates, and similar appliances intended for use on top of a countertop. Refrigerator size is not limited.

Efficiency unit has the meaning set forth in Section 17958.1 of the Health and Safety Code.

High-quality transit corridor has the meaning set forth in Section 21155 of the Public Resources Code.

Junior accessory dwelling unit means a dwelling unit that does not exceed a floor area of five hundred (500) square feet and is entirely contained within the space of a proposed or existing single-family residence. For the purposes of this definition, enclosed spaces within the single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

Kitchen means a cooking facility that includes a permanently installed cooking appliance, sink, refrigerator, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.

Legal nonconforming zoning condition means a physical improvement on a property that was lawful when it was constructed but does not conform with current zoning standards.

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.

Major transit stop has the meaning set forth in Section 21155 of the Public Resources Code.

Manufactured home has the meaning set forth in Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling unit means a unit that exists under the following circumstances:

(1) A unit which was created or converted lawfully but, due to a zone change or an amendment to the zoning ordinance, became nonconforming; or

(2) A unit which was created lawfully while within the County but, upon annexation to the Town, became nonconforming.

Objective design standards means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit and/or junior accessory dwelling unit.

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

Public transit means a location, such as 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.

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.

Unpermitted accessory dwelling unit means a dwelling unit that was created through the construction of a new structure or expansion of an existing structure without the benefit of a Building Permit (at a time when a Building Permit was required) and that cannot be otherwise legalized because it does not comply with development standards provided in this Chapter.

Sec. 29.10.315. Review process.

(a) Development of an accessory dwelling unit and/or junior accessory dwelling unit consistent with this Division shall be reviewed ministerially as a Building Permit and the Town shall take final action within sixty (60) days of submittal of a complete application.

  (1) When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.

  (2) The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling.

(b) *Notification.* The Town shall not require, and the applicant shall not be otherwise required to provide written notice or post a placard for construction of an accessory dwelling unit and/or junior accessory dwelling unit. No noticing shall be required for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

(c) *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:

  (1) Adverse impacts on health, safety, and/or welfare of the public.

(d) *Appeals*. Accessory dwelling units and junior accessory dwelling units that are consistent with this Division are ministerial and are not subject to an appeal.

Sec. 29.10.320. General requirements and restrictions.

(a) *Incentive program.* Any accessory dwelling unit or junior 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 or junior accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling.

(b) *Parcel requirements.* An accessory dwelling unit and/or junior accessory dwelling unit may only be created on parcels satisfying all the following general requirements:

(1) *Permitted zones.* A parcel zoned to allow single-family or multi-family residential use.

(2) *Dwelling unit.* A parcel that includes a proposed or existing primary dwelling.

(c) *Number.* Accessory dwelling units and/or a junior accessory dwelling unit may be permitted on a residential parcel as follows:

(1) *Single-family development.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing single-family dwelling, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.

(2) *Multi-family development.* Not more than a number equal to twenty-five (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 (such as storage rooms, boiler rooms, passageways, attics, basements, or garages), and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling.

(d) *Floor area ratio (FAR) standards.*

(1) *Accessory dwelling units.* Accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages. Exception: Up to eight hundred (800) square feet of gross floor area of an accessory dwelling unit shall be exempt from the applicable FAR standards. This subsection does not apply to junior accessory dwelling units.

(2) *Junior accessory dwelling units.* Junior accessory dwelling units are subject to the floor area ratio standards for all structures, excluding garages.

(e) *Lot coverage.* Accessory dwelling units and junior accessory dwelling units are exempt from the lot coverage standards applicable to the zone and the accessory structure lot coverage limitations included in Section 29.40.015 (A)(5).

(f) *Parking.* No parking shall be required for a new accessory dwelling unit and/or junior accessory dwelling unit.

(g) *Design standards.* The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that an accessory dwelling unit and/or junior accessory dwelling unit are compatible with the primary dwelling and the neighborhood. The following objective design standards apply to the construction of an accessory dwelling unit and/or junior accessory dwelling unit:

(1) *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.

(2) *Front porch.* If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation.

(3) *Windows.* All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.

(4) *Balconies and Decks.* Balconies, rooftop terraces, and second-story decks are prohibited for all accessory dwelling units and junior accessory dwelling units.

(5) *Outside stairways.* Outside stairways serving a second-story accessory dwelling unit and/or junior accessory dwelling unit shall not be constructed on any building elevation facing a street. This standard shall not preclude construction of an 800 square-foot accessory dwelling unit.

(6) *Detached and/or attached accessory dwelling units.* A detached and/or attached accessory dwelling unit shall match the existing architectural style of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling. An exception to this requirement may be granted pursuant to the requirements of the California Code of Regulations, Title 24.

(7) *Attached garage conversion.* An existing attached garage that is converted to an accessory dwelling unit and/or junior accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match those of the primary dwelling by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim as the primary dwelling to remove any appearance that the structure was originally a garage.

(8) *Detached garage conversion.* An existing detached garage that is converted to an accessory dwelling unit shall include removal of the vehicle garage door(s), which shall be replaced with architectural features to match the remaining portions of the detached structure by using the same exterior wall material, wainscot, trim material, roofing material, and window frames/trim that remove any appearance that the structure was originally a garage.

(h) *Grading*.

(1) To the extent required by Chapter 12, Article II and Section 29.10.09045 (b) of the Town Code, the grading activities set forth in subsection (2) below may require a Grading Permit, but will not require discretionary review of an Architecture and Site Application.

(2) Grading activities associated with the construction of an accessory dwelling unit and/or junior accessory dwelling unit shall not exceed fifty (50) cubic yards, cut plus fill, except:

a. Light wells that do not exceed the minimum required by the Building Code shall not count as grading activity for the purpose of this section.

b. Excavation within the footprint of a proposed accessory dwelling unit shall not count as grading activity for the purpose of this section.

(i) *Cut and fill*. Construction of an accessory dwelling unit and/or a junior accessory dwelling unit shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units) below:

Table 1-1 – Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units

Site Element	**Cut***	**Fill***
Accessory dwelling unit/junior accessory dwelling unit	4 feet	3 feet
Driveways**	4 feet	3 feet
Other (decks, yards)*	4 feet	3 feet
* Combined depths of cut plus fill for an accessory dwelling unit or junior accessory dwelling unit shall be limited to six (6) feet.		
** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

(j) *Retaining walls*. Retaining walls shall not exceed five (5) feet in height and shall not run in a continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five (5) foot landscape buffer adjacent to the street.

(k) *Light reflectivity value.* Exterior materials for accessory dwelling units and/or junior accessory dwelling units in the Hillside Overlay shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines.

(l) *Landscaping.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO).

(m) *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill onto neighboring parcels consistent with Section 29.10.09015 of the Town Code.

(n) *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article I, Division 2, "Tree Protection," of the Town Code.

(o) *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer.

(p) *Conveyance*. Except as provided in CA Government Code Section 65852.26, an accessory dwelling unit may be rented separate from the primary dwelling but may not be sold or otherwise conveyed separate from the primary dwelling.

(q) *Town codes and ordinances.* All accessory dwelling units and junior accessory dwelling units shall comply with all the provisions of this Chapter and other applicable Town Codes.

(r) *Building codes.* All accessory dwelling units and junior accessory dwelling units shall comply with applicable building, health, and fire codes, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the Building Official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety.

(s) *Rentals longer than 30 days*. Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.

(t) *Maximum number of dogs, cats, or litters*. All accessory dwelling units shall comply with Section 4.40.010 of the Town Code.

Sec. 29.10.325. Accessory dwelling unit development standards.

An accessory dwelling unit must comply with the following objective development standards:

(a) *Location.*

(1) No detached accessory dwelling unit may be constructed in front of the primary dwelling except in the HR zones.

(2) No accessory dwelling unit may be constructed in front of a primary dwelling or added to an existing second story of a primary dwelling that is any of the following:

a. A Historic Structure, as defined in Section 29.10.020 of the Zoning Code;

b. Listed in the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone;" or

c. Listed in the California Register of Historical Resources.

(b) *Setbacks.* Accessory dwelling units shall be subject to the setback requirements specified in Table 1-2 (Accessory Dwelling Unit Setback Requirements) below:

Table 1-2. Accessory Dwelling Unit Setback Requirements[1]						
	Single-Family			**Multi-Family**		
	New construction detached ADU	New attached ADU within the existing space of the primary dwelling[2] or	New attached ADU within the proposed space of the primary dwelling	New construction detached ADU	Conversion of portions existing multi-family dwelling not	Conversion of existing accessory structure(s)

		accessory structure			used as livable space[3]	
Front	Per the applicable zoning district[4]	N/A	Per the applicable zoning district[4]	Per the applicable zoning district[4]		
Rear	4 feet minimum	Sufficient for fire and safety	4 feet minimum	4 feet minimum	N/A	N/A
Side (including street-side)	4 feet minimum		4 feet minimum	4 feet minimum		
From any other structure located on the same lot[5]	5 feet minimum	N/A	5 feet minimum	5 feet minimum	N/A	N/A

(1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.

(2) Includes attached garages.

(3) Such as storage rooms, boiler rooms, passageways, attics, basements, or garages.

(4) Front setback requirements shall not preclude construction of an 800 square-foot accessory dwelling unit.

(5) Measured from the exterior wall surface and/or supporting posts.

(c) *Maximum unit size.*

(1) The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet.

(2) An attached accessory dwelling unit that is not created though conversion of existing space shall not exceed fifty (50) percent of the size of the existing primary dwelling. Exception: Up to eight hundred (800) square feet of gross floor area of an attached accessory dwelling unit shall be exempt from this subsection.

(3) Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (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 six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

(d) *Maximum number of bedrooms.* There is no limit on the number of bedrooms in an accessory dwelling unit.

(e) *Stories.* Accessory dwelling units shall be contained within one (1) story.

(f) *Height.* Accessory dwelling units shall be subject to the height requirements below:

(1) A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.

(2) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor. An additional two feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(3) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.

(4) A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.

(5) Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.

(g) *Entrances.* Attached accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.

(h) *Interior connection.* An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.

(i) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of, or constructed in the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:

(1) The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.

(2) The accessory dwelling unit shall have a separate entrance from the primary dwelling.

(3) The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.

(4) An expansion of one hundred fifty (150) square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.

(5) When an existing structure is nonconforming 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.

(j) *Density. Accessory* dwelling units that conform to California Government Code Section 65852.2 shall be deemed an accessory use and shall not be considered to 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.

(k) *Fire sprinklers.* Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling

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unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

Sec. 29.10.330. Junior dwelling unit development standards.

(a) *Location*. A junior accessory dwelling unit shall be constructed entirely within the walls of the proposed or existing single-family residence. For the purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence. Junior accessory dwelling units may not be located within the space of, or attached to, a detached accessory structure of any type.

(b) *Setbacks.* A junior accessory dwelling unit shall be subject to the setback requirements of the applicable zoning district for a single-family residence, or the setbacks established by the existing single-family residence within which the junior accessory dwelling unit is located, whichever is less and sufficient for fire safety.

(c) *Maximum unit size*. The maximum floor area of a junior accessory dwelling unit is five hundred (500) square feet, measured from the outer face of exterior walls and the centerline of shared interior walls.

(d) *Entrances*. A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single-family residence. When separate sanitation facilities are not included within the space of the junior accessory dwelling unit, an interior entry into the main living area of the primary dwelling shall be provided in addition to the separate entrance from the main entrance to the proposed or existing single-family residence. A junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.

(e) *Kitchen*. A junior accessory dwelling unit shall contain a kitchen or an efficiency kitchen.

(f) *Sanitation facilities*. A junior accessory dwelling unit may include separate sanitation facilities, or it may share sanitation facilities with the single-family residence. If sanitation facilities are not provided within the space of the junior accessory dwelling unit, an interior doorway shall be provided between the junior accessory dwelling unit and the living area of the single-family dwelling.

(g) *Owner-occupancy.* The property owner shall reside in the single-family residence in which the junior accessory dwelling unit will be located. The property owner may reside in either the remaining portion of the single-family residence 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.

(h) *Deed Restriction.* Prior to Building Permit issuance, the applicant shall record a Deed Restriction in the form prescribed by the Town, which shall run with the land and provide for all the following:

(1) 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.

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

(3) Owner-occupancy consistent with this section.

(i) *Fire or life protection*. For 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.

Sec. 29.10.335. Unpermitted units.

This section provides a mechanism to legalize unpermitted accessory dwelling in compliance with Government Code Section 65852.23.

(a) *Applicability*. This section applies to accessory dwelling units that were unlawfully constructed prior to January 1, 2018, and that have not been deemed substandard pursuant to Section 17920.3 of the Health and Safety Code by the building official. The Community Development Director may determine construction date by any credible means warranted, including use of aerial photography, county records, photographs, and signed affidavits.

(b) *Relief*. The Town shall not deny a permit to legalize an unpermitted accessory dwelling solely due to either of the following:

(1) The accessory dwelling unit is in violation of 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; or

(2) The accessory dwelling unit does not comply with Government Code Section 65852.2; or

(3) The accessory dwelling unit does not comply with this Chapter.

(c) *Approval*. An unpermitted accessory dwelling unit may be legalized in compliance with Section 29.10.315 (Review Process).

(d) *Enforcement*. A property owner who makes known to the Town the existence of an unpermitted accessory dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this Chapter.

(e) *Exception*. The Town may deny a permit to legalize an unpermitted accessory dwelling unit and instead require correction of the violation(s) if the Building Official makes a finding that correcting the violation(s) is necessary to protect the health and safety of the public or occupants of the structure.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

(a) *Permits*. The owner of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit, as defined in Section 29.10.310, must obtain a permit in compliance with Section 29.10.315 (Review Process).

Where an application has been submitted for a nonconforming accessory dwelling unit and/or junior accessory dwelling unit and Town records do not establish its nonconforming

status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit and/or junior accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an unpermitted accessory dwelling unit pursuant to section 29.10.335 and subject to its regulations.

(b) *Units existing at time of annexation*. Upon annexation a lawful accessory dwelling unit and/or junior accessory dwelling unit shall become nonconforming and the owner must either apply for a permit pursuant to Section 29.10.315 (Review Process) within one (1) year of the date of annexation. A property owner who makes known to the Town the existence of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this chapter.

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit and/or junior accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to Section 29.10.09030.

Sec. 29.10.355. Nonconforming zoning conditions.

The Town shall not deny an application for a permit to create an accessory dwelling unit and/or junior accessory dwelling unit based on a need for the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the accessory dwelling unit and/or junior accessory dwelling unit.

Sec. 29.10.360. Utilities.

(a) An accessory dwelling unit may be required to have a new or separate unity connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values.

(1) Exceptions: Junior accessory dwelling units, accessory dwelling units within the proposed space of a single-family dwelling, or accessory dwelling units within the existing space of a single-family dwelling or accessory structure are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges, unless the accessory dwelling unit was constructed with a new single-family dwelling.

Sec. 29.10.365. Fees.

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

(b) *Impact fees.* An accessory dwelling unit less than seven hundred fifty (750) square feet or a junior accessory dwelling unit is exempt from impact fees imposed by the Town, special district, or water corporation. An accessory dwelling seven hundred fifty (750) square feet or greater is subject to the Traffic Impact Fee requirements of the Town's Traffic Impact Policy (Policy 1-08), as may be amended from time to time. Any impact fees charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit. For purposes of this subparagraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of CA Government Code 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.

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SECTION II. Section 29.10.195, "Termination of nonconforming use status," of Chapter 29, "Zoning Regulations," is amended to read as follows:

Sec. 29.10.195. - Termination of legal nonconforming use status.

(a) Unless this Division is amended to provide otherwise, the following legal nonconforming uses may continue interminably so long as they conform to the other requirements of this Division:

(1) Legal nonconforming residential uses.

(2) Schools.

(3) Church uses.

(4) Nonresidential uses in the downtown which would otherwise be nonconforming due to zone changes and ordinance amendments which occurred after July 1, 1982.

(5) Residential care facilities for the elderly that existed as of January 1, 1988 and are nonconforming only as to parking.

(6) Hotels/motels located in residential zones which were converted to multiple-family dwelling units prior to March 22, 1986, if a conditional use permit is obtained.

(7) Commercial uses that are nonconforming as to parking if parking has been provided on-site by July 1, 1992, or twenty (20) years from the date the use became legal nonconforming, whichever is later.

(b) The following legal nonconforming uses shall cease at the end of the following time periods:

(1) A junkyard shall cease ninety (90) days from the date it becomes nonconforming.

(2) Where there are improvements on land, but of a type for which no Building Permit would currently be required, the legal nonconforming use shall cease three (3) years from the date the use becomes legal nonconforming.

(3) Where the land is improved with one (1) or more structures of a type for which a Building Permit would currently be required and the structure(s) are utilized in connection with the legal nonconforming use, the legal nonconforming use shall cease twenty (20) years from March 23, 1966, or twenty (20) years from the date the use became legal nonconforming, whichever is later.

(4) When a zoning amendment is adopted after 1981 that causes a use to be legal nonconforming solely by subjecting it to the requirement of obtaining a conditional use permit, all uses affected by the amendment shall apply for a use permit within sixty (60) days after the amendment becomes effective. Failure to make such application within that time shall make the subject use immediately unlawful.

(5) A business engaged in the retail sales [of] firearms and/or destructive devices shall cease four (4) years from the date it becomes legal nonconforming.

(c) If any period of authorized duration is held by a court to be too short and therefore unconstitutional or unlawful on its face or as applied, the period of duration shall be extended to such time as the court determines is lawful.

SECTION III. Subsection (e) of Section 29.10.630, "Requirements," of Chapter 29, "Zoning Regulations," is amended to read as follows:

(e) Floor Area Ratio and Lot Coverage.

(1) The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations.

(2) For flag/corridor lots, the gross lot size includes the access corridor for the purposes of determining maximum floor area ratio and lot coverage as follows:

i. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and

ii. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.

(3) The maximum size of the first new residential unit shall not exceed one thousand two hundred (1,200) square feet.

(4) When a two-unit housing development is proposed, a 10 percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an Accessory Dwelling Unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed one thousand two hundred (1,200) square feet.

(5) Notwithstanding the floor area ratio standards in this subsection, a new two-unit housing development with unit sizes of eight hundred (800) square feet or less shall be permitted.

SECTION IV. Section 29.20.960, "Civil penalties," of Chapter 29, "Zoning Regulations," is amended to read as follows:

Notwithstanding section 29.20.950 relating to criminal penalty, any person found to have violated section 29.10.0965 shall be liable to pay the Town a civil penalty as prescribed in subsections (1) through (3). Any person found to have violated section 29.10.340(a) shall be liable to pay the Town a civil penalty as prescribed in subsection (4):

(1) Replacing the unlawfully removed tree with a new tree as similar thereto as reasonably feasible, or if such replacement is not feasible because of size or age of tree, with such number of similar trees as will provide reasonably equivalent aesthetic quality based on the determination of the Director of Parks, Forestry and Maintenance Services. Where similar replacement trees will not provide reasonably equivalent aesthetic quality, the Director of Parks, Forestry and Maintenance Services shall calculate the value of the removed tree in accordance with The Guide for Establishing Values of Trees and Other Plants by the International Society of Arboriculture and

such value will be the civil penalty for violation of section 29.10.0965 in addition to subsection (2). Where replanting cannot be accomplished to the satisfaction of the Director of Parks, Forestry and Maintenance Services, the amount of the value of the removed tree shall be deposited into the street tree deposit account.

(2) The cost of enforcing this Chapter, which shall include all costs, staff time, and attorneys' fees.

(3) All replacement trees planted as required by subsection (1) shall be maintained by the property owner under a two-year written maintenance agreement with the Town.

(4) A five thousand dollar ($5,000.00) civil penalty shall be imposed against any property owner found in violation of section 29.10.340(a) in addition to any application fees required and the cost of bringing the property into compliance with the California Building Code Standards (CA Code of Regulations, Title 24).

SECTION V. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION VI. CEQA.

The Environmental Impacts of this Ordinance were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3).

SECTION VII. GENERAL PLAN.

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

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SECTION VIII. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the Town Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 pf the Government Code of the State of California.

SECTION IX. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of _____ 2023, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the __ day of _____ 2023, by the following vote:

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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Draft Ordinance: subject to modification by Town Council based on deliberations and direction

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 AND CORRECTING OUTDATED REFERENCES IN TOWN CODE SECTIONS PERTAINING TO TERMINATION OF NONCONFORMING USE STATUS, REQUIREMENTS FOR A TWO-UNIT DEVELOPMENT UNDER SENATE BILL 9 (SB 9), AND CIVIL PENALTIES

WHEREAS, from 2016 through 2022, the Governor signed a number of bills intended to address the State's housing crisis by creating new housing opportunities through accessory dwelling units and junior accessory dwelling units; and

WHEREAS, in 2017 and 2020, the Town updated the Town Code regarding accessory dwelling units and junior accessory dwelling units to comply with State laws; and

WHEREAS, effective January 1, 2023, Senate Bill 897 and Assembly Bill 2221 amended Government Code Section 65852 to continue to address barriers to the development of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, these bills made substantial changes in the development standards applicable to accessory dwelling units and junior accessory dwelling units, including height, front yard setbacks, owner-occupancy, permit review time limits, and fire sprinklers; and

WHEREAS, the Town Council of the Town of Los Gatos adopted the 2023-2031 Housing Element on January 30, 2023, which includes policies that promote accessory dwelling units as a means to increase access to opportunity for lower-income households by encouraging infill of smaller units in single-family neighborhoods (Policy HE-1.7); ensure that at least 30 percent of the housing stock is rental units and continue to support the development of ADUs as a means of affordable rental housing (Policy HE-2.4); and Encourage homeowners to construct detached rental ADUs in order to increase the housing stock of smaller rental units (Policy HE-2.6); and

WHEREAS, the Town Council wishes to amend the Town Code to comply with State law and to implement Policies HE-1.7, HE-2.4, and HE-2.6 of the Town of Los Gatos 2023-2031 Housing Element; and

WHEREAS, the Town reviewed the changes in State law regarding accessory dwelling units and junior accessory dwelling units that have taken plan since the 2020 update to the Town Code and determined that a complete overhaul of the Town's accessory dwelling units and junior accessory dwelling units regulations was necessary; and

ATTACHMENT 2

WHEREAS, in drafting the revised accessory dwelling unit and junior accessory dwelling unit regulations, the Town considered changes in State law, feedback and clarification from the California Department of Housing and Community Development, and feedback from Town residents regarding privacy impacts caused by new accessory dwelling units on neighboring properties; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on September 13, 2023; and

WHEREAS, on September 13, 2023, 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 with the recommendation that parking requirements for all accessory dwelling units be eliminated; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 7, 2023; and

WHEREAS, on November 7, 2023, the Town Council reviewed and commented on the proposed amendments regarding accessory dwelling units and the Town Council voted to introduce the Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Division 7, "Accessory Dwelling Units," of Chapter 29, "Zoning Regulations," is replaced with the following:

DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This Division is adopted to comply with amendments to Government Code §§ 65852.2, 65852.22, 65852.23, and 65852.26, which mandate 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.

The following words, terms, and phrases, when used in these accessory dwelling unit regulations, shall have the meanings ascribed to them in this section:

Accessory dwelling unit means a detached or attached residential dwelling unit that is located on the same parcel as a proposed or existing primary dwelling. It shall provide complete independent living facilities for one or more persons with permanent provisions for living,

sleeping, eating, cooking, and sanitation. 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.

Efficiency kitchen means a limited kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. Examples of cooking appliances that may be used are: microwave ovens, hot plates, and similar appliances intended for use on top of a countertop. Refrigerator size is not limited.

Efficiency unit has the meaning set forth in Section 17958.1 of the Health and Safety Code.

High-quality transit corridor has the meaning set forth in Section 21155 of the Public Resources Code.

Junior accessory dwelling unit means a dwelling unit that does not exceed a floor area of five hundred (500) square feet and is entirely contained within the space of a proposed or existing single-family residence. For the purposes of this definition, enclosed spaces within the single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

Kitchen means a cooking facility that includes a permanently installed cooking appliance, sink, refrigerator, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.

Legal nonconforming zoning condition means a physical improvement on a property that was lawful when it was constructed but does not conform with current zoning standards.

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.

Major transit stop has the meaning set forth in Section 21155 of the Public Resources Code.

Manufactured home has the meaning set forth in Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling unit means a unit that exists under the following circumstances:

(1) A unit which was created or converted lawfully but, due to a zone change or an amendment to the zoning ordinance, became nonconforming; or

(2) A unit which was created lawfully while within the County but, upon annexation to the Town, became nonconforming.

Objective design standards means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit and/or junior accessory dwelling unit.

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

Public transit means a location, such as 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.

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.

Unpermitted accessory dwelling unit means a dwelling unit that was created through the construction of a new structure or expansion of an existing structure without the benefit of a Building Permit (at a time when a Building Permit was required) and that cannot be otherwise legalized because it does not comply with development standards provided in this Chapter.

Sec. 29.10.315. Review process.

(a) Development of an accessory dwelling unit and/or junior accessory dwelling unit consistent with this Division shall be reviewed ministerially as a Building Permit and the Town shall take final action within sixty (60) days of submittal of a complete application.

  (1) When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.

  (2) The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling.

(b) *Notification.* The Town shall not require, and the applicant shall not be otherwise required to provide written notice or post a placard for construction of an accessory dwelling unit and/or junior accessory dwelling unit. No noticing shall be required for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

(c) *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:

  (1) Adverse impacts on health, safety, and/or welfare of the public.

(d) *Appeals*. Accessory dwelling units and junior accessory dwelling units that are consistent with this Division are ministerial and are not subject to an appeal.

Sec. 29.10.320. General requirements and restrictions.

(a) *Incentive program.* Any accessory dwelling unit or junior 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 or junior accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling.

(b) *Parcel requirements.* An accessory dwelling unit and/or junior accessory dwelling unit may only be created on parcels satisfying all the following general requirements:

(1) *Permitted zones.* A parcel zoned to allow single-family or multi-family residential use.

(2) *Dwelling unit.* A parcel that includes a proposed or existing primary dwelling.

(c) *Number.* Accessory dwelling units and/or a junior accessory dwelling unit may be permitted on a residential parcel as follows:

(1) *Single-family development.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing single-family dwelling, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.

(2) *Multi-family development.* Not more than a number equal to twenty-five (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 (such as storage rooms, boiler rooms, passageways, attics, basements, or garages), and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling.

(d) *Floor area ratio (FAR) standards.*

(1) *Accessory dwelling units.* Accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages. Exception: Up to eight hundred (800) square feet of gross floor area of an accessory dwelling unit shall be exempt from the applicable FAR standards. This subsection does not apply to junior accessory dwelling units.

(2) *Junior accessory dwelling units.* Junior accessory dwelling units are subject to the floor area ratio standards for all structures, excluding garages.

(e) *Lot coverage.* Accessory dwelling units and junior accessory dwelling units are exempt from the lot coverage standards applicable to the zone and the accessory structure lot coverage limitations included in Section 29.40.015 (A)(5).

(f) *Parking.* No parking shall be required for a new accessory dwelling unit and/or junior accessory dwelling unit.

(g) *Design standards.* The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that an accessory dwelling unit and/or junior accessory dwelling unit are compatible with the primary dwelling and the neighborhood. The following objective design standards apply to the construction of an accessory dwelling unit and/or junior accessory dwelling unit:

(1) *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.

(2) *Front porch.* If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation.

(3) *Windows.* All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.

(4) *Balconies and Decks.* Balconies, rooftop terraces, and second-story decks are prohibited for all accessory dwelling units and junior accessory dwelling units.

(h) *Grading*.

(1) To the extent required by Chapter 12, Article II and Section 29.10.09045 (b) of the Town Code, the grading activities set forth in subsection (2) below may require a Grading Permit, but will not require discretionary review of an Architecture and Site Application.

(2) Grading activities associated with the construction of an accessory dwelling unit and/or junior accessory dwelling unit shall not exceed fifty (50) cubic yards, cut plus fill, except:

a. Light wells that do not exceed the minimum required by the Building Code shall not count as grading activity for the purpose of this section.

b. Excavation within the footprint of a proposed accessory dwelling unit shall not count as grading activity for the purpose of this section.

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(i) *Cut and fill*. Construction of an accessory dwelling unit and/or a junior accessory dwelling unit shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units) below:

Table 1-1 – Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units		
Site Element	**Cut***	**Fill***
Accessory dwelling unit/junior accessory dwelling unit	4 feet	3 feet
Driveways**	4 feet	3 feet
Other (decks, yards)*	4 feet	3 feet
* Combined depths of cut plus fill for an accessory dwelling unit or junior accessory dwelling unit shall be limited to six (6) feet.		
** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

(j) *Retaining walls*. Retaining walls shall not exceed five (5) feet in height and shall not run in a continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five (5) foot landscape buffer adjacent to the street.

(k) *Light reflectivity value.* Exterior materials for accessory dwelling units and/or junior accessory dwelling units in the Hillside Overlay shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines.

(l) *Landscaping.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO).

(m) *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill onto neighboring parcels consistent with Section 29.10.09015 of the Town Code.

(n) *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article I, Division 2, "Tree Protection," of the Town Code.

(o) *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer.

(p) *Conveyance*. Except as provided in CA Government Code Section 65852.26, an accessory dwelling unit may be rented separate from the primary dwelling but may not be sold or otherwise conveyed separate from the primary dwelling.

(q) *Town codes and ordinances.* All accessory dwelling units and junior accessory dwelling units shall comply with all the provisions of this Chapter and other applicable Town Codes.

(r) *Building codes.* All accessory dwelling units and junior accessory dwelling units shall comply with applicable building, health, and fire codes, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the Building Official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety.

(s) *Rentals longer than 30 days*. Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.

(t) *Maximum number of dogs, cats, or litters*. All accessory dwelling units shall comply with Section 4.40.010 of the Town Code.

Sec. 29.10.325. Accessory dwelling unit development standards.

An accessory dwelling unit must comply with the following objective development standards:

(a) *Location.*

(1) No detached accessory dwelling unit may be constructed in front of the primary dwelling except in the HR zones.

(2) No accessory dwelling unit may be constructed in front of a primary dwelling or added to an existing second story of a primary dwelling that is any of the following:

a. A Historic Structure, as defined in Section 29.10.020 of the Zoning Code;

b. Listed in the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone;" or

c. Listed in the California Register of Historical Resources.

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(b) *Setbacks.* Accessory dwelling units shall be subject to the setback requirements specified in Table 1-2 (Accessory Dwelling Unit Setback Requirements) below:

Table 1-2. Accessory Dwelling Unit Setback Requirements[1]

	Single-Family			Multi-Family		
	New construction detached ADU	New attached ADU within the existing space of the primary dwelling[2] or accessory structure	New attached ADU within the proposed space of the primary dwelling	New construction detached ADU	Conversion of portions existing multi-family dwelling not used as livable space[3]	Conversion of existing accessory structure(s)
Front	Per the applicable zoning district[4]	N/A	Per the applicable zoning district[4]	Per the applicable zoning district[4]	N/A	N/A
Rear	4 feet minimum	Sufficient for fire and safety	4 feet minimum	4 feet minimum		
Side (including street-side)	4 feet minimum		4 feet minimum	4 feet minimum		
From any other structure located on the same lot[5]	5 feet minimum	N/A	5 feet minimum	5 feet minimum	N/A	N/A

(1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.

(2) Includes attached garages.

(3) Such as storage rooms, boiler rooms, passageways, attics, basements, or garages.

(4) Front setback requirements shall not preclude construction of an 800 square-foot accessory dwelling unit.

(5) Measured from the exterior wall surface and/or supporting posts.

(c) *Maximum unit size.*

(1) The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet.

(2) An attached accessory dwelling unit that is not created though conversion of existing space shall not exceed fifty (50) percent of the size of the existing primary dwelling. Exception: Up to eight hundred (800) square feet of gross floor area of an attached accessory dwelling unit shall be exempt from this subsection.

(3) Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (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 six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

(d) *Maximum number of bedrooms.* There is no limit on the number of bedrooms in an accessory dwelling unit.

(e) *Stories.* Accessory dwelling units shall be contained within one (1) story.

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(f) *Height.* Accessory dwelling units shall be subject to the height requirements below:

(1) A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.

(2) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor. An additional two feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(3) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.

(4) A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.

(5) Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.

(g) *Entrances.* Attached accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.

(h) *Interior connection.* An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.

(i) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of, or constructed in the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:

(1) The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.

(2) The accessory dwelling unit shall have a separate entrance from the primary dwelling.

(3) The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.

(4) An expansion of one hundred fifty (150) square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.

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(5) When an existing structure is nonconforming 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.

(j) *Density. Accessory* dwelling units that conform to California Government Code Section 65852.2 shall be deemed an accessory use and shall not be considered to 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.

(k) *Fire sprinklers.* Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

Sec. 29.10.330. Junior dwelling unit development standards.

(a) *Location*. A junior accessory dwelling unit shall be constructed entirely within the walls of the proposed or existing single-family residence. For the purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence. Junior accessory dwelling units may not be located within the space of, or attached to, a detached accessory structure of any type.

(b) *Setbacks.* A junior accessory dwelling unit shall be subject to the setback requirements of the applicable zoning district for a single-family residence, or the setbacks established by the existing single-family residence within which the junior accessory dwelling unit is located, whichever is less and sufficient for fire safety.

(c) *Maximum unit size*. The maximum floor area of a junior accessory dwelling unit is five hundred (500) square feet, measured from the outer face of exterior walls and the centerline of shared interior walls.

(d) *Entrances*. A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single-family residence. When separate sanitation facilities are not included within the space of the junior accessory dwelling unit, an interior entry into the main living area of the primary dwelling shall be provided in addition to the separate entrance from the main entrance to the proposed or existing single-family residence. A junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.

(e) *Kitchen*. A junior accessory dwelling unit shall contain a kitchen or an efficiency kitchen.

(f) *Sanitation facilities*. A junior accessory dwelling unit may include separate sanitation facilities, or it may share sanitation facilities with the single-family residence. If sanitation facilities are not provided within the space of the junior accessory dwelling unit, an interior doorway shall be provided between the junior accessory dwelling unit and the living area of the single-family dwelling.

(g) *Owner-occupancy.* The property owner shall reside in the single-family residence in which the junior accessory dwelling unit will be located. The property owner may reside in either the remaining portion of the single-family residence 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.

(h) *Deed Restriction.* Prior to Building Permit issuance, the applicant shall record a Deed Restriction in the form prescribed by the Town, which shall run with the land and provide for all the following:

(1) 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.

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

(3) Owner-occupancy consistent with this section.

(i) *Fire or life protection*. For 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.

Sec. 29.10.335. Unpermitted units.

This section provides a mechanism to legalize unpermitted accessory dwelling in compliance with Government Code Section 65852.23.

(a) *Applicability*. This section applies to accessory dwelling units that were unlawfully constructed prior to January 1, 2018, and that have not been deemed substandard pursuant to Section 17920.3 of the Health and Safety Code by the building official. The Community Development Director may determine construction date by any credible means warranted, including use of aerial photography, county records, photographs, and signed affidavits.

(b) *Relief*. The Town shall not deny a permit to legalize an unpermitted accessory dwelling solely due to either of the following:

(1) The accessory dwelling unit is in violation of 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; or

(2) The accessory dwelling unit does not comply with Government Code Section 65852.2; or

(3) The accessory dwelling unit does not comply with this Chapter.

(c) *Approval*. An unpermitted accessory dwelling unit may be legalized in compliance with Section 29.10.315 (Review Process).

(d) *Enforcement*. A property owner who makes known to the Town the existence of an unpermitted accessory dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this Chapter.

(e) *Exception*. The Town may deny a permit to legalize an unpermitted accessory dwelling unit and instead require correction of the violation(s) if the Building Official makes a finding that correcting the violation(s) is necessary to protect the health and safety of the public or occupants of the structure.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

(a) *Permits*. The owner of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit, as defined in Section 29.10.310, must obtain a permit in compliance with Section 29.10.315 (Review Process).

Where an application has been submitted for a nonconforming accessory dwelling unit and/or junior accessory dwelling unit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit and/or junior accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an unpermitted accessory dwelling unit pursuant to section 29.10.335 and subject to its regulations.

(b) *Units existing at time of annexation*. Upon annexation a lawful accessory dwelling unit and/or junior accessory dwelling unit shall become nonconforming and the owner must either apply for a permit pursuant to Section 29.10.315 (Review Process) within one (1) year of the date of annexation. A property owner who makes known to the Town the existence of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this chapter.

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit and/or junior accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to Section 29.10.09030.

Sec. 29.10.355. Nonconforming zoning conditions.

The Town shall not deny an application for a permit to create an accessory dwelling unit and/or junior accessory dwelling unit based on a need for the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the accessory dwelling unit and/or junior accessory dwelling unit.

Sec. 29.10.360. Utilities.

(a) An accessory dwelling unit may be required to have a new or separate unity connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values.

(1) Exceptions: Junior accessory dwelling units, accessory dwelling units within the proposed space of a single-family dwelling, or accessory dwelling units within the existing space of a single-family dwelling or accessory structure are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges, unless the accessory dwelling unit was constructed with a new single-family dwelling.

Sec. 29.10.365. Fees.

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

(b) *Impact fees.* An accessory dwelling unit less than seven hundred fifty (750) square feet or a junior accessory dwelling unit is exempt from impact fees imposed by the Town, special district, or water corporation. An accessory dwelling seven hundred fifty (750) square feet or greater is subject to the Traffic Impact Fee requirements of the Town's Traffic Impact Policy (Policy 1-08), as may be amended from time to time. Any impact fees charged for an accessory dwelling unit of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit. For purposes of this subparagraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of CA Government Code 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.

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SECTION II. Section 29.10.195, "Termination of nonconforming use status," of Chapter 29, "Zoning Regulations," is amended to read as follows:

Sec. 29.10.195. - Termination of legal nonconforming use status.

(a) Unless this Division is amended to provide otherwise, the following legal nonconforming uses may continue interminably so long as they conform to the other requirements of this Division:

(1) Legal nonconforming residential uses.

(2) Schools.

(3) Church uses.

(4) Nonresidential uses in the downtown which would otherwise be nonconforming due to zone changes and ordinance amendments which occurred after July 1, 1982.

(5) Residential care facilities for the elderly that existed as of January 1, 1988 and are nonconforming only as to parking.

(6) Hotels/motels located in residential zones which were converted to multiple-family dwelling units prior to March 22, 1986, if a conditional use permit is obtained.

(7) Commercial uses that are nonconforming as to parking if parking has been provided on-site by July 1, 1992, or twenty (20) years from the date the use became legal nonconforming, whichever is later.

(b) The following legal nonconforming uses shall cease at the end of the following time periods:

(1) A junkyard shall cease ninety (90) days from the date it becomes nonconforming.

(2) Where there are improvements on land, but of a type for which no Building Permit would currently be required, the legal nonconforming use shall cease three (3) years from the date the use becomes legal nonconforming.

(3) Where the land is improved with one (1) or more structures of a type for which a Building Permit would currently be required and the structure(s) are utilized in connection with the legal nonconforming use, the legal nonconforming use shall cease twenty (20) years from March 23, 1966, or twenty (20) years from the date the use became legal nonconforming, whichever is later.

(4) When a zoning amendment is adopted after 1981 that causes a use to be legal nonconforming solely by subjecting it to the requirement of obtaining a conditional use permit, all uses affected by the amendment shall apply for a use permit within sixty (60) days after the amendment becomes effective. Failure to make such application within that time shall make the subject use immediately unlawful.

(5) A business engaged in the retail sales [of] firearms and/or destructive devices shall cease four (4) years from the date it becomes legal nonconforming.

(c) If any period of authorized duration is held by a court to be too short and therefore unconstitutional or unlawful on its face or as applied, the period of duration shall be extended to such time as the court determines is lawful.

SECTION III. Subsection (e) of Section 29.10.630, "Requirements," of Chapter 29, "Zoning Regulations," is amended to read as follows:

(e) Floor Area Ratio and Lot Coverage.

(1) The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations.

(2) For flag/corridor lots, the gross lot size includes the access corridor for the purposes of determining maximum floor area ratio and lot coverage as follows:

i. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and

ii. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.

(3) The maximum size of the first new residential unit shall not exceed one thousand two hundred (1,200) square feet.

(4) When a two-unit housing development is proposed, a 10 percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an Accessory Dwelling Unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed one thousand two hundred (1,200) square feet.

(5) Notwithstanding the floor area ratio standards in this subsection, a new two-unit housing development with unit sizes of eight hundred (800) square feet or less shall be permitted.

SECTION IV. Section 29.20.960, "Civil penalties," of Chapter 29, "Zoning Regulations," is amended to read as follows:

Notwithstanding section 29.20.950 relating to criminal penalty, any person found to have violated section 29.10.0965 shall be liable to pay the Town a civil penalty as prescribed in subsections (1) through (3). Any person found to have violated section 29.10.340(a) shall be liable to pay the Town a civil penalty as prescribed in subsection (4):

(1) Replacing the unlawfully removed tree with a new tree as similar thereto as reasonably feasible, or if such replacement is not feasible because of size or age of tree, with such number of similar trees as will provide reasonably equivalent aesthetic quality based on the determination of the Director of Parks, Forestry and Maintenance Services. Where similar replacement trees will not provide reasonably equivalent aesthetic quality, the Director of Parks, Forestry and Maintenance Services shall calculate the value of the removed tree in accordance with The Guide for Establishing Values of Trees and Other Plants by the International Society of Arboriculture and

such value will be the civil penalty for violation of section 29.10.0965 in addition to subsection (2). Where replanting cannot be accomplished to the satisfaction of the Director of Parks, Forestry and Maintenance Services, the amount of the value of the removed tree shall be deposited into the street tree deposit account.

(2) The cost of enforcing this Chapter, which shall include all costs, staff time, and attorneys' fees.

(3) All replacement trees planted as required by subsection (1) shall be maintained by the property owner under a two-year written maintenance agreement with the Town.

(4) A five thousand dollar ($5,000.00) civil penalty shall be imposed against any property owner found in violation of section 29.10.340(a) in addition to any application fees required and the cost of bringing the property into compliance with the California Building Code Standards (CA Code of Regulations, Title 24).

SECTION V. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION VI. CEQA.

The Environmental Impacts of this Ordinance were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3).

SECTION VII. GENERAL PLAN.

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

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SECTION VIII. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the Town Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 pf the Government Code of the State of California.

SECTION IX. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____ 2023, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the __ day of _____ 2023, by the following vote:

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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TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT

MEETING DATE: 09/13/2023

ITEM NO: 3

DATE: September 8, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council on Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units. The Proposed Amendments Also Correct Outdated References to Sections of the Town Code Included in Sections Pertaining to Termination of Nonconforming Use Status, Requirements for a Two-Unit Development Under Senate Bill 9 (SB 9), and Civil Penalties. The Environmental Impacts of the Proposed Amendments to the Town Code were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3). Town Code Amendment Application A-23-002. **Project Location: Town Wide**. 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. The proposed amendments also correct outdated references to sections of the Town Code included in sections pertaining to termination of nonconforming use status, requirements for a two-unit development under Senate Bill 9 (SB 9), and civil penalties.

CEQA:

The legal advertisement printed in the newspaper indicated that the proposed amendments to the Town Code are not considered a project under CEQA since they only affect processing of applications. CORRECTION: The environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units.

PREPARED BY: Sean Mullin, AICP
Senior Planner

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

FINDINGS:

- The environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan, and that the proposed amendments are Exempt Pursuant to CEQA, Section 15061(b)(3); and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

In 2016, the Governor signed several bills intended to address the State's housing crisis by creating new housing opportunities through accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Through 2022, the Governor continued to sign additional bills into law that further streamlined the permitting process for ADUs and JADUs. As a result, the Town updated the Town Code regarding ADUs/JADUs in 2017 and 2020 to comply with updated State laws. Since the current ADU/JADU regulations have been in place, additional bills have been signed into law and the Town has received clarification from the California Department of Housing and Community Development (HCD) on specific aspects of the Town's ADU/JADU regulations. Additionally, staff has received feedback from Town residents regarding privacy impacts caused by new ADUs on neighboring properties.

In September 2022, the Governor signed Senate Bill (SB) 897 and Assembly Bill (AB) 2221, which made substantial changes in the development standards applicable to ADUs, including height, front yard setbacks, owner-occupancy, permit review time limits, and fire sprinklers (Exhibits 3 and 4). The new State ADU/JADU regulations took effect on January 1, 2023. Local ordinances that do not wholly conform to the new State regulations (Exhibit 5) are superseded until conforming local ordinances are adopted.

Below is a discussion of a Draft Ordinance that includes amendments to Chapter 29 of the Town Code (Zoning Regulations), Sections 29.10.195, 29.10.305 through 29.10.400, 29.10.630, and 29.10.960 (Exhibit 2).

DISCUSSION:

Through an audit of the Town's current ADU Ordinance (Exhibit 6) against the applicable sections of the CA Government Code (Exhibit 5), staff determined that a complete overhaul of the Town's ADU regulations is necessary. The Draft Ordinance, included as Exhibit 2, would align the Town's regulations with State law, respond to HCD feedback, and address privacy impacts created by construction of new ADUs. While the Draft Ordinance is mostly new, existing regulations have been carried forward as reflected in Exhibit 7, which shows existing language carried forward (highlighted in green), with a reference to where the existing language can be found in the Draft Ordinance (highlighted in yellow). The discussion below

DISCUSSION (continued):

goes through the Code sections and provides staff's assessment of the existing regulations and how and why they are modified under the Draft Ordinance.

Sec. 29.10.305. Intent and authority.

The current language has been carried forward. References to CA Government Code have been updated.

Sec. 29.10.310. Definitions.

The existing definitions have been carried forward with modifications in content and formatting. Several new definitions have been added, with many taken from the CA Government Code.

Sec. 29.10.315. Review process.

A framework for the permit review process is not included in the current Ordinance. This new section explicitly states that review of a Building Permit for an ADU/JADU shall be ministerial, and that final action must be taken by the Town within sixty days of receiving a complete application, per State law. The State law does not allow the Town to require an applicant to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an ADU, unless the property is located within an architecturally or historically significant district. The Draft Ordinance would not require an applicant to provide written notice for the construction of any ADU/JADU. This reflects the ministerial nature of the ADU/JADU Building Permit process and aligns with the Town's Housing Element by removing barriers to development of ADUs and JADUs. Lastly, the Draft Ordinance states that the ministerial decision of the Town is not subject to appeal and provides findings for denial of an application.

Sec. 29.10.320. General requirements and restrictions.

The Draft Ordinance includes a new section detailing general requirements and regulations applicable to ADU and JADU projects.

Incentive program: This language has been carried over from the current Ordinance.

Parcel requirements: Portions of this information are currently included in the definition of an ADU. This new subsection clarifies what parcels qualify for an ADU/JADU, project consistent with State law.

DISCUSSION (continued):

Number: The language in this subsection has been slightly modified from the current Ordinance to reflect that JADUs may only be located within the space of a proposed or existing single-family dwelling.

FAR Standards: This revised subsection carries forward the Town Council's previous decision to allow a ten percent increase in FAR standards to help create opportunities for ADUs on properties with limited unbuilt FAR. The Draft Ordinance exempts up to 800 square feet from the FAR standards, consistent with current Ordinance and State law. The language also clarifies that the increased FAR standard is not applicable to JADUs, which are subject to the regular house FAR requirements.

Lot coverage: The current Ordinance requires that ADUs comply with the regulations of the Zone, while exempting up to 800 square feet of coverage for an ADU consistent with State law. The current language is silent on the accessory structure lot coverage limitations included in Section 29.40.015 (A)(5) of the Town Code, limiting accessory structure lot coverage to no more than 15 percent of the lot area exclusive of the required yard areas. This creates some conflict between these two sets of regulations, with staff deferring to the State law requirements to exempt 800 square feet of coverage. The draft lot coverage language exempts ADUs and JADUs from the zone's lot coverage limitations and the accessory structure lot coverage, regardless of size. This draft language is more permissible than the current Ordinance; is consistent with State law which states that lot coverage cannot be used to preclude the development of an 800-square foot ADU; and aligns with the Town's Housing Element by removing barriers to development of ADUs and JADUs.

Parking: The parking regulations in the Draft Ordinance remain largely unchanged. Some reorganization has occurred to group all exceptions together.

Design standards: The current Ordinance includes a "design, form, materials, and color" section whose purpose is to ensure that an ADU is compatible with the primary dwelling and the neighborhood and that it maintains the residential appearance of the property. The current Ordinance lacks clear objective criteria that can be enforced in the effort to achieve this purpose. Additionally, the current Ordinance prohibits entrances serving an ADU on a street-facing elevation; a requirement that HCD has deemed inconsistent with State law. The Draft Ordinance would add enforceable objective design standards intended to meet the stated purpose. The Draft Ordinance would also introduce objective design standards aimed at protecting the privacy of adjacent properties. The draft standards would limit second-story window types for an ADU/JADU within 10 feet of a side or rear property line and prohibit balconies, rooftop terraces, and second-story decks. Since these design standards are objective, they would be consistent with State law. These design standards are consistent with some of those included in the recently adopted SB 9 Ordinance.

DISCUSSION (continued):

Additional development standards: In addition to the new design standards, the Draft Ordinance introduces a number of development standards that are consistent with those in the recently adopted SB 9 Ordinance. These development standards are related to cut and fill; retaining walls; light reflectivity value in the hillside area; landscaping; lighting; trees; and stormwater management. Since these development standards are objective, they would be consistent with State law.

Conveyance: The draft conveyance subsection allows an ADU to be rented, but not sold separately from the primary dwelling except as provided in CA Government Code Section 65852.26. This section of the Government Code allows separate sale of an ADU to a qualified buyer (persons and families of low or moderate income) when the residence and/or the ADU was built or developed by a qualified nonprofit corporation. The sale must meet all of the conditions detailed in CA Government Code Section 65852.26.

Other requirements and restrictions: The regulations in the following subsections remain unchanged in the Draft Ordinance:

- Town Codes and ordinances;
- Building Codes;
- Rentals longer than 30 days; and
- Maximum number of dogs, cats, or litters.

Sec. 29.10.325. Accessory dwelling unit development standards.

The Draft Ordinance includes a new section that provides requirements and regulations specific to ADU projects. A separate section specific to JADU projects follows.

Location: The regulations in the location subsection of the Draft Ordinance remain consistent with the current Ordinance. The regulations pertaining to historic resources have expanded to detail what is considered a historic resource by the Town.

Setbacks: The Draft Ordinance includes a revised setbacks section that expands upon the current Ordinance and reorganizes setback requirements into a table. The new table separates ADU setback requirements for single-family and multi-family properties and provides regulations specific to several development scenarios.

Maximum unit size: The Draft Ordinance continues to limit the size of an ADU to 1,200 square feet and clarifies that detached ADUs are not subject to a discretionary application process as may be required for other detached accessory structures of certain sizes. As required by State law, the Draft Ordinance restricts the size ratio of an ADU to primary dwelling to 50 percent for

DISCUSSION (continued):

ADU not created through conversion of existing space. An exception is included that exempts up to 800 square feet of an attached ADU from the ratio restriction.

Maximum number of bedrooms: The Draft Ordinance reflects guidance from HCD that clarifies that the Town cannot impose a maximum number of bedrooms in an ADU.

Stories: The regulations in the stories subsection of the Draft Ordinance remain consistent with the current Ordinance; however the language has been revised slightly.

Height: The height regulations in the Draft Ordinance replace those included in the current Ordinance to align with State law. The draft regulations provide four different maximum heights based on different scenarios:

- 16 feet for a detached ADU on a property with a proposed or existing single-family or multi-family dwelling throughout the Town;
- 18 feet when located within one-half mile walking distance of a major transit stop or high-quality transit corridor, which are terms defined by the State. Currently, there is only one VTA bus route meeting the State's definitions that runs along a short portion of Los Gatos Boulevard and Samaritan Drive adjacent to the Town boundary. Only properties within one-half mile walking distance of this bus route would be allowed an ADU with a maximum height of 18 feet;
- 18 feet for a detached ADU on a property with a proposed or existing multi-family, multi-story dwelling; and
- 25 feet or the height limitation of the zone for an ADU attached to a proposed or exiting two-story primary dwelling.

The height regulations in the Draft Ordinance continue to allow for an ADU to be constructed directly above an existing one-story detached accessory structure on a lot with a proposed or existing two-story residence. The Draft Ordinance clarifies that an ADU constructed above a detached structure may not be internally connected to the structure below, consistent with the Town's limitation that ADUs be located within a single story.

Entrances: The Draft Ordinance requires that attached ADUs include a separate entrance from the main entrance to the proposed or existing primary dwelling, including those located on the second floor. Further, a passageway connecting the ADU to the street is allowed, but not required.

Interior connection: The Draft Ordinance allows for, but does not require, interior connections between the primary dwelling and the attached ADUs.

DISCUSSION (continued):

Conversion of existing floor area: The regulations in the Draft Ordinance pertaining to converting existing floor area to an ADU remain unchanged.

Density: As required by State law, the Draft Ordinance deems ADUs an accessory use that shall not be considered to exceed the allowable density of the zone and that ADUs are a residential use that is consistent with the General Plan and the zone.

Fire Sprinklers: The revised language in the Draft Ordinance pertaining to fire sprinklers reflects the limitations imposed by the State law.

Sec. 29.10.330. Junior accessory dwelling unit development standards.

The current Ordinance contains all regulations specific to JADUs within the definition of a *junior accessory dwelling unit*. The Draft Ordinance continues to include a definition for a JADU but moves the requirements and regulations for JADUs into a new section. All the requirements and regulations for JADUs in the Draft Ordinance have been updated to reflect State law and guidance from HCD.

Location: The current Ordinance allows a JADU within the proposed or existing space of a primary dwelling or detached ADU. The Draft Ordinance specifies that a JADU may only be located within the proposed or existing space of a single-family residence consistent with State law. This change clarifies that a JADU may not be located within the space of a detached ADU or multi-family dwelling.

Setbacks: The Draft Ordinance specifies that a JADU shall be subject to the setback requirements of the zone for a single-family residence, or the setbacks established by an existing single-family residence, whichever is less. This allows for an existing legal nonconforming setback of a single-family residence to be continued consistent with Section 29.10.245 (e)(1) of the Town Code.

Maximum unit size: The Draft Ordinance specifies that the maximum size of a JADU is 500 square feet, consistent with State law.

Entrances: The Draft Ordinance requires that JADUs include a separate entrance from the main entrance to the proposed or existing primary dwelling, including those located on the second floor. If the JADU shares a bathroom with the single-family residence, as allowed by State law, an interior doorway must be provided between the JADU and the living area of the single-family dwelling. Further, a passageway connecting the ADU to the street is allowed, but not required.

Kitchen: The Draft Ordinance clarifies that a JADU may include either a kitchen or an efficiency kitchen, as defined in the definitions section of the Draft Ordinance.

DISCUSSION (continued):

Sanitation facilities: The Draft Ordinance allows for a JADU to share a bathroom with the single-family residence, consistent with State law, and requires a doorway between the JADU and the living space of the single-family residence.

Owner-occupancy: Pursuant to State law, the property owner shall reside in either the JADU or the remaining portion of the single-family residence. The Draft Ordinance reflects this requirement.

Deed restriction: Consistent with State law, the Draft Ordinance requires that a Deed Restriction be recorded prohibiting the sale of the JADU separate from the single-family residence; restricting the size and attributes of the JADU; and requiring owner-occupancy of the JADU or the remaining portion of the single-family residence.

Fire or life protection: The Draft Ordinance clarifies that a JADU shall not be considered a separate or new dwelling unit for the purposes of fire or life protection.

Sec. 29.10.335. Unpermitted units.

The Draft Ordinance includes regulations pertaining to unpermitted ADUs/JADUs. The new section establishes applicability and outlines a process for remedy, which includes the review process established under Section 29.10.315 of the Draft Ordinance.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

A *nonconforming accessory dwelling unit* is a term defined in the current and Draft Ordinances. The definition recognizes situations where an ADU or JADU is created lawfully, but made nonconforming through changes to the Town Code or annexation from the County. The Draft Ordinance eliminates outdated requirements for a nonconforming ADU/JADU contained in the current Ordinance and defaults review to draft Section 29.10.315 (Review process).

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

The regulations in the Draft Ordinance regarding elimination and/or demolition of existing ADUs/JADUs remain largely unchanged.

Sec. 29.10.355. Legal nonconforming zoning conditions.

Consistent with State law, the Draft Ordinance indicates that the Town cannot deny a permit for an ADU or JADU based on the need to correct a legal nonconforming zoning condition,

DISCUSSION (continued):

Building Code violation, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU/JADU.

Sec. 29.10.360. Utilities.

Consistent with State law, the Draft Ordinance clarifies that separate utility connections may be required and that a connection fee may apply. The Draft Ordinance outlines scenarios when separate connections may not apply.

Sec. 29.10.365. Fees.

Connection fees and capacity charges: The Draft Ordinance indicates that an ADU shall not be considered a new residential unit for the purposes of calculating utility connection fees.

Impact fees: Consistent with State law, the Draft Ordinance exempts ADUs less than 750 square feet and all JADUs from impact fees proposed by the Town. When an impact fee does apply, the Draft Ordinance establishes that the fee be charged proportionally in relation to the square footage of the primary dwelling unit. Further, the Draft Ordinance specifies that an ADU that is 750 square feet or greater is subject to the Town's Transportation Impact Policy 1-08 (Exhibit 8), as may be amended from time to time, which currently exempts all ADUs from traffic impact fees regardless of size.

Amendments to other Code Sections.

Since the Draft Ordinance includes a reorganization of the ADU/JADU regulations, several minor changes are required in other Sections of Chapter 29 to update cross-referencing and update terminology. The following impacted sections are included in the Draft Ordinance:

- Sec. 29.10.195. Termination of nonconforming use status.
- Sec. 29.10.630. Requirements.
- Sec. 29.20.960. Civil penalties.

PUBLIC COMMENTS:

Staff conducted outreach through the following media and social media resources, as well as direct communication with stakeholders as summarized below:

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

PUBLIC COMMENTS (continued):

- The Town's NextDoor page; and
- Direct email communication to local architects and designers.

CEQA DETERMINATION:

The environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units.

CONCLUSION:

A. Summary

The Draft Ordinance aligns the Town's ADU/JADU regulations with State law, responds to HCD feedback, and addresses privacy impacts created by construction of new ADUs. The Draft Ordinance provides a clear set of regulations and process framework for residents to follow when pursuing an ADU/JADU project. The Draft Ordinance also corrects outdated references to sections of the Town Code included in sections pertaining to termination of nonconforming use status, requirements for a two-unit development under Senate Bill 9 (SB 9), and civil penalties.

B. 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 Amendments (Exhibit 2). The Planning Commission should also include any comments or recommended changes to the Draft Ordinance in taking the following actions:

1. Make the finding that the environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units (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

CONCLUSION (continued):

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).

C. 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 no changes to the Town Code; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Draft Ordinance Amendments
3. Senate Bill 897
4. Assembly Bill 2221
5. CA Government Code Sections 65852.2, 65852.22, 65852.23, and 65852.26
6. Current Town ADU/JADU Ordinance
7. Disposition of Current Ordinance
8. Transportation Impact Policy 1-08

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PLANNING COMMISSION – *September 13, 2023*
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-23-002
Forward a Recommendation to the Town Council on Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units. The Environmental Impacts of the Proposed Amendments to the Town Code were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3).

FINDINGS

Required Findings for CEQA:

- The environmental impacts of the proposed amendments to the Town Code were analyzed in the Environmental Impact Report for the 2040 General Plan. In addition, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3), because it can be seen with certainty that they will not significantly affect the physical environment in that they make minor changes to the regulations applicable to accessory dwelling units and junior accessory dwelling units.

Required Findings for General Plan:

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

EXHIBIT 1

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DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This Division is adopted to comply with amendments to Government Code §§ 65852.2, 65852.22, 65852.23, and 65852.26, which mandate 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.

The following words, terms, and phrases, when used in these accessory dwelling unit regulations, shall have the meanings ascribed to them in this section:

Accessory dwelling unit means a detached or attached residential dwelling unit that is located on the same parcel as a proposed or existing primary dwelling. It shall provide complete independent living facilities for one or more persons with permanent provisions for living, sleeping, eating, cooking, and sanitation. 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.

Efficiency kitchen means a limited kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. Examples of cooking appliances that may be used are: microwave ovens, hot plates, and similar appliances intended for use on top of a countertop. Refrigerator size is not limited.

Efficiency unit has the meaning set forth in Section 17958.1 of the Health and Safety Code.

High-quality transit corridor has the meaning set forth in Section 21155 of the Public Resources Code.

Junior accessory dwelling unit means a dwelling unit that does not exceed a floor area of five hundred (500) square feet and is entirely contained within the space of a proposed or existing single-family residence. For the purposes of this definition, enclosed spaces within the single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

Kitchen means a cooking facility that includes a permanently installed cooking appliance, sink, refrigerator, food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.

Legal nonconforming zoning condition means a physical improvement on a property that was lawful when it was constructed but does not conform with current zoning standards.

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.

Major transit stop has the meaning set forth in Section 21155 of the Public Resources Code.

Manufactured home has the meaning set forth in Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling unit means a unit that exists under the following circumstances:

(1) A unit which was created or converted lawfully but, which due to a zone change or an amendment to the zoning ordinance, has become nonconforming; or

(2) A unit which was created lawfully while within the County, but which upon annexation to the Town, became nonconforming.

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Objective design standards means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

Passageway means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit and/or junior accessory dwelling unit.

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

Public transit means a location, such as 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.

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.

Unpermitted accessory dwelling unit means a dwelling unit that was created through the construction of a new structure or expansion of an existing structure without the benefit of a Building Permit (at a time when a Building Permit was required) and that cannot be otherwise legalized because it does not comply with development standards provided in this Chapter.

Sec. 29.10.315. Review process.

(a) Development of an accessory dwelling unit and/or junior accessory dwelling unit consistent with this Division shall be reviewed ministerially as a Building Permit and the Town shall take final action within sixty (60) days of submittal of a complete application.

(1) When an accessory dwelling unit and/or junior accessory dwelling unit is proposed in conjunction with a permit application to create a new single-family or multi-family dwelling, the Town shall not take final action on the accessory dwelling unit and/or junior accessory dwelling unit until the application for the new single-family or multi-family dwelling is approved.

(2) The Town shall not issue a Certificate of Occupancy for an accessory dwelling and/or junior accessory dwelling unit before the Town issues a Certificate of Occupancy for the primary dwelling.

(b) *Notification.* The Town shall not require, and the applicant shall not be otherwise required to provide written notice or post a placard for construction of an accessory dwelling unit and/or junior accessory dwelling unit.

(c) *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:

(1) Adverse impacts on health, safety, and/or welfare of the public.

(d) *Appeals*. Accessory dwelling units and junior accessory dwelling units that are consistent with this Division are ministerial and are not subject to an appeal.

Sec. 29.10.320. General requirements and restrictions.

(a) *Incentive program.* Any accessory dwelling unit or junior 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 or junior accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling.

(b) *Parcel requirements.* An accessory dwelling unit and/or junior accessory dwelling unit may only be created on parcels satisfying all the following general requirements:

(1) *Permitted zones.* A parcel zoned to allow single-family or multi-family residential use.

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(2) *Dwelling unit.* A parcel that includes a proposed or existing primary dwelling.

(c) *Number.* Accessory dwelling units and/or a junior accessory dwelling unit may be permitted on a residential parcel as follows:

(1) *Single-family development.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing single-family dwelling, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.

(2) *Multi-family development.* Not more than a number equal to twenty-five (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 (such as storage rooms, boiler rooms, passageways, attics, basements, or garages), and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling.

(d) *Floor area ratio (FAR) standards.*

(1) *Accessory dwelling units.* Accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio standards for all structures, excluding garages. Exception: Up to eight hundred (800) square feet of gross floor area of an accessory dwelling unit shall be exempt from the applicable FAR standards. This subsection does not apply to junior accessory dwelling units.

(2) *Junior accessory dwelling units.* Junior accessory dwelling units are subject to the floor area ratio standards for all structures, excluding garages.

(e) *Lot coverage.* Accessory dwelling units and junior accessory dwelling units are exempt from the lot coverage standards applicable to the zone and the accessory structure lot coverage limitations included in Section 29.40.015 (A)(5).

(f) *Parking.* One (1) parking space per accessory dwelling unit or per 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 shall be provided prior to the issuance of a Building Permit or final inspection, for a new accessory dwelling unit.

(1) *Exceptions.* No parking space shall be required under any of the following conditions:

a. No additional parking shall be required for a junior accessory dwelling unit.
b. The accessory dwelling unit is located within one-half mile walking distance of public transit.
c. The accessory dwelling unit is located within an architecturally and historically significant historic district.
d. The accessory dwelling unit is contained within the proposed or existing space of, or constructed in substantially the same location and manner as, an existing primary dwelling or accessory structure.
e. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
f. When there is a car share vehicle (as defined by the California Vehicle Code) located within one (1) block of the accessory dwelling unit.
g. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or multi-family dwelling on the same lot.
h. 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.
i. When the Director finds that the lot does not have adequate area to provide parking.

(g) *Design standards.* The purpose of these objective design standards is to ensure that the residential appearance of a property is maintained and that an accessory dwelling unit and/or junior accessory dwelling

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unit are compatible with the primary dwelling and the neighborhood. The following objective design standards apply to the construction of an accessory dwelling unit and/or junior accessory dwelling unit:

(1) *Front entryway.* A front entryway framing a front door shall have a roof eave that matches or connects at the level of the adjacent eave line.

(2) *Front porch.* If proposed, front porches shall have a minimum depth of six (6) feet and a minimum width equal to twenty-five (25) percent of the linear width of the front elevation.

(3) *Windows.* All second-story windows less than ten (10) feet from rear and/or side property lines shall be clerestory with the bottom of the glass at least six (6) feet above the finished floor, except as necessary for egress purposes as required by the Building Code.

(4) *Balconies and Decks.* Balconies, rooftop terraces, and second-story decks are prohibited for all accessory dwelling units and junior accessory dwelling units.

(h) *Grading*.

(1) To the extent required by Chapter 12, Article II and Section 29.10.09045 (b) of the Town Code, the grading activities set forth in subsection (2) below may require a Grading Permit, but will not require discretionary review of an Architecture and Site Application.

(2) Grading activities associated with the construction of an accessory dwelling unit and/or junior accessory dwelling unit shall not exceed fifty (50) cubic yards, cut plus fill, except:

a. Light wells that do not exceed the minimum required by the Building Code shall not count as grading activity for the purpose of this section.

b. Excavation within the footprint of a proposed accessory dwelling unit shall not count as grading activity for the purpose of this section.

(i) *Cut and fill*. Construction of an accessory dwelling unit and/or a junior accessory dwelling unit shall be subject to the cut and fill requirements specified by Table 1-1 (Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units) below:

Table 1-1 – Cut and Fill Requirements for Accessory Dwelling Units and Junior Accessory Dwelling Units

Site Element	**Cut***	**Fill***
Accessory dwelling unit/junior accessory dwelling unit	4 feet	3 feet
Driveways**	4 feet	3 feet
Other (decks, yards)*	4 feet	3 feet
* Combined depths of cut plus fill for an accessory dwelling unit or junior accessory dwelling unit shall be limited to six (6) feet.		
** Excludes cut and fill for the minimum driveway and fire access standards as required by the Santa Clara County Fire Department.		

(j) *Retaining walls*. Retaining walls shall not exceed five (5) feet in height and shall not run in a continuous direction for more than fifty (50) feet without a break, offset, or planting pocket. Retaining walls shall have a five (5) foot landscape buffer adjacent to the street.

(k) *Light reflectivity value.* Exterior materials for accessory dwelling units and/or junior accessory dwelling units in the Hillside Overlay shall comply with requirements in Chapter V, Section I, of the Town's Hillside Development Standards and Guidelines.

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(l) *Landscaping.* All landscaping shall comply with the California Model Water Efficient Landscape Ordinance (MWELO).

(m) *Lighting.* New exterior lighting fixtures shall be downward directed and utilize shields so that no bulb is visible to ensure that the light is directed to the ground surface and does not spill onto neighboring parcels consistent with Section 29.10.09015 of the Town Code.

(n) *Trees.* Any proposed work shall comply with the protection, removal, and replacement requirements for protected trees in Chapter 29, Article I, Division 2, "Tree Protection," of the Town Code.

(o) *Stormwater management.* The development shall comply with the requirements of the Town's National Pollution Discharge Elimination System Permit as implemented by Chapter 22 of the Town Code, and as demonstrated by a grading and drainage plan prepared by a registered civil engineer.

(p) *Conveyance*. Except as provided in CA Government Code Section 65852.26, an accessory dwelling unit may be rented separate from the primary dwelling but may not be sold or otherwise conveyed separate from the primary dwelling.

(q) *Town codes and ordinances.* All accessory dwelling units and junior accessory dwelling units shall comply with all the provisions of this Chapter and other applicable Town Codes.

(r) *Building codes.* All accessory dwelling units and junior accessory dwelling units shall comply with applicable building, health, and fire codes, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the Building Official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety.

(s) *Rentals longer than 30 days*. Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.

(t) *Maximum number of dogs, cats, or litters*. All accessory dwelling units shall comply with Section 4.40.010 of the Town Code.

Sec. 29.10.325. Accessory dwelling unit development standards.

An accessory dwelling unit must comply with the following objective development standards:

(a) *Location.*

(1) No detached accessory dwelling unit may be constructed in front of the primary dwelling except in the HR zones.

(2) No accessory dwelling unit may be constructed in front of a primary dwelling or added to an existing second story of a primary dwelling that is any of the following:

a. A Historic Structure, as defined in Section 29.10.020 of the Zoning Code;

b. Listed in the Town of Los Gatos Historic Resource Inventory, as defined by Town Code Chapter 29, Article VII, Division 3, "Historic Preservation and LHP or Landmark and Historic Preservation Overlay Zone;" or

c. Listed in the California Register of Historical Resources.

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(b) *Setbacks.* Accessory dwelling units shall be subject to the setback requirements specified in Table 1-2 (Accessory Dwelling Unit Setback Requirements) below:

Table 1-2. Accessory Dwelling Unit Setback Requirements[1]

	Single-Family			Multi-Family		
	New construction detached ADU	New attached ADU within the existing space of the primary dwelling[2] or accessory structure	New attached ADU within the proposed space of the primary dwelling	New construction detached ADU	Conversion of portions existing multi-family dwelling not used as livable space[3]	Conversion of existing accessory structure(s)
Front	Per the applicable zoning district[4]	N/A	Per the applicable zoning district	Per the applicable zoning district	N/A	N/A
Rear	4 feet minimum	Sufficient for fire and safety		4 feet minimum		
Side (including street-side)	4 feet minimum			4 feet minimum		
From any other structure located on the same lot[5]	5 feet minimum	N/A	5 feet minimum	5 feet minimum	N/A	N/A

(1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.

(2) Includes attached garages.

(3) Such as storage rooms, boiler rooms, passageways, attics, basements, or garages.

(4) Front setback requirements shall not preclude construction of an 800 square-foot accessory dwelling unit.

(5) Measured from the exterior wall surface and/or supporting posts.

(c) *Maximum unit size.*

(1) The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet.

(2) An attached accessory dwelling unit that is not created though conversion of existing space shall not exceed fifty (50) percent of the size of the existing primary dwelling. Exception: Up to eight hundred (800) square feet of gross floor area of an attached accessory dwelling unit shall be exempt from this subsection.

(3) Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (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 six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

(d) *Maximum number of bedrooms.* There is no limit on the number of bedrooms in an accessory dwelling unit.

(e) *Stories.* Accessory dwelling units shall be contained within one (1) story.

(f) *Height.* Accessory dwelling units shall be subject to the height requirements below:

(1) A height of sixteen (16) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling.

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(2) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing single-family or multi-family dwelling that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor. An additional two feet in height shall be provided to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(3) A height of eighteen (18) feet for a detached accessory dwelling unit on a lot with a proposed or existing multi-family, multi-story dwelling.

(4) A height of twenty-five (25) feet or the height limitation of the applicable zoning district that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a proposed or existing two-story primary dwelling.

(5) Accessory dwelling units may be added directly above an existing one-story accessory structure on a property with a proposed or existing two-story primary dwelling in the R-1, R-D, R-M, RMH, and R-1D zones. These second-story accessory dwelling units may not be internally connected to the accessory structure below by an interior staircase.

(g) *Entrances.* Attached accessory dwelling units shall include a separate entrance from the main entrance to the proposed or existing primary dwelling. An accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.

(h) *Interior connection.* An attached accessory dwelling unit may, but shall not be required to, contain an interior doorway connection between the primary dwelling and the accessory dwelling unit.

(i) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of, or constructed in the same location and manner as, an existing primary dwelling or accessory structure. The following provisions shall apply:

(1) The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.

(2) The accessory dwelling unit shall have separate entrance from the primary dwelling.

(3) The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.

(4) An expansion of one hundred fifty (150) square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.

(5) When an existing structure is nonconforming 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.

(j) *Density. Accessory* dwelling units that conform to California Government Code Section 65852.2 shall be deemed an accessory use and shall not be considered to 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.

(k) *Fire sprinklers.* Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

Sec. 29.10.330. Junior accessory dwelling unit development standards.

(a) *Location*. A junior accessory dwelling unit shall be constructed entirely within the walls of the proposed or existing single-family residence. For the purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence. Junior accessory dwelling units may not be located within the space of, or attached to, a detached accessory structure of any type.

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(b) *Setbacks.* A junior accessory dwelling unit shall be subject to the setback requirements of the applicable zoning district for a single-family residence or the setbacks established by the existing single-family residence within which the junior accessory dwelling unit is located, whichever is less and sufficient for fire safety.

(c) *Maximum unit size*. The maximum floor area of a junior accessory dwelling unit is five hundred (500) square feet, measured from the outer face of exterior walls and the centerline of shared interior walls.

(d) *Entrances*. A junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single-family residence. When separate sanitation facilities are not included within the space of the junior accessory dwelling unit, an interior entry into the main living area of the primary dwelling shall be provided in addition to the separate entrance from the main entrance to the proposed or existing single-family residence. A junior accessory dwelling unit contained on a second story shall be served by a separate, dedicated interior or exterior stairway. A passageway from the accessory dwelling unit to a public street may be created but shall not be required by the Town.

(e) *Kitchen*. A junior accessory dwelling unit shall contain a kitchen or an efficiency kitchen.

(f) *Sanitation facilities*. A junior accessory dwelling unit may include separate sanitation facilities, or it may share sanitation facilities with the single-family residence. If sanitation facilities are not provided within the space of the junior accessory dwelling unit, an interior doorway shall be provided between the junior accessory dwelling unit and the living area of the single-family dwelling.

(g) *Owner-occupancy.* The property owner shall reside in the single-family residence in which the junior accessory dwelling unit will be located. The property owner may reside in either the remaining portion of the single-family residence 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.

(h) *Deed Restriction.* Prior to Building Permit issuance, the applicant shall record a Deed Restriction in the form prescribed by the Town, which shall run with the land and provide for all the following:

(1) 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.

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

(3) Owner-occupancy consistent with this section.

(i) *Fire or life protection*. For 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.

Sec. 29.10.335. Unpermitted units.

This section provides a mechanism to legalize unpermitted accessory dwelling in compliance with Government Code Section 65852.23.

(a) *Applicability*. This section applies to accessory dwelling units that were unlawfully constructed prior to January 1, 2018, and that have not been deemed substandard pursuant to Section 17920.3 of the Health and Safety Code by the building official. The Community Development Director may determine construction date by any credible means warranted, including use of aerial photography, county records, photographs, and signed affidavits.

(b) *Relief*. The Town shall not deny a permit to legalize an unpermitted accessory dwelling solely due to either of the following:

(1) The accessory dwelling unit is in violation of 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; or

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(2) The accessory dwelling unit does not comply with Government Code Section 65852.2; or

(3) The accessory dwelling unit does not comply with this Chapter.

(c) *Approval*. An unpermitted accessory dwelling unit may be legalized in compliance with Section 29.10.315 (Review Process).

(d) *Enforcement*. A property owner who makes known to the Town the existence of an unpermitted accessory dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this Chapter.

(e) *Exception*. The Town may deny a permit to legalize an unpermitted accessory dwelling unit and instead require correction of the violation(s) if the Building Official makes a finding that correcting the violation(s) is necessary to protect the health and safety of the public or occupants of the structure.

Sec. 29.10.340. Nonconforming accessory dwelling units and junior accessory dwelling units.

(a) *Permits*. The owner of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit, as defined in Section 29.10.310, must obtain a permit in compliance with Section 29.10.315 (Review Process).

Where an application has been submitted for a nonconforming accessory dwelling unit and/or junior accessory dwelling unit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit and/or junior accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an unpermitted accessory dwelling unit pursuant to section 29.10.3xx and subject to its regulations.

(b) *Units existing at time of annexation*. Upon annexation a lawful accessory dwelling unit and/or junior accessory dwelling unit shall become nonconforming and the owner must either apply for a permit pursuant to Section 29.10.315 (Review Process) within one (1) year of the date of annexation. A property owner who makes known to the Town the existence of a nonconforming accessory dwelling unit and/or junior accessory dwelling unit but who fails to obtain and finalize a Building Permit, shall be subject to enforcement and penalties as specified by Division 9 of this chapter.

Sec. 29.10.350. Elimination and/or demolition of existing accessory dwelling units and/or junior accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit and/or junior accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to Section 29.10.09030.

Sec. 29.10.355. Nonconforming zoning conditions.

The Town shall not deny an application for a permit to create an accessory dwelling unit and/or junior accessory dwelling unit based on a need for the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the accessory dwelling unit and/or junior accessory dwelling unit.

Sec. 29.10.360. Utilities.

(a) An accessory dwelling unit may be required to have a new or separate unity connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be

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charged that is proportionate to the size in square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values.

(1) Exceptions: Junior accessory dwelling units, accessory dwelling units within the proposed space of a single-family dwelling, or accessory dwelling units within the existing space of a single-family dwelling or accessory structure are exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges, unless the accessory dwelling unit was constructed with a new single-family dwelling.

Sec. 29.10.365. Fees.

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

(b) *Impact fees.* An accessory dwelling unit less than 750 square feet or a junior accessory dwelling unit is exempt from impact fees imposed by the Town, special district, or water corporation. An accessory dwelling 750 square feet or greater is subject to the Traffic Impact Fee requirements of the Town's Traffic Impact Policy (Policy 1-08), as may be amended from time to time. 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. For purposes of this subparagraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of CA Government Code 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.

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Sec. 29.10.195. Termination of legal nonconforming use status.

(a) Unless this ~~division~~ Division is amended to provide otherwise, the following legal nonconforming uses may continue interminably so long as they conform to the other requirements of this Division:

(1) ~~Nonconforming~~ Legal nonconforming residential uses ~~(except nonconforming accessory dwelling units pursuant to Section 29.10.320)~~.

(2) Schools.

(3) Church uses.

(4) Nonresidential uses in the downtown which would otherwise be nonconforming due to zone changes and ordinance amendments which occurred after July 1, 1982.

(5) Residential care facilities for the elderly that existed as of January 1, 1988 and are nonconforming only as to parking.

(6) Hotels/motels located in residential zones which were converted to multiple-family dwelling units prior to March 22, 1986, if a conditional use permit is obtained.

(7) Commercial uses that are nonconforming as to parking if parking has been provided on-site by July 1, 1992, or twenty (20) years from the date the use became legal nonconforming, whichever is later.

(b) The following legal nonconforming uses shall cease at the end of the following time periods:

(1) A junkyard shall cease ninety (90) days from the date it becomes nonconforming.

(2) Where there are improvements on land, but of a type for which no Building Permit would currently be required, the legal nonconforming use shall cease three (3) years from the date the use becomes legal nonconforming.

(3) Where the land is improved with one (1) or more structures of a type for which a Building Permit would currently be required and the structure(s) are utilized in connection with the legal nonconforming use, the legal nonconforming use shall cease twenty (20) years from March 23, 1966, or twenty (20) years from the date the use became legal nonconforming, whichever is later.

(4) When a zoning amendment is adopted after 1981 that causes a use to be legal nonconforming solely by subjecting it to the requirement of obtaining a conditional use permit, all uses affected by the amendment shall apply for a use permit within sixty (60) days after the amendment becomes effective. Failure to make such application within that time shall make the subject use immediately unlawful

(5) A business engaged in the retail sales [of] firearms and/or destructive devices shall cease four (4) years from the date it becomes legal nonconforming.

(c) If any period of authorized duration is held by a court to be too short and therefore unconstitutional or unlawful on its face or as applied, the period of duration shall be extended to such time as the court determines is lawful.

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Sec. 29.10.630. Requirements.

(e) Floor Area Ratio and Lot Coverage.

(1) The maximum floor area ratio and lot coverage shall be as specified by the applicable zoning regulations.

(2) For flag/corridor lots, the gross lot size includes the access corridor for the purposes of determining maximum floor area ratio and lot coverage as follows:

i. When an easement is used to provide access, the access corridor is included in the gross lot size for the lot granting the easement; and

ii. When the access corridor is owned in-fee and is part of the rear lot, the access corridor is included in the gross lot size for the rear lot.

(3) The maximum size of the first new residential unit shall not exceed 1,200 square feet.

(4) When a two-unit housing development is proposed, a 10 percent increase in the floor area ratio standards for residential structures is allowed, excluding garages, and this increase in floor area cannot be combined with a separate increase for an Accessory Dwelling Unit allowed by Town Code Section 29.10.320. The additional floor area allowed by this subsection shall not exceed 1,200 square feet.

(5) Notwithstanding the floor area ratio standards in this subsection, a new two-unit housing development with unit sizes of 800 square feet or less shall be permitted.

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Sec. 29.20.960. Civil penalties.

Notwithstanding section 29.20.950 relating to criminal penalty, any person found to have violated section 29.10.0970 shall be liable to pay the Town a civil penalty as prescribed in subsections (1) through (3). Any person found to have violated section 29.10.320 shall be liable to pay the Town a civil penalty as prescribed in subsection (4):

(1) Replacing the unlawfully removed tree with a new tree as similar thereto as reasonably feasible, or if such replacement is not feasible because of size or age of tree, with such number of similar trees as will provide reasonably equivalent aesthetic quality based on the determination of the Director of Parks, Forestry and Maintenance Services. Where similar replacement trees will not provide reasonably equivalent aesthetic quality, the Director of Parks, Forestry and Maintenance Services shall calculate the value of the removed tree in accordance with The Guide for Establishing Values of Trees and Other Plants by the International Society of Arboriculture and such value will be the civil penalty for violation of section 29.10.0970 in addition to subsection (2). Where replanting cannot be accomplished to the satisfaction of the Director of Parks, Forestry and Maintenance Services, the amount of the value of the removed tree shall be deposited into the street tree deposit account.

(2) The cost of enforcing this ~~chapter~~ Chapter, which shall include all costs, staff time, and attorneys' fees.

(3) All replacement trees planted as required by subsection (1) shall be maintained by the property owner under a two-year written maintenance agreement with the Town.

(4) A five thousand dollar ($5,000.00) civil penalty shall be imposed against any property owner found in violation of section 29.10.320(b) in addition to any application fees required and the cost for correcting any housing code deficiencies.

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STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 897

CHAPTER 664

An act to amend Section 65852.22 of, to add Section 65852.23 to, and to repeal and amend Section 65852.2 of, the Government Code, and to amend Section 17980.12 of the Health and Safety Code, relating to land use.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 897, Wieckowski. Accessory dwelling units: junior accessory dwelling units.

(1) Existing law, the Planning and Zoning Law, authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use, as specified. Existing law authorizes a local agency to impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, and maximum size of a unit.

This bill would require that the standards imposed on accessory dwelling units be objective. For purposes of this requirement, the bill would define "objective standard" as a standard that involves no personal or subjective judgment by a public official and is uniformly verifiable, as specified. The bill would also prohibit a local agency from denying an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

This bill would require a local agency to review and issue a demolition permit for a detached garage that is to be replaced by an accessory dwelling unit at the same time as it reviews and issues the permit for the accessory dwelling unit. The bill would prohibit an applicant from being required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced by an accessory dwelling unit, as specified.

Existing law provides that an accessory dwelling unit may either be an attached or detached residential dwelling unit, and prescribes the minimum and maximum unit size requirements, height limitations, and setback requirements that a local agency may establish, including a 16-foot height limitation and a 4-foot side and rear setback requirement.

This bill would increase the maximum height limitation that may be imposed by a local agency on an accessory dwelling unit to 18 feet if the accessory dwelling unit is within ½ mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined, or if the

accessory dwelling unit is detached and on a lot that has an existing multifamily, multistory dwelling, as specified. The bill would increase the maximum height limitation that may be imposed by a local agency on an accessory dwelling unit to 25 feet if the accessory dwelling unit is attached to a primary dwelling, except as specified.

Existing law requires an ordinance that provides for the creation of an accessory dwelling unit to require accessory dwelling units to comply with local building code requirements that apply to detached dwellings, as appropriate. Existing law also prohibits an ordinance from requiring an accessory dwelling unit to provide fire sprinklers if they are not required for the primary residence.

This bill would provide that the construction of an accessory dwelling unit does not constitute a Group R occupancy change under the local building code, except as specified. The bill would prohibit the construction of an accessory dwelling unit from triggering a requirement that fire sprinklers be installed in the existing primary dwelling.

Existing law provides that a local agency must ministerially approve an application for a building permit within a residential or mixed-use zone to create not more than 2 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 limitation of 16 feet and a 4-foot side and rear setback requirement.

This bill would change the height limitation applicable to an accessory dwelling unit subject to ministerial approval to 18 feet if the accessory dwelling unit is within ½ mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined, or if the accessory dwelling unit is detached and on a lot that has an existing multifamily, multistory dwelling, as specified. The bill would change the height limitation applicable to an accessory dwelling unit subject to ministerial approval to 25 feet if the accessory dwelling unit is attached to a primary dwelling, except as specified. The bill, if the existing multifamily dwelling exceeds applicable height requirements or has a rear or side setback of less than 4 feet, would prohibit a local agency from requiring any modification to the existing multifamily dwelling to satisfy these requirements. The bill would prohibit a local agency from rejecting an application for an accessory dwelling unit because the existing multifamily dwelling exceeds applicable height requirements or has a rear or side setback of less than 4 feet.

Existing law prohibits a local agency from imposing parking standards on certain accessory dwelling units, including those that are located within ½-mile walking distance of public transit.

This bill would also prohibit a local agency from imposing any parking standards on an accessory dwelling unit that is included in an application to create a new single-family dwelling unit or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit meets other specified requirements.

Existing law, when a local agency has not adopted an ordinance governing accessory dwelling units, requires a permitting agency to act on an

application to create an accessory dwelling unit or a junior accessory dwelling unit within specified timeframes.

This bill would require a permitting agency to return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant, if the permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit.

(2) Existing law also provides for the creation of junior accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires an ordinance that provides for the creation of a junior accessory dwelling unit to, among other things, (A) require that the unit be constructed within the walls of the proposed or existing single-family residence, (B) require that the unit include a separate entrance from the main entrance to the proposed or existing single-family residence, and (C) require owner-occupancy in the single-family residence in which the junior accessory dwelling unit is permitted.

This bill would specify that enclosed uses within the proposed or existing single-family residence, such as attached garages, are considered a part of the proposed or existing single-family residence. The bill would require a junior accessory dwelling unit that does not include a separate bathroom to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. The bill would also prohibit a local agency from denying an application for a permit to create a junior accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the junior accessory dwelling unit.

(3) Existing law requires a local agency, in enforcing building standards applicable to accessory dwelling units, to delay enforcement for up to 5 years upon the owner submitting an application requesting the delay on the basis that correcting the violation is not necessary to protect health and safety.

This bill would prohibit a local agency from denying a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, because, among other things, the unit is in violation of building standards or state or local standards applicable to accessory dwelling units, unless the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure. This bill would specify that this prohibition does not apply to a building that is deemed substandard under specified provisions of law.

(4) Existing law requires the Department of Housing and Community Development to administer various programs intended to promote the development of housing, including the Multifamily Housing Program, pursuant to which the department provides financial assistance in the form of deferred payment loans to pay for the eligible costs of development for specified activities.

This bill would state the intent of the Legislature that accessory dwelling unit grant programs provide funding for predevelopment costs and facilitate accountability and oversight, as specified.

(5) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by AB 2221 to be operative only if this bill and AB 2221 are enacted and this bill is enacted last.

(6) By imposing new duties on local governments with respect to the approval of accessory dwelling units and junior accessory dwelling units, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to ensure that grant programs that fund the construction and maintenance of accessory dwelling units undertake both of the following:

(a) Provide funding for predevelopment costs, such as development of plans and permitting of accessory dwelling units.

(b) Facilitate accountability and oversight, including annual reporting on outcomes to the Legislature.

SEC. 2. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, 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 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 objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, 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 Historical 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) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, 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 dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary 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) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area 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 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 four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is 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, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.

(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 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, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

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

(3) 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. The permitting agency shall either approve or deny 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 or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies 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. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs 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) The ordinance shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed

with the application for the accessory dwelling unit and issued at the same time.

(5) The ordinance shall not require, and the applicant shall not be otherwise required, to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

(6) 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 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. 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 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.

(7) 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.

(8) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that, subject to subparagraphs (B) and (C), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(B) (i) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit before January 1, 2025.

(ii) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit that was permitted between January 1, 2020, and January 1, 2025.

(C) Notwithstanding subparagraphs (A) and (B), a local agency may require that an accessory dwelling unit be used for rentals of terms longer than 30 days.

(9) 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.

(10) 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) (1) 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 or serve 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). The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family dwelling or multifamily dwelling, but the application to create or serve 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 approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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) Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, 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 800 square foot accessory dwelling unit with four-foot side and rear yard

setbacks to be constructed in compliance with all other local development standards.

(D) Any height limitation that does not allow at least the following, as applicable:

(i) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

(ii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(iii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(iv) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

(d) Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), all of the following shall apply:

(1) The local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

(A) Where the accessory dwelling unit is located within one-half mile walking distance of public transit.

(B) Where the accessory dwelling unit is located within an architecturally and historically significant historic district.

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

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

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

(F) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

(2) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction 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 within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one 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 as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).

(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) (i) Not more than two accessory dwelling units that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to the applicable height limitation in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and rear yard and side setbacks of no more than four feet.

(ii) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(4) A local agency may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (8) of subdivision (a).

(5) 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.

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

(7) 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 objective 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) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer 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.

(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, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(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 square feet or the number of its 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) (1) 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. 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) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more 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.

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

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

(7) "Objective standards" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

(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) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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

(11) "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.

(12) "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.

(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), 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.

SEC. 2.5. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, 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 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 objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, 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 Historical 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) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, 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 dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary 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, including detached garages.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area 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 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 four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is 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, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.

(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 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, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

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

(3) (A) 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. The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create or serve 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. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(B) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subparagraph (A), the permitting agency shall, within the time period described in subparagraph (A), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(4) The ordinance shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time.

(5) The ordinance shall not require, and the applicant shall not be otherwise required, to provide written notice or post a placard for the

demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

(6) 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 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. 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 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.

(7) 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.

(8) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that, subject to subparagraphs (B) and (C), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(B) (i) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit before January 1, 2025.

(ii) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit that was permitted between January 1, 2020, and January 1, 2025.

(C) Notwithstanding subparagraphs (A) and (B), a local agency may require that an accessory dwelling unit be used for rentals of terms longer than 30 days.

(9) 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.

(10) 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) (1) 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 or serve 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). The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family or multifamily dwelling, but the application to create or serve 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 approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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) Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(D) Any height limitation that does not allow at least the following, as applicable:

(i) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

(ii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(iii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(iv) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

(d) Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), all of the following shall apply:

(1) The local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

(A) Where the accessory dwelling unit is located within one-half mile walking distance of public transit.

(B) Where the accessory dwelling unit is located within an architecturally and historically significant historic district.

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

(D) When onstreet parking permits are required but not offered to the occupant of the accessory dwelling unit.

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

(F) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

(2) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction 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 within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one 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 as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).

(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) (i) Not more than two accessory dwelling units that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and rear yard and side setbacks of no more than four feet.

(ii) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(4) A local agency may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (8) of subdivision (a).

(5) 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.

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

(7) 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 objective 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) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer 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.

(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, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(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 square feet or the number of its 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 shall supersede a conflicting local ordinance. This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) 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. 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) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more 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.

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

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

(7) "Objective standards" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

(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) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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

(11) "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.

(12) "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.

(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), 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.

SEC. 3. Section 65852.2 of the Government Code, as amended by Section 2 of Chapter 343 of the Statutes of 2021, is repealed.

SEC. 4. Section 65852.22 of the Government Code is amended to read:

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 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 walls of the proposed or existing single-family residence. For purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

(5) (A) Require a permitted junior accessory dwelling unit to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(B) If a permitted junior accessory dwelling unit does not include a separate bathroom, the permitted junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

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

(A) A cooking facility with appliances.

(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 if the junior accessory dwelling unit complies with applicable building standards.

(c) (1) 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. The permitting agency shall either approve or deny the application to create or serve 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 or serve a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family dwelling on the lot, the permitting agency may delay approving or denying the permit application for the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family dwelling, but the application to create or serve 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.

(2) If a permitting agency denies an application for a junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(d) A local agency shall not deny an application for a permit to create a junior accessory dwelling unit pursuant to this section due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit.

(e) For 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.

(f) For 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.

(g) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation related to 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.

(h) 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.

(i) 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 a single-family 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.

(3) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

SEC. 5. Section 65852.23 is added to the Government Code, to read:

65852.23. (a) Notwithstanding any other law, and except as otherwise provided in subdivision (b), a local agency shall not deny a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, due to either of the following:

(1) The accessory dwelling unit is in violation of 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.

(2) The accessory dwelling unit does not comply with Section 65852.2 or any local ordinance regulating accessory dwelling units.

(b) Notwithstanding subdivision (a), a local agency may deny a permit for an accessory dwelling unit subject to subdivision (a) if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.

(c) The section shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code.

SEC. 6. Section 17980.12 of the Health and Safety Code is amended to read:

17980.12. (a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

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

(B) 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.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) 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 a violation on the primary dwelling unit, provided that correcting the violation is not necessary to protect health and safety.

(4) The enforcement agency shall grant an application described in paragraph (2) if the enforcement agency determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(5) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (4).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 2221. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill

is enacted after Assembly Bill 2221, in which case Section 2 of this bill shall not become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Assembly Bill No. 2221

CHAPTER 650

An act to repeal and amend Section 65852.2 of the Government Code, relating to land use.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2221, Quirk-Silva. Accessory dwelling units.

The Planning and Zoning Law, among other things, provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires a local ordinance to require an accessory dwelling unit to be either attached to, or located within, the proposed or existing primary dwelling, as specified, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would specify that an accessory dwelling unit that is detached from the proposed or existing primary dwelling may include a detached garage.

Existing law requires a permitting agency to act on an application to create an accessory dwelling unit or a junior accessory dwelling unit within specified timeframes.

This bill would require a permitting agency to approve or deny an application to serve an accessory dwelling unit or a junior accessory dwelling unit within the same timeframes. If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit, the bill would require a permitting agency to return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant within the same timeframes. The bill would define "permitting agency" for its purposes.

Existing law authorizes a local agency to establish minimum and maximum unit size requirements for attached and detached accessory dwelling units, subject to certain exceptions, including that a local agency is prohibited from establishing limits on lot coverage, floor area ratio, open space, and minimum lot size, that do not permit the construction of at least an 800 square foot accessory dwelling unit, as specified.

This bill would additionally prohibit a local agency from establishing limits on front setbacks, as described above.

This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by SB 897 to be operative only if this bill and SB 897 are enacted and this bill is enacted last.

By imposing additional duties on local governments in the administration of the development of accessory dwelling units, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, 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 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, 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 Historical 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) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, 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 dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary 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, including detached garages.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area 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 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 four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is 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 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, the local agency shall not require that those offstreet parking spaces be 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) (A) 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. The permitting agency shall approve or deny an application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family or multifamily dwelling, but the application to create or serve 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. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation or service of an accessory dwelling unit.

(B) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subparagraph (A), the permitting agency shall, within the time period described in subparagraph (A), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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 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. 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 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) 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.

(7) 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.

(8) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that, subject to subparagraphs (B) and (C), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(B) (i) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit before January 1, 2025.

(ii) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit that was permitted between January 1, 2020, and January 1, 2025.

(C) Notwithstanding subparagraphs (A) and (B), a local agency may require that an accessory dwelling unit be used for rentals of terms longer than 30 days.

(b) (1) 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 or serve 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). The permitting agency shall either approve or deny the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family or multifamily dwelling, but the application to create or serve 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 approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in subparagraph (1), return in writing a full set of comments to the applicant with a list of

items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 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 onstreet 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 within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one 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 may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (8) of subdivision (a).

(5) 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.

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

(7) 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) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer 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.

(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, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(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 square feet or the number of its 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 shall supersede a conflicting local ordinance. This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) 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. 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) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more 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.

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

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

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

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

(9) "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.

(10) "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.

(11) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

(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.

(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), 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.

SEC. 1.5. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, 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 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 objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, 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 Historical 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) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, 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 dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary 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, including detached garages.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area 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 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 four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is 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, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.

(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 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, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

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

(3) (A) 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. The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the

lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create or serve 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. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(B) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subparagraph (A), the permitting agency shall, within the time period described in subparagraph (A), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(4) The ordinance shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time.

(5) The ordinance shall not require, and the applicant shall not be otherwise required, to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

(6) 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 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. 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 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.

(7) 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.

(8) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that, subject to subparagraphs (B) and (C), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(B) (i) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit before January 1, 2025.

(ii) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit that was permitted between January 1, 2020, and January 1, 2025.

(C) Notwithstanding subparagraphs (A) and (B), a local agency may require that an accessory dwelling unit be used for rentals of terms longer than 30 days.

(9) 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.

(10) 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) (1) 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 or serve 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). The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family or multi-family dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family or multifamily dwelling, but the application to create or serve 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 approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in subparagraph (1), return in writing a full set of comments to the applicant with a list of

items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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) Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(D) Any height limitation that does not allow at least the following, as applicable:

(i) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

(ii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(iii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(iv) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

(d) Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), all of the following shall apply:

(1) The local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

(A) Where the accessory dwelling unit is located within one-half mile walking distance of public transit.

(B) Where the accessory dwelling unit is located within an architecturally and historically significant historic district.

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

(D) When onstreet parking permits are required but not offered to the occupant of the accessory dwelling unit.

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

(F) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

(2) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction 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 within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one 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 as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).

(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) (i) Not more than two accessory dwelling units that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and rear yard and side setbacks of no more than four feet.

(ii) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(4) A local agency may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (8) of subdivision (a).

(5) 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.

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

(7) 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 objective 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) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including

water and sewer 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.

(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, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(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 square feet or the number of its 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 shall supersede a conflicting local ordinance. This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) 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. 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) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more 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.

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

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

(7) "Objective standards" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

(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) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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

(11) "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.

(12) "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.

(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), 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.

SEC. 2. Section 65852.2 of the Government Code, as amended by Section 2 of Chapter 343 of the Statutes of 2021, is repealed.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 897. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 897, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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STATE OF CALIFORNIA
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AUTHENTICATED
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State of California

GOVERNMENT CODE

Section 65852.2

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 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 objective standards on accessory dwelling units that include, but are not limited to, parking, height, setback, 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 Historical 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) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, 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 dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary 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, including detached garages.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area 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 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 four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is 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, except that the construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.

(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 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, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

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

(3) (A) 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. The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create or serve 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. If the local agency has not approved or denied the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(B) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to subparagraph (A), the permitting agency shall, within the time period described in subparagraph (A), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(4) The ordinance shall require that a demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time.

(5) The ordinance shall not require, and the applicant shall not be otherwise required, to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

(6) 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 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. 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 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.

(7) 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.

(8) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a

proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that, subject to subparagraphs (B) and (C), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant.

(B) (i) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit before January 1, 2025.

(ii) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit that was permitted between January 1, 2020, and January 1, 2025.

(C) Notwithstanding subparagraphs (A) and (B), a local agency may require that an accessory dwelling unit be used for rentals of terms longer than 30 days.

(9) 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.

(10) 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) (1) 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 or serve 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). The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family or multifamily dwelling, but the application to create or serve 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 approved or denied the completed application within 60 days, the application shall be deemed approved.

(2) If a permitting agency denies an application for an accessory dwelling unit or junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(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) Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(D) Any height limitation that does not allow at least the following, as applicable:

(i) A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

(ii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(iii) A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

(iv) A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

(d) Notwithstanding any other law, and whether or not the local agency has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), all of the following shall apply:

(1) The local agency shall not impose any parking standards for an accessory dwelling unit in any of the following instances:

(A) Where the accessory dwelling unit is located within one-half mile walking distance of public transit.

(B) Where the accessory dwelling unit is located within an architecturally and historically significant historic district.

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

(D) When onstreet parking permits are required but not offered to the occupant of the accessory dwelling unit.

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

(F) When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

(2) The local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction 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 within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one 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 as provided in clause (i), (ii), or (iii) as applicable, of subparagraph (D) of paragraph (2) of subdivision (c).

(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) (i) Not more than two accessory dwelling units that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation in clause (i), (ii), or (iii), as applicable, of subparagraph (D) of paragraph (2) of subdivision (c) and rear yard and side setbacks of no more than four feet.

(ii) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subparagraph.

(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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(4) A local agency may require owner-occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (8) of subdivision (a).

(5) 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.

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

(7) 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 objective 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) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer 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.

(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, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(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 square feet or the number of its 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 shall supersede a conflicting local ordinance. This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) 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. 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) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more 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.

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

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

(7) "Objective standards" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

(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) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

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

(11) "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.

(12) "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.

(*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), 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.

(Amended (as amended by Stats. 2021, Ch. 343, Sec. 1) by Stats. 2022, Ch. 664, Sec. 2.5. (SB 897) Effective January 1, 2023.)

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State of California

GOVERNMENT CODE

Section 65852.22

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 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 walls of the proposed or existing single-family residence. For purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.

(5) (A) Require a permitted junior accessory dwelling unit to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(B) If a permitted junior accessory dwelling unit does not include a separate bathroom, the permitted junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

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

(A) A cooking facility with appliances.

(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 if the junior accessory dwelling unit complies with applicable building standards.

(c) (1) 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. The permitting agency shall either approve or deny the application to create or serve 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 or serve a junior accessory dwelling unit is submitted with a permit application to create or serve a new single-family dwelling on the lot, the permitting agency may delay approving or denying the permit application for the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create or serve the new single-family dwelling, but the application to create or serve 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.

(2) If a permitting agency denies an application for a junior accessory dwelling unit pursuant to paragraph (1), the permitting agency shall, within the time period described in paragraph (1), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

(d) A local agency shall not deny an application for a permit to create a junior accessory dwelling unit pursuant to this section due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and that are not affected by the construction of the junior accessory dwelling unit.

(e) For 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.

(f) For 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.

(g) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation related to 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.

(h) 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.

(i) 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 a single-family 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.

(3) "Permitting agency" means any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.

(Amended by Stats. 2022, Ch. 664, Sec. 4. (SB 897) Effective January 1, 2023.)

Cal. Gov. Code § 65852.23

Section 65852.23 - Unpermitted accessory dwelling units constructed before January 1, 2018

(a) Notwithstanding any other law, and except as otherwise provided in subdivision (b), a local agency shall not deny a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, due to either of the following:

(1) The accessory dwelling unit is in violation of 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.

(2) The accessory dwelling unit does not comply with Section 65852.2 or any local ordinance regulating accessory dwelling units.

(b) Notwithstanding subdivision (a), a local agency may deny a permit for an accessory dwelling unit subject to subdivision (a) if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.

(c) The section shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code.

Ca. Gov. Code § 65852.23

Added by Stats 2022 ch 664 (SB 897),s 5, eff. 1/1/2023.

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GOVERNMENT CODE

Section 65852.26

65852.26. (a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency shall allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The accessory dwelling unit or the primary dwelling was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling that each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the accessory dwelling unit or primary dwelling if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the accessory dwelling unit or primary dwelling as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the accessory dwelling unit or primary dwelling that ensure the accessory dwelling unit and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(E) If the tenancy in common agreement is recorded after December 31, 2021, it shall also include all of the following:

(i) Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.

(ii) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

(iii) Procedures for dispute resolution among the parties before resorting to legal action.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(Amended by Stats. 2021, Ch. 343, Sec. 3. (AB 345) Effective January 1, 2022.)

DIVISION 7. ACCESSORY DWELLING UNITS[1]

Sec. 29.10.305. Intent and authority.

This division is adopted to comply with amendments to Government Code §§ 65852.2 and 65852.22 which mandate 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.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

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.

Efficiency unit. As defined by Section 17958.1 of the Health and Safety Code.

Junior accessory dwelling unit. A junior accessory dwelling unit is a dwelling unit that does not exceed a floor area of five hundred (500) square feet and is contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit. 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. If the junior accessory dwelling unit is contained within the proposed or existing space of a primary dwelling, it may include separate sanitation facilities, or it may share sanitation facilities with the primary dwelling. If the junior accessory dwelling unit is contained within the proposed or existing space of a detached accessory dwelling unit, it shall include separate sanitation facilities.

Manufactured home. As defined by Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling units. A nonconforming accessory dwelling unit is an accessory dwelling unit that exists under the following circumstances:

(1) A unit which was created or converted lawfully but which due to a zone change or an amendment to the zoning ordinance, has become nonconforming.

(2) A unit which was created lawfully while within the County, but which upon annexation to the Town, became nonconforming.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

[1]Editor's note(s)—Ord. No. 2270, § I, adopted Feb. 6, 2018, repealed the former Div. 7, §§ 29.10.305—29.10.335 and enacted new Div. 7, §§ 29.10.305 through 29.10.330. Former §§ 29.10.305—29.10.335. The former Div. 7 pertained to second dwelling units and derived from Ord. No. 2115, § I, 9-15-03.

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 eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling.

(b) *Design and development standards.*

(1) *Number.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.

Not more than a number equal to twenty-five (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.

(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.*

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 in the R-1, R-D, R-M, RMH, and R-1D zones.

Accessory dwelling units shall comply with the following minimum setbacks:

a. Front setbacks of the zone for a primary dwelling.

b. Rear and side setbacks of 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 and shall not exceed sixteen (16) feet in height, unless the accessory dwelling unit is contained within the existing second story space of a primary dwelling or accessory structure; added to an existing second story of a primary dwelling 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 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 one thousand two hundred (1,200) square feet. The maximum number of bedrooms is two (2).

Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (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 six hundred (600) or one thousand (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 eight hundred (800) square feet shall be permitted.

(7) *Lot coverage.* Accessory dwelling units must comply with lot coverage maximums for the zone; except, notwithstanding the lot coverage standards in this subsection, an accessory dwelling unit that does not exceed a floor area of eight hundred (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 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.

a. *Exceptions.* No parking space 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 or junior accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or 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 (1) 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 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 residential appearance of the property. Detached junior accessory dwelling units shall be

(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.

(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.

Current Ordinance

(13) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or 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 use.

b. The accessory dwelling unit shall have separate entrance from the primary dwelling.

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 one hundred fifty (150) square feet beyond the physical dimensions of an 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.

(14) *Rentals longer than 30 days*. Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited.

(15) *Maximum number of dogs, cats, or litters*. All accessory dwelling units shall comply with Section 4.40.010 of the Town code.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

Sec. 29.10.325 Nonconforming units.

(a) *Permits*. The owner of a nonconforming accessory dwelling unit must obtain an accessory dwelling unit permit. Any application received after December 31, 1987, shall be subject to an application fee and may be subject to a civil penalty pursuant to Section 29.20.960(4).

Where an application has been submitted for a nonconforming accessory dwelling unit permit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an existing unlawful accessory dwelling unit pursuant to section 29.10.315 and subject to its regulations.

(b) *Units existing at time of annexation*. Upon annexation a lawful accessory dwelling unit shall become nonconforming and the owner must either apply for an accessory dwelling unit permit within one (1) year of the date of annexation, or the unit shall be determined to be an unlawful accessory dwelling unit pursuant to section 29.10.315.

(c) *Number*. A maximum of two (2) nonconforming accessory dwelling units are allowed on a single lot. All other accessory dwelling units on the property must be abated.

(d) *Housing code*. Nonconforming accessory dwelling units shall comply with the Town's housing code as follows:

(1) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (b) shall be required to comply with the Town housing code.

(2) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (c) shall be required to comply with the Town housing code and all improvements shall be completed within one (1) year from the date of application.

(3) Where a timely application under subsection (b) or subsection (c) has been filed, and approved, an extension from the compliance date of up to six (6) months may be granted by the Community Development Department for good cause shown. Any extension request for longer than six (6) months may be granted by the Planning Commission upon finding that a hardship exists.

(4) Remodeling and reconstruction: Remodeling and reconstruction of nonconforming accessory dwelling units shall be as follows:

a. Where a timely application under subsection (a) or subsection (b) has been filed and approved, an accessory dwelling unit may be remodeled providing the building height and floor area do not exceed that which is allowed for a new accessory dwelling unit.

b. Community Development Director approval is required for the remodeling or reconstruction of an accessory dwelling unit in the case of destruction. The proposed construction shall be designed so as to architecturally harmonize with the surrounding structures so long as the construction does not increase the height or size of the unit. The factors to be considered when reviewing the design of such proposed construction include:

1. Building height.

2. Building materials and compatibility.

3. Colors and materials.

4. Setback conformity.

5. Floor area ratio.

(Ord. No. 2270, § I, 2-6-18)

Sec. 29.10.330. Elimination and/or demolition of existing accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to section 29.10.09030.

(Ord. No. 2270, § I, 2-6-18)

Sec. 29.10.335. Expansion of existing or nonconforming accessory dwelling units.

For the purposes of this section only, expansion of an accessory dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet. Requests for expansion of any nonconforming accessory dwelling unit shall be subject to the same requirements as a new accessory dwelling unit.

(Ord. No. 2270, § I, 2-6-18)

Secs. 29.10.340—29.10.400. Reserved.

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DIVISION 7. ACCESSORY DWELLING UNITS[1]

Sec. 29.10.305. Intent and authority.

This division is adopted to comply with amendments to Government Code §§ 65852.2 and 65852.22 which mandate 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. (Section 29.10.305)

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

Sec. 29.10.310. Definitions.

(Section 29.10.310)

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.

Efficiency unit. ~~A~~s defined by Section 17958.1 of the Health and Safety Code.

Junior accessory dwelling unit~~. A junior accessory dwelling unit is~~ a dwelling unit that does not exceed a floor area of five hundred (500) square feet and is contained within the space of a proposed or existing ~~primary dwelling or detached accessory dwelling unit. 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. If the junior accessory dwelling unit is contained within the proposed or existing space of a primary dwelling, it may include separate sanitation facilities, or it may share sanitation facilities with the primary dwelling. If the junior accessory dwelling unit is contained within the proposed or existing space of a detached accessory dwelling unit, it shall include separate sanitation facilities.~~

Manufactured home. ~~A~~s defined by Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling units~~. A nonconforming accessory dwelling unit is an accessory dwelling~~ unit that exists under the following circumstances:

(1) A unit which was created or converted lawfully but which due to a zone change or an amendment to the zoning ordinance, has become nonconforming.

(2) A unit which was created lawfully while within the County, but which upon annexation to the Town, became nonconforming.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

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 eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling. [Section 29.10.320 (a)]

(b) *Design and development standards.*

(1) *Number.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling. [Section 29.10.320 (c)]

Not more than a number equal to twenty-five (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. [Section 29.10.320 (c)]

(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.~~ [Section 29.10.320 (b)(1)]

(3) *Setbacks.* [Section 29.10.325 (b)]

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 ~~in the R-1, R-D, R-M, RMH, and R-1D zones.~~

Accessory dwelling units shall comply with the following minimum setbacks:

a. Front setbacks of the zone for a primary dwelling.

b. Rear and side setbacks of 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 and shall not exceed sixteen (16) feet in height, unless the accessory dwelling unit is contained within the existing second story space of a primary dwelling or accessory structure;~~ added to an existing second story of a primary dwelling 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 in the R-1, R-D, R-M, RMH, and R-1D zones. [Section 29.10.325 (a)]

(5) *Maximum unit size* ~~*and maximum number of bedrooms.*~~ The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet. ~~The maximum number of bedrooms is two (2).~~ [Section 29.10.325 (c)]

Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (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 six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall

not be subject to Development Review Committee or Planning Commission approval. [Section 29.10.320 (c)]

(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 eight hundred (800) square feet shall be permitted*. [Section 29.10.320 (d)]

~~(7) *Lot coverage.* Accessory dwelling units must comply with lot coverage maximums for the zone; except, notwithstanding the lot coverage standards in this subsection, an accessory dwelling unit that does not exceed a floor area of eight hundred (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 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. [Section 29.10.320 (f)]

a. *Exceptions.* No parking space 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 or junior accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or 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 (1) 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 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 residential appearance of the property. Detached junior accessory dwelling units shall be~~

(10) *Town codes and ordinances.* All accessory dwelling units shall comply with all the provisions of this chapter and other applicable Town codes. [Section 29.10.320 (p)]

(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. [Section 29.10.320 (q)]

(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: [Section 29.10.315 (c)]

a. Adverse impacts on health, safety, and/or welfare of the public.

(13) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or accessory structure. The following provisions shall apply:

[Section 29.10.325 (i)]

a. The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.

b. The accessory dwelling unit shall have separate entrance from the primary dwelling.

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 one hundred fifty (150) square feet beyond the physical dimensions of an 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.

(14) *Rentals longer than 30 days*. Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited. [Section 29.10.320 (s)]

(15) *Maximum number of dogs, cats, or litters*. All accessory dwelling units shall comply with Section 4.40.010 of the Town code. [Section 29.10.320 (t)]

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

Sec. 29.10.325 Nonconforming units.

(a) ~~*Permits*~~. The owner of a nonconforming accessory dwelling unit must obtain a~~n accessory dwelling unit~~ permit. ~~Any application received after December 31, 1987, shall be subject to an application fee and may be subject to a civil penalty pursuant to Section 29.20.960(4).~~

Where an application has been submitted for a nonconforming accessory dwelling unit permit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an existing unlawful accessory dwelling unit pursuant to section 29.10.315 and subject to its regulations. [Section 29.10.340 (a)]

(b) *Units existing at time of annexation*. Upon annexation a lawful accessory dwelling unit shall become nonconforming and the owner must either apply for a~~n accessory dwelling unit~~ permit within one (1) year of the date of annexation~~, or the unit shall be determined to be an unlawful accessory dwelling unit pursuant to section 29.10.315.~~ [Section 29.10.340 (b)]

~~(c) *Number*. A maximum of two (2) nonconforming accessory dwelling units are allowed on a single lot. All other accessory dwelling units on the property must be abated.~~

~~(d) *Housing code*. Nonconforming accessory dwelling units shall comply with the Town's housing code as follows:~~

~~(1) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (b) shall be required to comply with the Town housing code.~~

~~(2) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (c) shall be required to comply with the Town housing code and all improvements shall be completed within one (1) year from the date of application.~~

~~(3) Where a timely application under subsection (b) or subsection (c) has been filed, and approved, an extension from the compliance date of up to six (6) months may be granted by the Community Development Department for good cause shown. Any extension request for longer than six (6) months may be granted by the Planning Commission upon finding that a hardship exists.~~

~~(4) Remodeling and reconstruction: Remodeling and reconstruction of nonconforming accessory dwelling units shall be as follows:~~

~~a. Where a timely application under subsection (a) or subsection (b) has been filed and approved, an accessory dwelling unit may be remodeled providing the building height and floor area do not exceed that which is allowed for a new accessory dwelling unit.~~

~~b. Community Development Director approval is required for the remodeling or reconstruction of an accessory dwelling unit in the case of destruction. The proposed construction shall be designed so as to architecturally harmonize with the surrounding structures so long as the construction does not increase the height or size of the unit. The factors to be considered when reviewing the design of such proposed construction include:~~

~~1. Building height.~~

~~2. Building materials and compatibility.~~

~~3. Colors and materials.~~

~~4. Setback conformity.~~

~~5. Floor area ratio.~~

(Ord. No. 2270, § I, 2-6-18)

Sec. 29.10.330. Elimination and/or demolition of existing accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to section 29.10.09030. (Section 29.10.350)

(Ord. No. 2270, § I, 2-6-18)

~~Sec. 29.10.335. Expansion of existing or nonconforming accessory dwelling units.~~

~~For the purposes of this section only, expansion of an accessory dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet. Requests for expansion of any nonconforming accessory dwelling unit shall be subject to the same requirements as a new accessory dwelling unit.~~

(Ord. No. 2270, § I, 2-6-18)

Secs. 29.10.340—29.10.400. Reserved.

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TOWN OF LOS GATOS CALIFORNIA

COUNCIL POLICY MANUAL

Small Town Service *Community Stewardship* *Future Focus*

TITLE: Transportation Impact Policy	**POLICY NUMBER**: 1-08
EFFECTIVE DATE: January 4, 1988	**PAGES:** 37
ENABLING ACTIONS: 1991-174; 2014-017, 2016-068; 2017-011	**REVISED DATES**: 8/5/91; 3/24/14; 12/6/16; 3/21/17; 12/07/2021

APPROVED: DocuSigned by: Marico Sayoc 17D41F4DB5F744F...

PURPOSE

To provide guidance to Town staff and the development community in implementing the provisions of the Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees, and evaluating and mitigating California Environmental Quality Act (CEQA) transportation impacts.

SCOPE

This Policy is applicable to all land use entitlements, land use projects, and transportation improvements Town-wide.

POLICY

I. GENERAL CONDITIONS AND APPLICABILITY

1. Projects that are determined by the Town to generate one or more new net Average Daily Trips (ADT) are subject to this Policy.

2. An Accessory Dwelling Unit (ADU) shall be exempted from the requirements of Transportation Analysis and the Traffic Impact Fees.

3. The Town Council may exempt housing developments for very low, low, and moderate income residents (as defined by Town Ordinance, General Plan, or statute) from all or a portion of the traffic impact mitigation fee upon making a finding that the development provides a significant community benefit by meeting current needs for affordable housing.

EXHIBIT 8

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4. Attachment 1 - Transportation Analysis (TA) Guidelines establish a process to comprehensively and accurately analyze potential project effects (adverse and beneficial) on transportation facilities and services in the Town of Los Gatos and other jurisdictions. The TA Guidelines serve three primary purposes:

   - Provide an evaluation for the California Environmental Quality Act (CEQA) significant impacts and mitigation as a part of the environmental analysis process.
   - Evaluate a project's consistency with the Town's General Plan.
   - Evaluate a project's consistency with the Santa Clara County Congestion Management Program (CMP).

II. TRANSPORTATION IMPACT FEES

1. All Projects that generate one or more new Average Daily Trips are required to pay Transportation Impact Fees, previously known as Traffic Impact Mitigation Fees.

2. All required Transportation Impact Fees shall be paid in full to the Town in association with and prior to issuance of a building permit. If no building permit is required, the fee shall be paid in full prior to issuance of a certificate of use and occupancy, or similar entitlement. The amount due shall be calculated based on the fee in place as approved by the Town Council by resolution at the time the fee is paid.

3. The per trip amount of the fee shall be as set forth by the Town Council by resolution, pursuant to Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.

4. Fees shall be calculated by multiplying net new ADT by the per trip amount in place at the time the fees are paid.

5. Credit against Transportation Impact Fees due shall be granted up to the amount of the Estimated Project Cost shown on Attachment 2, Town of Los Gatos Traffic Mitigation Improvements Project List, for any listed projects for which the developer, as a condition of approval, is required to either construct at the developer's sole cost or contribute a fixed or percentage amount of funding toward future construction of the listed improvement. Where construction is fully funded and completed by the developer, said credit shall be equal to the Project Cost as shown in Attachment 2. Where payment is a fixed amount or a percentage of Project Cost, credit shall be equal to the actual amount due, whether the project is constructed by the developer or others.

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6. No credit shall be given for any public right-of-way dedication required for completion of projects listed on Attachment 2.

7. Credit will be given on a case-by-case basis and shall not exceed the impact fee payable. Any request for credit shall be made prior to the payment of the Transportation Impact Fees. No credit shall be given for installation of Town-standard frontage improvements, Project access improvements, or internal circulation improvements.

8. Credit shall only be granted for payment of costs or construction of projects listed in Attachment 2, unless otherwise approved by the Town Council.

III. VEHICLE MILES TRAVELLED MITIGATION MEASURES

1. To mitigate VMT impacts, the project shall be conditioned for implementation of mitigation measures in the following categories:
   - Modify the project's built environment characteristics to reduce VMT generated by the project;
   - Implement transportation Demand Management (TDM) measures to reduce VMT generated by the project; and/or
   - Participate in a VMT fee program and/or VMT mitigation exchange/banking program (if they exist) to reduce VMT from the project or other land uses to achieve acceptable levels.

2. The Town is taking a Townwide approach for VMT impact mitigation. Attachment 3, VMT Reduction Actions for the Town of Los Gatos, provides a framework for mitigating VMT in the Town.

APPROVED AS TO FORM:

DocuSigned by:
Robert W. Schultz
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Robert Schultz, Town Attorney

Town of Los Gatos
Transportation Analysis Guidelines

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1. Introduction

Transportation Analysis (TA) Guidelines are routinely established by jurisdictions to assess potential transportation effects of proposed projects on the local transportation system. These guidelines are intended to provide a clear and consistent technical approach to evaluating both land use and transportation infrastructure projects within Los Gatos.

These guidelines establish a process to comprehensively and accurately analyze potential project effects (adverse and beneficial) on transportation facilities and services in the Town of Los Gatos and other jurisdictions. This information is essential for decision-makers and the public when evaluating land use development and transportation infrastructure projects. These TA Guidelines serve three primary purposes:

- Provide an evaluation for the California Environmental Quality Act (CEQA) significant impacts and mitigation as a part of the environmental analysis process.
- Guide the Local Transportation Analysis in evaluating a project's consistency with the Town's General Plan Mobility Goals.
- Evaluate a project's consistency with the Santa Clara County Congestion Management Program (CMP).

1.1 Intent of TA Guidelines

The Town of Los Gatos General Plan 2040 seeks to "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." The TA Guidelines support this goal by evaluating new projects against the policies of the latest General Plan.

For CEQA-based environmental analysis, these TA Guidelines incorporate the use of vehicle miles traveled (VMT) to disclose the effects of the project on the surrounding environment. Town staff completed an SB 743[1] implementation process, which included the preparation of the *SB 743 Implementation for the Town of Los Gatos* (July 2020) document package. The document package provides detailed technical information pertaining to the options and data considered by the Town of Los Gatos to implement VMT as an impact criterion.

The TA Guidelines present the Town's approach for determining the need for a transportation analysis, its content, and identifying acceptable transportation improvements for land use and transportation projects proposed within Los Gatos. The TA Guidelines establish a transportation analysis protocol for the following:

- Environmental analysis

[1] Senate Bill 743 (SB 743) changed some of the transportation significance criteria under the California Environmental Quality Act (CEQA) CEQA. Specifically, vehicle level of service (LOS) is no longer used as a determinant of significant environmental impacts, and a vehicle miles traveled (VMT) analysis is required.

- General Plan consistency
- Congestion Management Program (CMP) evaluation
- Mobility deficiency criteria and thresholds
- Guidance on acceptable transportation improvements

Town staff will review transportation studies and reports based on the process presented in the TA Guidelines. However, each project is unique, and the TA Guidelines are not intended to be prescriptive beyond practical limits. Not all criteria and analyses described in the TA Guidelines will apply to every project. Early and consistent communication with Town staff is encouraged to confirm the type and level of analysis required for each study.

1.2 Environmental Evaluation

The TA Guidelines outline the methods and thresholds with which to evaluate projects consistent with the latest *CEQA Statue & Guidelines*.

The latest *CEQA Statue & Guidelines* include revised Appendix G Checklist questions for transportation impact evaluation. The four questions are as follows:

Would the project:

a) *Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?*
b) *Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?*
c) *Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*
d) *Result in inadequate emergency access?*

1.3 Project Types

A TA is prepared for a project before a discretionary action is taken. The following types of projects, which involve development activity or infrastructure changes in and around the Town of Los Gatos and affect the adjacent transportation system, should be evaluated for TA requirements.

- **Land use entitlements** or changes in use requiring discretionary approval by Los Gatos, which include General Plan amendments, specific plans (and related amendments), zoning changes, use permits, planned developments, and tentative subdivision maps; or any modifications of use that would generate 20 or more new Peak Hour (vehicle) Trips or at the discretion of the Town's Traffic Engineer
- **Land use activity** advanced by agencies other than Los Gatos that is subject to jurisdictional review under state and federal law, such as school districts, Santa Clara Valley Transportation Authority (VTA) Board of Directors, and others; or advanced within Los Gatos by agencies other than the Town and inconsistent with the Town's General Plan.

- **Transportation infrastructure modification or expansion**, including capital improvement projects on Town roads, county roads, and state highways that may impact Town facilities and services.

1.4 CEQA and Non-CEQA Terminology

To distinguish the CEQA analysis from the non-CEQA analysis (i.e., the local transportation analysis) the analyses apply different terminologies as summarized below in **Table 1**.

Table 1: Comparison of Select CEQA and Non-CEQA Terms

CEQA Term	Non-CEQA Term
CEQA Transportation Analysis	Local Transportation Analysis
Significance criteria	Threshold or performance standard
Significant impact	Deficiency
Mitigation measure	Mitigation improvement
Baseline Conditions	Existing Conditions and Background Conditions
Future Year Cumulative Conditions	Cumulative Conditions

2. Determining the Level of Transportation Analysis

Unless explicitly waived by the Town, a TA may be required when any one of the following conditions is met.

- A project has the potential to create a significant transportation environmental impact under CEQA.
- A project has the potential to generate daily vehicle miles traveled greater than the Town's General Plan future year VMT projections.
- For local transportation analysis, a project has the potential to generate 20 or more new Peak Hour (vehicle) Trips.
- A project that is not consistent with the development density established by existing zoning, community plan, or general plan policies for which an environmental impact report (EIR) was certified, per *CEQA Statue & Guidelines Section 15183*.
- A project will alter physical or operational conditions on a Town pedestrian facility, bicycle facility, transit facility or service, or other transportation facility.
- An Accessory Dwelling Unit (ADU) shall be exempted from the requirements of Transportation Analysis and the Transportation Impact Fees.

In general, a TA is applicable for two to five years. After two or more years of inactivity, a TA may need to be updated to reflect changes in the study environment, including traffic growth and other circulation issues.

Nothing in the Transportation Impact Policy shall prohibit or restrict a Project applicant from completing a local transportation study for a Project anticipated to generate less than 20 new Peak Hour trips.

2.1 CEQA Relief for Projects Consistent with General Plan or Zoning

Per *CEQA Statue & Guidelines Section 15183,* projects consistent with a general plan, zoning action, specific plan, and certified environmental impact report (EIR) would not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects. Additionally, projects consistent with a general plan, zoning action, or specific plan where cumulative impact(s) were adequately addressed in a prior EIR would not require further CEQA transportation analysis.

2.2 CMP Consistency Screening

Projects should reference the most recent *VTA Transportation Impact Analysis (TIA) Guidelines* to determine the need for a transportation impact analysis. In most cases, projects that generate fewer than 100 net new peak hour vehicle trips are not required to conduct VTA's CMP transportation analysis.

2.3 Recommended Process and Documentation

In coordination with Town staff, the project applicant shall retain a transportation professional to conduct the TA. The transportation consultant should seek Town acceptance of the scope of work before initiating the analysis. In some cases, review by other affected jurisdictions will be required. **Appendix A: Transportation Analysis Report Format Outline** contains a recommended outline for the TA document.

Each TA will begin by preparing a scope of work that describes the project description, site location, analysis methods, area-wide assumption, study elements, study time periods, and traffic data collection methods. To finalize a TA scope of work for the local transportation analysis, the project applicant will provide an estimate of the project trip generation and trip distribution . These estimates and scope of work should be shared with Town staff to finalize the scope of services. Overall, the TA report will address: 1) environmental analysis, 2) project site access and circulation, and 3) other transportation impacts and traffic deficiencies.

2.4 Contact with Appropriate Town Staff

To minimize the potential for delays in project processing, it is important for the TA to be prepared in coordination with Town staff. Timely coordination will also ensure that potential transportation improvements and environmental consequences are considered as early as

possible in the planning process, as deficiencies and corresponding improvement costs can have a substantial effect on project costs. Coordination should include the following:

- A pre-application meeting, which will include a discussion of the TA requirements.
- Development of an approved scope of work, which includes trip generation, study area, analysis scenarios and parameters, data requirements, and provisions for pedestrians, bicyclists, and transit users.
- Approval of the project trip generation (person and vehicle) and trip distribution.
- Review of all assumptions and the results of Existing Conditions analysis.
- Review of the administrative draft report, with adequate time for comments.
- Review of a draft report, with adequate time for comments.

If the TA report information will be incorporated into the transportation and circulation section of an environmental document (e.g., Initial Study, Mitigated Negative Declaration, or Environmental Impact Report), the format of this report may need to be discussed with the environmental consultant, a peer reviewer, and/or Town staff. Upon circulation of the draft environmental document, the format of the final TA report may need to be discussed with the environmental consultant.

2.5 Consultation with Other Jurisdictions

If the study area overlaps with other jurisdictions, staff from other jurisdictions must be consulted to verify study locations, the impact significance criteria, and to consider any current development applications. Section 15086 of the *CEQA Statue & Guidelines*[2] shall be followed as the basis for satisfying consultation requirements. In most cases, overlap will occur for roadway system analysis, but may also include impact analysis of active transportation modes (bicycling and walking), as well as transit system facilities and services.

2.6 Project Trip Generation and Trip Reductions

Person and vehicle trip generation rates are a way to estimate the number of expected pedestrian, bicycle, transit, and vehicle trips that a proposed development will generate. These rates establish the basis of analysis for a proposed project and its effects on the transportation network. Person trip generation should be reported for walking, bicycle, and pedestrian trips, and vehicle trip generation should be reported for single-occupant, and carpool.

Methodologies to estimate project trip generation and trip reductions shall be prepared consistent with the latest *VTA TIA Guidelines*, with the exceptions described in this document.

[2] *California Environmental Quality Act Statute & Guidelines, 2020.*

2.6.1 Vehicle Trips

Consistent with the *VTA TIA Guidelines*, pass-by trips shall not be considered in calculating the 20 new Peak Hour Trip threshold that triggers the requirement for conducting a comprehensive local transportation analysis report.

The Institute of Traffic Engineers (ITE) *Trip Generation Manual* trip generation rates for Specialty Retail Center shall apply to all Specialty Retail.

Uses within the Central Business District (C-2 Zone} are expected to change periodically as part of the natural business cycle. For the purpose of Transportation Impact Fees, changes in use without changes in net building square footage within the C-2 Zone shall not be considered to create a traffic deficiency, shall be exempt from this policy, and no fees shall be charged for a change in use. Any increases in building square footage shall pay impact fees at the ITE Shopping Center rate or comparable equivalent rate for the expanded area, as determined by the Town Traffic Engineer.

The Town reserves the right to require the project sponsor to conduct local trip generation surveys for select projects, depending on land use and conditions in the field.

2.6.2 Person Trips

Person trip generation rates should be developed from empirical studies, person travel survey data, or conversion of vehicle trip rates to person trip rates using a vehicle occupancy factor. In addition, person trip generation by mode may be derived using an approved analysis tool that incorporates data from local trip generation surveys or published trip generation rate data.

2.6.3 Establishing Trip Generation Rates for an Unspecified Use

For projects where the ultimate land use is not certain (for example, a large subdivision of flexible commercial-industrial parcels), there are two options for establishing the trip generation rates.

- Option 1: Town staff will recommend the use of the highest traffic intensity among all permitted uses to establish traffic deficiencies.
- Option 2: Estimates can be made using a lower traffic intensity use if the Town and developer establish a maximum trip allowance. Once a proposed land use has been identified, then: 1) the subdivision trip generation allowance must be monitored by the Town as development occurs; and 2) the TA report may need to be updated.

2.6.4 Credit for Existing Trips – Local Analysis

The estimate of new trips generated by the proposed development project may include credit for trips associated with existing uses on the site. Uses are considered as existing if they are actively present on the project site at the time that data is gathered for the transportation impact analysis. Similarly, if a planned (but not constructed) use was already permitted for the site and an improvement(s) was identified and funded, the new TA only needs to assess the

effects of additional trips above and beyond the trips for the permitted use. Additionally, certain commercial land uses attract vehicle traffic that currently exists on the roadway, rather than generating new trips.

Understanding there are permitted reductions that may be taken under the circumstances listed above, the Town requires that any reductions in project vehicle trip generation are applied according to the latest *VTA TIA Guidelines*.

In calculating new Peak Hour Trips for purposes of determining whether or not a TA report is required pursuant to this Policy, trip credit shall be granted for an existing use or the most recent former use.

In calculating new Average Daily Trips for purposes of determining the amount of the Transportation Impact Mitigation Fee due, trip credit shall be granted for an existing use or the most recent former use.

Where the property is vacant, the most recent former use shall be used.

Where a portion of the space is changing use, credit will apply to the proportionate square footage of the space under review.

Where the change in use results in fewer trips than the existing or former use, no credit or refund will be due the applicant.

2.6.4 Credit for Existing Trips – VMT Analysis

For the evaluation of vehicle miles of travel, VMT credit for the prior use depends on how the project changes the baseline condition, if the project sponsor had ownership and control of the previous land use, and the reason for stopping the previous land use. Baseline conditions are typically defined at the beginning of an environmental analysis and a CEQA analysis needs to isolate the effects of the project to clearly define the project's effect on the baseline condition. To receive VMT credit, the project sponsor needs to demonstrate continuous ownership of site, with on-site occupancy paused only due to the redevelopment activity and not because of some economic or other condition outside the control of the project sponsor. However, this credit should only be applied to total project generated VMT and should not be included when calculating a VMT rate.

2.7 Vehicle Miles Traveled Methods

Although the calculation of VMT is simply the number of cars multiplied by the distance traveled by each car, VMT performance measures can be reported differently. At a minimum, the VMT analysis for Los Gatos will be prepared for two purposes:

- Greenhouse gas and air quality analysis using project generated VMT on a VMT per service population basis (residents + employment).
- Environmental evaluation by land use and/or transportation project.

The project generated VMT from new population and employment growth and the boundary (total) VMT for a specific geographic area will be prepared using the latest Santa Clara Valley Transportation Authority (VTA)-City/County Association of Governments of San Mateo County (C/CAG) Bi-County Model ("VTA Travel Model"). Because emissions rates vary by vehicle speed, the project generated VMT and total VMT should be disaggregated by speed bin (typically in five mile an hour increments of speed from 0 to ~80 miles per hour) to allow different emissions factors to be applied at different speeds, which allows for the preparation of a more refined emissions analysis.

3. Transportation Analysis (CEQA) for Land Use Projects

For an environmental analysis, these TA Guidelines incorporate the use of vehicle miles traveled (VMT) to disclose the effects of the project on the environment. Town staff completed an SB 743 implementation process, which included the preparation of the *SB 743 Implementation for the Town of Los Gatos* (July 2020) document package. The document package provides detailed technical information pertaining to the options and data considered by the Town of Los Gatos to implement VMT as an impact criterion.

At its November 17, 2020 meeting, the Town Council adopted Resolution 2020-045, Designating the Use of Vehicle Miles Traveled as the Metric for Conducting Transportation Analyses Pursuant to the California Environmental Quality Act and Establishing the Thresholds of Significance to Comply with California Senate Bill 743.

The *CEQA Statue & Guidelines* allow exemptions to projects meeting certain criteria. Project applicant may review the exemptions before preparing CEQA analysis for projects.

Based on the Town's implementation of SB 743, the following methods should be used to determine VMT impact thresholds and mitigation requirements for land use projects.

3.1 VMT Analysis Methods

The Town elected to conduct a complete VMT analysis consistent with the General Plan future year VMT projections based on long-term expectations for air quality and GHG expectations as part of its General Plan EIR, so that it could make specific use of *CEQA Statue & Guidelines* Section 15183 to streamline project-specific CEQA analysis that is consistent with its General Plan and other Town documents. For the Town of Los Gatos, addressing transportation VMT impacts in the Town General Plan EIR is a useful way of understanding VMT impacts and how VMT reduction should be balanced against other community values related to the environment, social justice, and the community. By conducting a Town-wide VMT impact analysis, the Town is able to develop a program-based VMT mitigation approach. The concept of a 'program' approach to impact mitigation is commonly used in a variety of technical subjects, including

transportation, air quality, GHG, and habitat. Absent a new program-level VMT mitigation approach, there are limited feasible mitigation options for project sites, and as a result limited ability to reduce VMT. Also, practically speaking, without feasible mitigation, significant VMT impacts would be significant and unavoidable (SAU). Under these circumstances, a project must prepare an EIR, thus adding time and cost to environmental review compared to an initial study/negative declaration (IS/ND) that relies on streamlining offered in the *CEQA Statue & Guidelines.*

Should a project not be consistent with the General Plan, or for some other reason unable to benefit from streamlined CEQA review under *CEQA Statue & Guidelines* Section 15183, the following sections provide details on how to conduct a complete VMT analysis for land use plans and projects in the Town of Los Gatos.

3.1.1 Regional Transportation Plan/Sustainable Communities Strategy and General Plan Consistency

The first step in assessing project impacts is to determine if the project land use is contained within the Town of Los Gatos residential and non-residential land use allocations in the current Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), and if the project is consistent with the latest General Plan. If the project is not consistent with the RTP/SCS and/or the latest General Plan, amendments to those documents or the project would be needed prior to proceeding with the project review.

3.1.2 VMT Assessment

Projects not consistent with the current RTP/SCS or the latest General Plan are required to complete a VMT analysis using the VTA Travel Model to determine if there would be a significant VMT impact. The tools and methodology of the VMT analysis shall be approved by PPW Director (or Traffic Engineer). The impact analysis includes two types of VMT:

1. **Total Project Generated VMT** – Daily VMT of all vehicle trips, vehicle types, and trip purposes for all project land uses, presented as a total project generated VMT.
2. **Project's Effect on VMT within the Town of Los Gatos**. VMT that occurs within the Town of Los Gatos by any type of vehicle. This captures all on-road vehicle travel on a roadway network for any purpose, and includes local trips as well as trips that pass through the area without stopping.

If the land use control totals increase between the without and with project conditions in the travel model, these VMT metrics will need to be expressed on a per service population (residents, employees, and other populations generating the VMT) basis to understand the effects of the project between scenarios.

The types of VMT analysis are evaluated for the following scenarios:

- **Baseline Conditions** – Conditions in the baseline year for the CEQA analysis, which is most often chosen as the time of notice of preparation (NOP) of an environmental document, but may be chosen as the baseline year of the VTA Travel Model, if land use and transportation network conditions can be considered largely unchanged between the model baseline year and the date of the NOP. For compliance with the *CEQA Statute & Guidelines* Section 15125(a), the transportation impact analysis must include a description of the physical environmental conditions near the project, as they exist at the time the NOP is published, or if no NOP is published, at the time environmental analysis is commenced, from both a local and regional perspective. Baseline VMT estimates will be prepared using the most recent base year VTA Travel Model.
- **Baseline with Project Conditions** – The project land use is added to the project Transportation Analysis Zone (TAZ), or a separate TAZ may be created to contain the project land uses. A full model run is performed and VMT changes (by metric of choice) are isolated for the project TAZ and across the full model network. The model output must include reasonableness checks of the production and attraction balancing to ensure the project effect is accurately captured. If this scenario results in a less-than-significant impact, then additional cumulative scenario analysis may not be required.
- **Future Year Cumulative Conditions** – Conditions requiring an RTP/SCS and/or General Plan amendment are also required to evaluate the project effect on VMT under Future Year Cumulative Conditions. This scenario buildout of the region's land use and transportation system also provides the long-range view of future travel patterns. Future Year Cumulative Conditions VMT estimates should be based on the horizon year of the most recent VTA Travel Model, ensuring the model does not already contain the land uses or transportation improvements associated with the project.
- **Future Year Cumulative with Project Conditions** – The project land use is added to the project TAZ, or a separate TAZ is created to contain the project land uses. The addition of project land uses may be accompanied by a reallocation of a similar amount of land use from other TAZs throughout the model area (focusing on Santa Clara County), especially if the proposed project is significant in size such that it would potentially reduce the potential for development throughout the rest of the model area. Land use projects will generally not change the Future Year Cumulative Conditions control totals for population and employment growth within the model area. Instead, they will influence the land use supply through changes in General Plan land use designations and zoning. If project land uses are simply added to the Future Year Cumulative Conditions scenario, then the analysis should reflect this limitation in the methods and acknowledge that the analysis may overestimate the project's effect on VMT. A full model run is performed and VMT changes (by metric of choice) would be isolated for the project TAZ and across the full model network. The model output must include reasonableness checks of the production and attraction balancing to ensure the project effect is accurately captured.

The model output should include the two VMT metrics listed earlier: 1) total project generated VMT, and 2) project's effect on VMT using the total boundary VMT. Emissions vary by speed bin; disaggregating VMT by speed bin allows different emissions factors to be applied at

different speeds, which allows for the preparation of a more refined emissions analysis. The total boundary VMT is needed as an input for air quality, greenhouse gas (GHG), and energy impact analysis, while the project generated VMT metrics are used for the transportation impact analysis.

Both "with project" scenarios noted above will summarize the two types of VMT and be compared to the without project condition.

Project generated VMT should be extracted from the VTA Travel Model by combining either the origin-destination (for total VMT) or production-attraction (for the other metrics) trip matrices and congested skims (travel distances for each origin-destination pair in the travel mode) from final assignment. The VMT should be adjusted to reflect trips that extend beyond the model boundary. The project's effect on VMT should be estimated using the Town limit boundary and extracting the total link-level VMT for both the without and with project conditions. Additional VMT metric specifications may be found in the *SB 743 Implementation for the Town of Los Gatos* (July 2020) document package.

If a project is mixed-use (i.e., composed of both residential and retail/office uses), project generated VMT should be extracted for both the total VMT and VMT per service population (residents and employees).

3.2 VMT Significance Thresholds

The Town Council adopted Resolution 2020-045, Designating the Use of Vehicle Miles Traveled as the Metric for Conducting Transportation Analyses Pursuant to the California Environmental Quality Act and Establishing the Thresholds of Significance to Comply with California Senate Bill 743. The thresholds balance the Town's priorities with respect to competing objectives, including Los Gatos's geographic and transportation context, greenhouse gas reduction goals, interest in achieving the state's greenhouse gas reduction goals, and the latest General Plan goals and policies related to land use mix, economic development, and housing provision.

VMT analyses shall evaluate a project's VMT impacts based on the thresholds established in the latest Council-adopted resolution.

3.3 VMT Mitigation Measures

To mitigate VMT impacts, the project shall be conditioned for implementation of mitigation measures in the following categories::

1. Modify the project's built environment characteristics to reduce VMT generated by the project;
2. Implement transportation Demand Management (TDM) measures to reduce VMT generated by the project; and/or
3. Participate in a VMT fee program and/or VMT mitigation exchange/banking program (if they exist) to reduce VMT from the project or other land uses to achieve acceptable levels.

The Town is in the process of updating the General Plan and the Draft Environmental Impact Report (DEIR) for the 2040 General Plan was released for public review in July 2021. The 2040 General Plan DEIR identifies significant but unavoidable transportation impacts and the mitigation measures. The Town is taking a Town-wide approach for VMT impact mitigation. Attachment 3, VMT Reduction Actions for the Town of Los Gatos, provides a framework for mitigating VMT in the Town. Attachment 2, Transportation Mitigation Improvements Project List, has many improvements that are consistent with the VMT Reduction Strategies.

Evaluation of VMT reductions should be conducted using state-of-the-practice methods, recognizing that many of the TDM strategies are dependent on building occupant performance over time. As such, actual VMT reduction cannot be reliably predicted, and monitoring may be necessary to gauge performance related to mitigation expectations.

4. Transportation Analysis (CEQA) for Transportation Projects

Transportation Analysis for transportation projects shall follow the latest CEQA Guidelines and related technical advisories from the Governor's Office of Planning and Research (OPR).

The Thresholds of Significance for all transportation projects are established in the latest Council-adopted resolution.

Transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant transportation impact.

In 2020 Caltrans adopted its guidance under SB 743. The department's *Transportation Analysis Framework* and *Transportation Analysis for CEQA* provide guidance for assessing induced travel impacts from prospective projects on the State Highway System. CEQA analysis for proposed transportation projects on the State Highway System should also follow Caltrans guidance.

5. Transportation Analysis per the Town's Transportation Policies

The contents and extent of a local transportation analysis per the Town's General Plan depend on the location and size of the proposed development, the prevailing transportation conditions in the surrounding area, and questions from decision-makers and the public. The Town is committed to a well-connected transportation system that enables safe access for all modes of travel. The methods presented in this chapter include robust data collection and analysis techniques for pedestrian, bicycle, and transit networks, in addition to vehicle circulation.

The local transportation analysis shall be prepared consistent with the latest VTA TIA Guidelines, with the exceptions described in this document.

5.1 Study Area

The study area is determined by evaluating the project location and how it may affect all transportation modes and facilities. It is not simply a map showing where the project is located. Rather, the study area is the area of influence of a project. Each local transportation analysis will consider the adjacent transportation system for site access and circulation of land development projects and street modifications for transportation projects. To properly assess the site access, the Town may require off-site intersection analysis and/or other multimodal analysis.

The study area may include the nearest CMP facility to evaluate the proposed project's conformity with the CMP facilities.

Applicants should consult with Town staff early regarding the need for a local transportation analysis based on local or site-specific issues, especially those related to pedestrians, bicyclists, and transit users.

5.2 Key Study Elements

The extent and complexity of a local transportation analysis will vary on the project attributes. **Table 2** summarizes the basic requirements for a local transportation analysis for every project requiring a complete transportation analysis. Specific significance criteria for each of the listed elements are described in further detail in *the Transportation Analysis (CEQA) for Land Use Projects* and *Transportation Analysis (CEQA) for Transportation Projects* sections. To avoid substantial off-site improvements or changes to the project site plan/description after the transportation analysis is completed, a preliminary site plan shall be included for a "fatal flaw" evaluation.

Table 2: Local Transportation Analysis – Evaluation Criteria

Study Element	Evaluation Criteria
General Plan Consistency	Evaluate the project against goals, policies, and actions set forth in the latest General Plan and other applicable Town plans.
Parking	Compare the project parking plan with Town and local specific plan standards and discuss how the proposed supply will affect demand for walking, bicycling, and transit modes. If a mix of land uses is proposed on site, or complements adjacent land uses, justify how the development will make use of shared on-site parking.
On-Site Circulation	Review and evaluate site access locations, turning radii, truck loading areas, emergency access, and other site characteristics with respect to operations and safety for all modes of transportation.
Pedestrian Facilities	Identify any existing or planned pedestrian facilities that may be affected by the project. Document how the project will affect local pedestrian circulation (e.g., disclose how widening a road or adding a driveway will affect pedestrian safety and walking time).

Table 2: Local Transportation Analysis – Evaluation Criteria	
Study Element	**Evaluation Criteria**
Bicycle Facilities	Identify any existing or planned facilities that may be affected by the project.
Transit	Identify any existing or planned transit facilities that may be affected by the project. If appropriate, document how the project improves access to or utilization of transit. For system planning, use crush load as capacity, not seated capacity.
Safety Assessment	Evaluate project trips added to safety enhancement projects within the study area that are proposed as part of other future safety studies by the Town or other agencies.
Trucks (or Other Large Vehicles)	For relevant industrial projects, identify the number of truck trips that will be generated, and design facilities necessary to accommodate these trucks.
Automated Vehicles or Transportation Network Company Pick-up/Drop-Off	For projects where automated vehicles and/or transportation network companies may have a large concentration of pick-up/drop-off, the project site circulation and pick-up/drop-off areas must be reviewed to identify opportunities and constraints of the project site. Modifications to the site circulation and/or pick-up/drop-off may be recommended.
Off-Site Traffic Operations	All roadway facility analysis and Level of Service should be conducted using the latest version of the *Highway Capacity Manual* (HCM).
Intersection Traffic Control	Evaluate unsignalized intersections located within the study area to determine appropriate traffic control. Analysis should include documentation of the appropriateness of a roundabout as an alternative or replacement to a traffic signal.
Other Issues	Consider other issues on a case-by-case basis (e.g., construction deficiencies, queuing between closely spaced intersections, emergency access, special event traffic)
Other Jurisdictional Requirements	In situations where several agencies must approve a development or are responsible for affected roadways, the applicant must contact lead and responsible agencies to determine issues to be addressed, scope of study, etc. In general, the applicant will be responsible for analyzing project impacts against appropriate jurisdictional thresholds; however, the analysis method will be determined by the Town in compliance with CEQA, and the impacts will be mitigated consistent with Town standards.

5.3 Data Collection

Accurate data is essential to achieve a high level of confidence in local transportation analysis results. Existing transportation data shall be collected using the requirements set forth below. Data should be presented on maps or figures where appropriate. To address the specific needs of each project, the extent of data collected shall be at the discretion of Town staff.

- **Pedestrian/Bicycle Facilities** – Document the existing pedestrian and bicycle facilities serving the project site. Elements will include presence and width of sidewalks, curb ramps, crosswalks, or other pedestrian facilities providing access to the nearest attractors of the project site, such as transit stops, neighborhood attractors and/or complimentary land uses, and bicycle facilities (e.g., routes, lanes, or shared-use paths) within a two-mile bicycling distance of the project site. Document barriers, deficiencies, and high pedestrian-demand land uses, including schools, parking, senior housing facilities, and transit stops or centers. The report will note any deficiencies or enhancements planned or recommended in the latest General Plan or future planning documents.
- **Transit Facilities and Ridership** – Document transit lines nearest to the project site, including stop locations, frequency of service, and any capacity issues. It will also describe transit stop amenities (e.g., benches, shelters, etc.).
- **Multimodal Peak-Period Turning Movement Counts** – Turning movement counts, including vehicles, bicycles, and pedestrians, will be collected for each study time period at all study intersections. The following parameters will be followed (fall and spring days while school is in session are preferred):
    - Data collection will cover at least two hours to ensure the peak hour is observed.
    - As applicable, 48-hour machine counts will be used to identify the peak period before conducting other counts or analysis.
    - Traffic volumes should not be influenced by a holiday, weather, construction, or other temporary change.
    - The percent of traffic that consists of heavy trucks will be noted/estimated during data collection.
    - Some projects may require vehicle classification or occupancy counts. Consult with Town staff on a case-by-case basis.
    - Traffic counts that are older than two years at study initiation will not be used without consultation and approval by Town staff. These counts may need to be adjusted to reflect current year traffic volumes.
- **Daily Traffic Counts** – Collect data for all study roadway segments using the parameters described above for peak period turning movement counts, with the exception of bicycle and pedestrian volumes. Daily counts are used to size facilities (e.g., 2-lane vs. 4-lane) and to identify temporal changes in traffic.
- **Roadway Geometry** – Document existing roadway and intersection geometries and lane configurations. Information from aerial photography and street views should be verified based on a site visit(s).
- **Intersection Controls and Signal Timings** – For use in intersection analysis, intersection control types and signal timings and phasing should be based on signal timing sheets (available from Los Gatos or Caltrans) and verified during site visits.
- **Five-Year Collision Data** – Obtain Statewide Integrated Traffic Records System (SWITRS) through the local California Highway Patrol or through the following web site: *www.chp.ca.gov/switrs.*

- **Mode Split** – Summarize daily and peak hour mode split for the study area land uses. Data could include U.S. Census journey-to-work data, empirical surveys, or any other available surveys.

5.4 Project Site Access and Circulation Review

A detailed site plan review is required for all projects. The local transportation analysis should include a review and summary of findings of the following qualitative and quantitative features.

- Consideration of roundabouts are encouraged. Conduct roundabout analysis as required by Town staff.
- Existence of any current traffic problems in the local area, such as a high-collision location, non-standard intersection or roadway, or an intersection in need of a traffic signal or a roundabout.
- Applicability of context-sensitive design practices compatible with adjacent neighborhoods or other areas that may be impacted by the project traffic.
- Proximity of proposed site driveway(s) to other driveways or intersections.
- Adequacy of the project site design to convey all vehicle types.
- Number and type of parking provided, including vehicle and bicycle parking.
- On- and off-street loading requirements.
- Adequacy of on-site vehicle, bicycle, and pedestrian circulation and provision of direct pedestrian paths from residential areas to school sites, public streets to commercial and residential areas, and the project site to nearby transit facilities.

An important aspect of a TA is to provide sufficient information for the Town to determine that a project is consistent with the latest General Plan and other applicable Town policies, plans, and standards. As such, individual projects must be reviewed against relevant policies contained in the latest General Plan or other plans and policies. Applicants should review the full policy statements in the latest General Plan Mobility Element.

If the study area extends into an adjacent jurisdiction, the applicant may be responsible for analyzing project generated operational impacts in these jurisdictions. These include intersection or segment locations in any other jurisdiction, including Caltrans-maintained facilities. The applicant shall refer to current policies in the respective jurisdiction to identify the appropriate significance criteria.

5.5 Analysis Scenarios

The range of scenarios includes Existing Conditions, Background Conditions, and Cumulative Conditions. Projects consistent with the latest General Plan will only be required to complete the Existing and Background conditions analysis; where Existing Conditions looks at the effect of the proposed project on the existing system within the next year or two, Background Conditions typically looks at a longer time frame of about three to five years. Inclusion of all three analysis conditions (e.g., Existing, Background, and Cumulative), would typically occur for large development projects, General Plan amendments, specific plans (and related amendments), with Cumulative Conditions having a time horizon of 10 to 20 years.

The following analysis scenarios will document existing or future conditions, any deficiencies, and identify deficiencies that will result from the addition of the project. Each scenario will include a qualitative description of transportation facilities for all modes (and any planned enhancements), traffic volumes, and a quantitative analysis of intersection LOS. Key study elements are identified in the *Multimodal Analysis Methods* section of this chapter. Details regarding each local transportation analysis scenario are presented below.

- **Existing Conditions** – These conditions are based on recent field observations and recent traffic count data.
- **Existing with Project Conditions** – Traffic volume forecasts for roadway analysis reflecting Existing Conditions with traffic generated by the proposed project. For reuse or conversion projects, this may involve accounting for any existing use of the site that remains or will be removed. It should also qualitatively describe how the project will affect transportation for other modes, including compliance or relation to other Town documents.
- **Background Conditions** – Traffic volume forecasts for roadway segment and intersection analysis should reflect Existing Conditions with growth due to approved development that is expected to be operational before or concurrently with the proposed project. This scenario may not be needed if the study area has limited or no approved developments.
- **Background with Project Conditions** – This scenario represents the Background Conditions with vehicle trips added by the proposed project. It provides decision-makers and the public with a view of conditions with all recently approved development and physical improvements, including the proposed project.
- **Future Year Cumulative Conditions** – This scenario represents transportation conditions for all travel modes in the study area reflecting all approved projects, pending projects, or expected development of other areas of Los Gatos designated for growth under the latest General Plan or specific plan. In most cases, the project site will likely be vacant under this scenario. In some cases, this scenario may need to account for any existing uses on the site that could continue, and potential increases in development allowed by ministerial approvals.
- **Cumulative with Project Conditions** – This scenario represents the cumulative future transportation conditions with anticipated changes to the transportation system and the additions of project trips, and provides the long-range view of future traffic operations.

5.6 Analysis Time Periods

Based on the land use of the proposed project and upon consultation with Town staff, the study shall analyze traffic operations during the peak one hour of the following time periods:

- Weekday morning peak (7:00 – 10:00 AM)
- Weekday evening peak (4:00 – 7:00 PM)

For some projects, the Town may substitute or require additional peak hour analysis for the following time periods as approved or requested by the Town's Traffic Engineer:

- Weekday afternoon peak (2:00 – 4:00 PM)
- Friday evening peak (4:00 – 7:00 PM)
- Weekend midday peak (11:00 AM – 1:00 PM)
- Sunday or holiday evening peak (4:00 – 7:00 PM)

For example, retail commercial projects should evaluate operations for Saturday midday peak hour conditions, in addition to the standard weekday morning and evening peak periods. The determination of study time periods should be made separately for each proposed project, based upon the peaking characteristics of the project generated traffic and peaking characteristics of the adjacent street system and land uses.

5.7 Multimodal Analysis Methods

The report should provide a quantitative and/or qualitative evaluation of the project's potential adverse or beneficial effects on transportation facilities and services related to pedestrians, bicyclists, and transit users.

For some projects, more detailed multimodal analysis may be required. Such analysis shall be decided upon in consultation with Town staff and consider new tools, methods, and performance measures, such as those listed below.

- **Multimodal LOS** – The latest *Highway Capacity Manual* (6th Edition) contains methods for multimodal LOS.
- **Person Delay** – Simulation models can be used to measure system performance in terms of overall person-delay for all modes within a transportation network. This method provides a better decision-making tool for developing improvements to promote efficient movement of people, rather than a particular type of vehicle.
- **Safety Assessment** – Evaluate whether the project adds vehicle trips to a safety improvement identified within the study area. (If a project may affect a Caltrans facility, a safety assessment may be needed for CEQA purposes as well.)
- **Bicycle Level of Stress (LTS)** – Evaluate LTS for all bicycle facilities within a two-mile bicycling distance of the project site. There are several methods for evaluating LTS for bicycle facilities, which generally rely on street widths/number of vehicle lanes, vehicle speeds, daily volumes, and type of bicycle facility to evaluate "low stress" bike networks. The *Low-Stress Bicycling and Network Connectivity* (2012) report and the National Association of City Transportation Officials (NACTO) *Urban Bikeway Design Guide, Second Edition* (2014) contains methods for LTS.
- **Pedestrian Level of Stress (LTS)** – Evaluate LTS for all pedestrian facilities providing access to the nearest attractors (e.g., transit stops, neighborhood attractors and/or complimentary land uses) of the project site. Compared to bicycle LTS, there are parallel methods for calculating pedestrian comfort using best practiced from the NACTO *Urban*

Street Design Guide (2013) and pedestrian safety research. As with bicycle comfort, pedestrian comfort is based on a variety of factors ranging from the quality and presence of sidewalks to the conditions of the adjacent roadway (speed, number of travel lanes, frequency of trucks).

- **Activity Connectedness** – Travel time for each mode (e.g., walking, bicycles, transit, and vehicles) between the project and surrounding land uses can be used to gauge the degree of accessibility for a project. The Town desires to minimize travel time to necessary destinations while minimizing unnecessary vehicle travel. Tools such as geographic information systems or online tools (e.g., Index and Walk Score) can be used to gauge this measure specifically for walking. The main idea is to evaluate activity centers and destinations around projects to ensure that walk times to necessary destinations are minimized and the walking experience is comfortable.

5.8 Traffic Operations Analysis

Traffic operational deficiencies shall be analyzed using standard or state-of-the-practice professional procedures. The main issues related to traffic operations analysis are the method, input data, and assumptions. These three items influence the level of confidence and the associated level of defensibility of the local transportation analysis. For traffic operations, this requires following the procedures and techniques published in the most recent *Highway Capacity Manual* (HCM).

Traffic Operations Analysis should be conducted according to the latest *VTA Traffic Level of Service Guidelines*.

5.9 Mobility Deficiency Criteria

The overall guiding principal of the General Plan 2040 Mobility Element is to, "[p]rovide 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." Los Gatos evaluates each transportation mode to identify deficiencies. Local transportation analyses evaluate intersection operations focused on specific traffic issues such as queuing and safety. A greater emphasis is placed on pedestrian, bicycle, and transit facilities and services, in part to reduce traffic congestion and air quality impacts associated with automobile use. **Table 5** outlines deficiency criteria for each mode. The mobility deficiency criteria can be used to identify conflicts with existing or planned multimodal facilities.

Table 5: Mobility Deficiency Criteria

Study Element	Deficiency Determination
Parking	Project increases off-site parking demand above a level required by the Town Zoning Code and/or desirable by the Town.
On-Site Circulation	Project designs for on-street circulation, access, and parking fail to meet Town standards. Where Town standards are not defined, industry standards [*Highway Design Manual*, *California Manual on Uniform Traffic Control Devices (MUTCD),* etc.] should be referenced, as appropriate.

Table 5: Mobility Deficiency Criteria	
Study Element	**Deficiency Determination**
	Failure to provide adequate accessibility for service and delivery trucks on site, including access to loading areas. Project will result in a hazard or potentially unsafe conditions without improvements.
Pedestrian Facilities	Project fails to provide safe and accessible pedestrian connections between project buildings and adjacent streets, trails, and transit facilities.
Bicycle Facilities	Project disrupts existing or planned bicycle facilities or is otherwise inconsistent with the latest General Plan, Bicycle and Pedestrian Master Plan, or other related plans. Project adds bicycle trips along project frontage to an existing facility that needs improvements per the latest BPMP.
Transit	Project disrupts existing or planned transit facilities and services or conflicts with Town adopted plans, guidelines, policies, or standards.
Heavy Vehicles (Trucks and Buses)	A project fails to provide adequate accommodation of forecasted heavy traffic or temporary construction-related truck traffic consistent with Town or industry standards (*Highway Design Manual*, MUTCD, etc.).
Off-Site Traffic Operations	95th percentile vehicle queues exceed the existing or planned length of a turn pocket. The proposed project introduces a design feature that substantially increases safety hazards.
Signalized Intersection Traffic Control	Addition of project traffic causes a signalized intersection to 1) drop more than one level overall or at the worst individual approach delay if it is at LOS A, B, or C or 2) drop at all overall or at the worst individual approach delay if it is at LOS D or below.
Unsignalized Intersection Traffic Control	Addition of project traffic causes an all-way stop-controlled or side street stop-controlled intersection to 1) operate at LOS E or F overall or the worst-case movement, and 2) meets the Caltrans signal warrant criteria.
General Plan Consistency	Evaluate the project against mobility, safety, and other related goals, policies, and actions set forth in the latest General Plan.
Other Subject Areas	Consider other areas on a case-by-case basis (e.g., construction impacts, queuing between closely spaced intersections, emergency access, special event traffic, etc.).
Requirements for Other Jurisdictions	The project exceeds established deficiency thresholds for transportation facilities and services under the jurisdiction of other agencies.

5.10 CMP Deficiency Criteria

To determine consistency with the CMP, off-site intersection analysis may be needed and should be applied according to the latest *VTA TIA Guidelines*.

5.11 Mitigation Improvements

All project deficiencies should be addressed consistent with the policies of the latest General Plan Mobility Element. Under these circumstances, the applicant should meet with Town staff to identify transportation improvements that address the deficiencies. **Table 6** shows example types of improvements to address transportation deficiencies.

Potential improvements may require a more detailed review, often including traffic operations, to demonstrate how they address a specific deficiency.

Selected improvements should be identified whether they will be implemented under Existing Conditions, Background Conditions, or Cumulative Conditions. Background Conditions generally reflect conditions at the time of full occupancy of a project.

If a transportation improvement is selected to address a deficiency, it should include a description of the benefit to traffic reduction generated by a proposed development and how the improvement contributes to the multimodal transportation system in Los Gatos. In addition, all transportation improvements need to consider whether they have secondary effects to VMT [i.e., whether the improvement is VMT inducing per guidance in the OPR *Technical Advisory* (December 2018, Pages 20-21)].

The improvement shall not unreasonably degrade bicycle, pedestrian or transit access, and circulation. If a project proposes improvements in response to auto LOS deficiency involving a change to existing roadway or intersection geometry, or changes to signal operations, the TA shall analyze and disclose secondary effects on other modes, i.e., whether the mitigation would affect pedestrian or bicycle conditions or increase transit vehicle delay, per the methodologies in 5.7.

Table 6: Example Improvements

Study Element	Improvement
Project Modifications and Transportation Demand Management	• Alter density or diversity of project uses or integrate affordable housing • Encourage telecommuting and alternative work schedules • Provide ride-sharing programs to encourage carpooling and vanpooling • Provide local shuttle service • Provide employer-sponsored vanpools or shuttles • Provide pedestrian network improvements • Provide traffic calming measures and low-stress bicycle network improvements • Implement car-sharing (e.g., ZipCar) program • Limit parking supply • Unbundle parking costs from property costs • Institute on-street market pricing for parking

Pedestrian and Bicycle Facilities	• Provide for access to, from, and through the development for pedestrians and bicyclists • Construct Class I bicycle paths, Class II bicycle lanes, and other facilities • Provide secure bicycle parking and shower amenities • Reduce travel lanes on a street to install a two-way left-turn lane and Class II bicycle lanes • Add corner bulbouts, reduce curb radii, add pedestrian refuges, or implement other walking-related improvements
Transit Facilities	• Provide bus turnouts, bus shelters, additional bus stops, and park-and-ride lots • Fund increases in transit service
Parking Facilities	• Design parking facilities to allow free-flow access to and from the street • Provide off-street parking per Town standards or recommendations • Implement shared parking among complementary land uses
Traffic Control Modifications	• Provide for yield or stop control • Evaluate unsignalized intersections with substandard LOS for conversion to roundabout intersection control or for signalization • Provide coordination/synchronization of traffic signals along a corridor • Provide turn-lane channelization through raised islands • Restrict selected turning movements
Street Operations Modifications	• Optimize location of access driveway(s) • Provide improvements to traffic signal phasing, or lengthen existing turning pocket • Provide additional through traffic lane(s), right-turn lane(s), and left-turn lane(s) if they do not adversely impact other modes or induce additional vehicle travel • Reduce travel lanes on a street to install a two-way left-turn lane • Address congestion pricing on roads or within a specific area

Appendix A: Transportation Analysis Report Format Outline

Note: Not all sections are required for all projects. The project applicant shall consult with the Town Traffic Engineer to determine the required sections.

1. Introductory Items
    - Front Cover/Title Page
    - Table of Contents, List of Figures, and List of Tables
    - Executive Summary
2. Introduction
    - Project description
    - Project sponsor/contact info
    - Type and size of development
    - Site plan (include proposed driveways, roadways, traffic control, parking facilities, emergency vehicle access, and internal circulation for vehicles, bicyclists, and pedestrians)
    - Location map (include major streets, study intersections, and neighboring zoning and land uses)
    - Scope of transportation analysis
3. Current Conditions
    - Description of existing street system within project site and surrounding area
    - Location and routes of nearest public transit system serving the project
    - Location and routes of nearest pedestrian and bicycle facilities serving the project
    - Vehicle Miles Traveled Assessment
        - Description of baseline VMT estimates (may include site and regional VMT estimates)
    - Intersection Analysis for Site Access and Circulation Evaluation and CMP Evaluation
        - Figure of study intersections with peak hour turning movement counts, lane geometries, and traffic control

- Map of study area showing average daily traffic (ADT) of study roadways
- Table of existing peak hour average vehicle delay and level of service (LOS)

4. Project Trip Generation
   - Table of project generated trip estimate
   - Figure/map of trip distribution (in percent)
5. Project Site Access and Circulation Evaluation
   - Summary of a detailed site review for all modes of travel
   - Mobility deficiency analysis and summary to vehicle, transit, bicycle, and pedestrian facilities (under Project Conditions and Cumulative Conditions)
   - Summary of transportation improvements

CEQA Transportation Analysis Report Section

6. Vehicle Miles Traveled Assessment
   - Summary of project generated VMT under Baseline Conditions
   - Summary of project's effect on VMT under Future Year Cumulative Conditions
   - Identification of significant impacts
   - Discussion of mitigation measures
   - Evaluation of impacts of mitigation measures
7. Other CEQA Requirements
   - Summary of conflicts with a plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian paths. Present mitigation measures, as needed.
   - Evaluation of hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). Present mitigation measures, as needed.
   - Emergency access evaluation. Present mitigation measures, as needed.

Local Transportation Analysis Report Section

8. Existing with Project Conditions

- Maps of study area with applicable peak hour turning movements (Project Only and Existing with Project Conditions)
- Table of Existing Conditions and Existing with Project Conditions intersection peak hour average vehicle delay and LOS (or other multimodal performance measure)
- Traffic signal and other warrants
- Changes/Deficiencies to bike, pedestrian, and transit networks
- Findings of project deficiencies
- Improvements for project deficiencies (include a map showing physical improvements)
- Scheduling and implementation responsibility of improvements
- Deficiencies of proposed improvements

9. Background Conditions
    - Table of trip generation for approved project(s)
    - Figure and/or table of approved projects trip distribution (in percent)
    - Map of study area with applicable peak hour turning movements (Background Conditions)
    - Table of intersection peak hour average vehicle delay and LOS (or other multimodal performance measure) (including queue lengths, etc)
    - Changes/deficiencies to bike, pedestrian, and transit networks
    - Traffic signal and other warrants
10. Background with Project Conditions
    - Similar content to Existing with Project Conditions
11. Cumulative Conditions and Cumulative with Project Conditions
    - Map of study area with Cumulative Conditions peak hour turning movements
    - Map of study area with Cumulative with Project Conditions peak hour turning movements
    - Table of Cumulative Conditions and Cumulative with Project Conditions intersection peak hour average vehicle delay and LOS (or other multimodal performance measure)
    - Changes/Deficiencies to bike, pedestrian, and transit networks
    - Traffic signal and other warrants

- Findings of project deficiencies
- Improvements for project deficiencies (include a map showing physical improvements)
- Scheduling and implementation responsibility of improvements
- Deficiencies of proposed improvements

Additional Sections for Transportation Analysis Report

12. Construction Deficiencies
    - Trips due to construction workers
    - Truck trips and truck access routes
13. Phasing Deficiencies (For Large Projects Only)
14. Appendices
    - List of references
    - List of authors
    - Pedestrian, bicycle, and vehicle counts
    - Technical calculations for all analyses

Town of Los Gatos Traffic Mitigation Improvements Project List

Source	Description	Estimated Project Cost (2014 $)	Growth Related Project Cost Share	Mitigation Impact Fee Eligible Cost
GP/VTP 2035	Blossom Hill Rd and Union Ave Intersection Improvements	$ 1,200,000	90.00%	$ 1,080,000
GP/VTP 2035	Los Gatos - Almaden Rd Improvements	$ 3,000,000	50.00%	$ 1,500,000
GP/VTP 2035	Los Gatos Blvd Widening - Samaritan Dr to Camino Del Sol - Road widening, new sidewalks and bike lanes	$ 4,000,000	50.00%	$ 2,000,000
GP/VTP 2035	Union Ave Widening and Sidewalks - complete ped and bike routes	$ 3,000,000	50.00%	$ 1,500,000
GP/VTP 2035	Wood Rd Gateway on Santa Cruz Ave - roundabout	$ 1,200,000	50.00%	$ 600,000
GP/VTP 2035	Central Traffic Signal Control System	$ 750,000	9.68%	$ 72,600
GP/VTP 2035	Hwy 9 Los Gatos Creek Trail connector - new path and bridge for ped/bike	$ 1,000,000	50.00%	$ 500,000
GP/VTP 2035	Hwy 9/N. Santa Cruz Ave Intersection Improvements	$ 1,400,000	90.00%	$ 1,260,000
CIP	Roberts Road Improvements from bridge to University	$ 600,000	50.00%	$ 300,000
CIP	Pollard Road Widening from Knowles to York Avenue	$ 2,500,000	50.00%	$ 1,250,000
CIP	Sidewalks infill - Van Meter, Fischer and Blossom Hill Schools	$ 1,000,000	50.00%	$ 500,000
CIP	Winchester Blvd/Lark Avenue Intersection Improvements	$ 850,000	90.00%	$ 765,000
CIP	Westbound Lark to Hwy 17 northbound ramps - add two right-turn lanes	$ 3,750,000	90.00%	$ 3,375,000
CIP	Unfunded Deferred Street Maintenance (Annual PMS Survey)	$ 10,500,000	9.68%	$ 1,016,400
GP	Lark/Los Gatos Intersection Improvements - Add Third Left Turn Lanes for Eastbound and Northbound Approaches	$ 1,200,000	90.00%	$ 1,080,000
GP	Complete Street Improvements - Lark from Garden Hill to Los Gatos Blvd	$ 2,100,000	50.00%	$ 1,050,000
GP	Complete Street Improvements - SR 9 from University to Los Gatos Blvd	$ 650,000	50.00%	$ 325,000
GP	Complete Street Improvements - Blossom Hill Road from Old Blossom Hill Road to Regent Drive	$ 3,000,000	50.00%	$ 1,500,000
GP	Complete Street Improvements - Knowles from Pollard to Winchester	$ 2,000,000	50.00%	$ 1,000,000
GP	Complete Street Improvements - Winchester from Blossom Hill to Lark	$ 1,500,000	50.00%	$ 750,000
GP	Blossom Hill Road widening over Highway 17	$ 2,000,000	50.00%	$ 1,000,000
GP	Local Bikeway Improvements	$ 750,000	50.00%	$ 375,000
Notes:	Total	**$ 47,950,000**		**$ 22,799,000**
VTP = Valley Transportation Plan, 2035 by Santa Clara Valley Transportation Authority.				
Town CIP = Town of Los Gatos, Capital Improvement Program and pending construction project list.				
Source: Town of Los Gatos.				

VMT REDUCTION STRATEGIES

For projects that would generate Vehicle Miles Traveled (VMT), one or more VMT reduction strategies shall be required to reduce VMT of the project. Examples of VMT reduction strategies are provided below. The VMT reduction strategies are organized by their relative scale for implementation (i.e., individual site level, Town-wide level, and regional level).

INDIVIDUAL SITE LEVEL

- **Encourage Telecommuting and Alternative Work Schedules:** This strategy relies on effective internet access and speeds to individual project sites/buildings to provide the opportunity for telecommuting. This strategy would reduce commute VMT but also result in a change in VMTfor other travel purposes; thus, this strategy should consider the net change in the Town's project-generated VMT.
- **Provide Ride-Sharing Programs:** This strategy focuses on encouraging carpooling and vanpooling by project site/building tenants.
- **Implement Car-Sharing Program:** This strategy reduces the need to own a vehicle or reducesthe number of vehicles owned by a household by making it convenient to access a shared vehicle for those trips where vehicle use is essential. Examples include programs like ZipCar,Car2Go, and Gig.
- **Provide Employer-Sponsored Vanpool/Shuttle:** This strategy relies on employers purchasing orleasing vans or shuttles, and often subsidizing the cost of at least program administration, if notmore. Vanpools typically service employee's commute to work, while shuttles service nearby transit stations and surrounding commercial centers. Scheduling and rider charges, if any, are within the employer's purview. A supplemental strategy may include facilitating or enhancing the service by improving the shuttle stops and biking/walking paths to the stops.

TOWN-WIDE LEVEL

- **Provide Bicycle and Pedestrian Network Improvements:** This strategy focuses on creating a comprehensive bicycle and pedestrian network within the project and connecting to nearby destinations. Projects in Los Gatos tend to be smaller so the emphasis of this strategy would likely be the construction of network improvements that connect the project site directly to nearby destinations. Alternatively, implementation could occur through an impact fee programor benefit/assessment district based on regional or local plans such as the *Bicycle and Pedestrian Master Plan*.
- **Provide Local Transit or Microtransit Solutions:** This strategy focuses on providing transit solutions that serve the local circulation needs and connections to key regional destinations. The service would connect to transit hubs, schools, commercial centers, and residential areas to improve transit connectivity and address the "first/last mile" problems. The service may be in the form of a local shuttle, microtransit service using dynamic routing and scheduling, fare subsidies to private transportation network companies (TNCs) or taxi companies, or other service delivery methods. The service may be open to all or target a special population, such as seniors, disabled or students. The implementation of this strategy may require regional or private partnership.

- **Provide Transit Signal Priority:** This strategy would upgrade the Town's traffic signals along transit corridors to provide transit signal priority to improve transit bus travel time.
- **Improve Biking and Walking Paths to Bus Stops and Transit Amenities:** This strategy improves the biking and walking paths to bus stops, enhances amenities at bus stops such as shelters, benches, and ADA accessible loading areas.
- **Provide Traffic Calming Measures:** This strategy combines the California Air Pollution Control Officers Association (CAPCOA) research focused on traffic calming with new research on providing a low-stress bicycle network. Traffic calming creates networks with low vehicle speeds and volumes that are more conducive to walking and bicycling. Building a low-stress bicycle network produces a similar outcome. One potential change in this strategy over time is that ebikes (and e-scooters) could extend the effective range of travel on the bicycle network,which could enhance the effectiveness of this strategy.
- **Limit Parking Supply:** When combined with companion TDM measures, reduced parking supplydiscourages driving by limiting easy and convenient parking options. Implementation of this strategy may require reducing (or removing) minimum parking requirements and allowing developers to use shared parking strategies.
- **Unbundle Parking Costs from Property Cost:** Unbundling separates parking costs from propertycost, for instance by not including a parking space in a residential unit's rent, or by requiring employers to lease each parking space separately from the building owner. This strategy ensures that the user understands that the cost of driving includes parking and can encourage people to use an alternative mode to save money.
- **Implement Market Price Public Parking (On-Street):** This strategy focuses on implementing a pricing strategy for parking by pricing all on-street parking in central business districts, employment centers, and retail centers. Priced parking would encourage "park once" behaviorand may also result in area-wide mode shifts.

REGIONAL LEVEL

- **Increase Density:** This strategy focuses on increasing density of land uses, where allowed by the General Plan and/or Zoning Ordinance, to reduce distances people travel and provide more travel mode options. This strategy also provides a foundation for many other strategies. For example, densification increases transit ridership, which justifies enhanced transit service.
- **Increase Diversity of Urban and Suburban Developments:** This strategy focuses on inclusion of mixed uses within projects or in consideration of the surrounding area to minimize vehicle travelin terms of both the number of trips and the length of those trips.
- **Increase Transit Accessibility:** This strategy focuses on encouraging the use of transit by locating a project with high density near transit. A project with a residential/commercial center designed around a bus station is referred to as a transit-oriented development (TOD).
- **Integrate Affordable and Below Market Rate Housing:** This strategy provides greater opportunities for lower income families to live closer to job centers since

income effectsprobability that a commute will take transit or walk to work.

- **Increase Transit Service Frequency/Speed:** This strategy focuses on improving transit service convenience and travel time competitiveness with driving. Given existing land use density in LosGatos, this strategy may be limited to traditional commuter transit where trips can be pooled at the start and end locations, or it may require new forms of demand-responsive transit service. Note that implementation of this strategy would require regional or local agency implementation, substantial changes to current transit practices, and would not likely be applicable for individual development projects.
- **Implement Area or Cordon Pricing:** This strategy focuses on implementing a cordon (i.e., boundary) pricing scheme, where a cordon is set around a specific area to charge a toll to enterthe area by vehicle. The cordon location is usually the boundary of an area with limited points of access. The cordon toll may be constant, applied during peak periods, or be variable, with higher prices during congestion peak periods. The toll can also be based on a fixed schedule or be dynamic, responding to real-time congestion levels. Note that implementation of this strategy requires alternative modes of travel that are available and reliable, such as high-qualitytransit infrastructure.

DEFINITIONS:

Land use entitlements shall mean entitlement changes in use requiring discretionary approval by Los Gatos, which include General Plan amendments, specific plans (and related amendments), zoning changes, use permits, planned developments, and tentative subdivision maps.

Land Use Projects or Development shall mean residential or nonresidential improvements on a site.

Existing development shall mean any already existing habitable residential or nonresidential building or projects which rebuild or remodel the existing development without increasing the trips generated. No fee shall be charged for development already existing.

Expansion of use, to determine traffic increases, shall include any increase in the number of living units, gross floor area in a nonresidential development and/or any intensification of use which increases trips generated.

Transportation improvements shall mean those improvements to the transportation facilities and related actions necessary to implement the transportation element of the Town's general plan and any applicable specific plan.

Site shall mean a plot of ground consisting of one (1) or more lots or parcels on which a common improvement is proposed or exists.

Trip generation rate shall mean the number of vehicle trips over a weekday twenty-four-hour period generated by a particular type of land use and shall be expressed in terms of the number of acres or square feet of land for each land use category. The Town Engineer may exercise reasonable discretion to establish recommended trip generation rates for land use categories consisting of groupings of land uses having similar use and functional characteristics. When the trip generation rate is multiplied by the amount of land, the number of trips, both incoming and outgoing, shall be estimated.

Average Daily Trips (ADT) shall mean the total number of trips, both in-bound and out-bound, within a 24-hour weekday period, generated by a particular use or development.
Pass-By Trip: Trips generated by the proposed Project that would be attracted from traffic passing the proposed project site on an adjacent street that contains direct access to the Project.

Peak Hour Trips shall mean vehicle trips, both in-bound and out-bound, occurring during a 60-minute period either during the A.M. Peak (7 A.M. to 9 A.M.) or the P.M. Peak (4 P.M. to 6 P.M.), generated by a particular use or Project.

Specialty Retail. Specialty Retail uses are defined as walk-in and impulse businesses such as juice bars, yogurt shops, coffee shops, donut shops, and similar uses which do not generally serve meals and have limited or no seating. Specialty Retail uses are defined under this policy for purposes of establishing trip generation data and this definition does not provide any land use or zoning guidance.

Use shall mean the purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered or enlarged or for which either a site or a structure is or may be occupied or maintained.

Vehicle Trip End shall mean an incoming or outgoing trip going to or coming from anywhere within the Town or outside the Town.

CEQA shall mean the California Environmental Quality Act. These terms are reserved for definitions per the CEQA Guidelines: significance criteria, significant impact, and mitigation measures.

Local Transportation Analysis shall mean analysis to assess potential mobility deficiencies caused by new developments on the local roadway performance, following the Town's transportation policies. These terms are reserved for Local Transportation Analysis: threshold or performance standard, deficiency, and mitigation improvement.

Vehicle Miles Traveled (VMT) is a metric that accounts for the number of vehicle trips generated times the length or distance of those trips. VMT is an accessibility performance metric that evaluates the changes in land use patterns, regional transportation systems, and other built environment characteristics.

Level of Service (LOS) is a metric that assigns a letter grade to network performance. The typical application is to measure the average amount of delay experienced by vehicle drivers at an intersection during the most congested time of day and assign a report card range from LOS A (fewer than 10 seconds of delay) to LOS F (more than 80 seconds of delay). Vehicle level of service is used to measure vehicle mobility.

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TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT

MEETING DATE: 09/13/2023

ITEM NO: 3

ADDENDUM

DATE: September 12, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council on Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units. The Proposed Amendments Also Correct Outdated References to Sections of the Town Code Included in Sections Pertaining to Termination of Nonconforming Use Status, Requirements for a Two-Unit Development Under Senate Bill 9 (SB 9), and Civil Penalties. The Environmental Impacts of the Proposed Amendments to the Town Code were Analyzed in the Environmental Impact Report for the 2040 General Plan. Additionally, the Proposed Amendments are Exempt Pursuant to CEQA, Section 15061(b)(3). Town Code Amendment Application A-23-002. **Project Location: Town Wide**. Applicant: Town of Los Gatos.

REMARKS:

Staff reviewed additional guidance from HCD related to ADU setback requirements and recommends the following revisions to the Draft Ordinance:

Section 29.10.325.

Table 1-2. Accessory Dwelling Unit Setback Requirements.

The revised table, included on the following page, clarifies that new attached ADUs within the proposed space of the primary dwelling are subject to the following:

- Side and rear setbacks of no more than four feet;
- The front setback required by the zone; and
- Front setback requirements cannot preclude construction of an 800 square-foot ADU.

PREPARED BY: Sean Mullin, AICP
Senior Planner

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

REMARKS (continued):

Table 1-2. Accessory Dwelling Unit Setback Requirements[1]

	Single-Family			Multi-Family		
	New construction detached ADU	New attached ADU within the existing space of the primary dwelling[2] or accessory structure	New attached ADU within the proposed space of the primary dwelling	New construction detached ADU	Conversion of portions existing multi-family dwelling not used as livable space[3]	Conversion of existing accessory structure(s)
Front	Per the applicable zoning district[4]	N/A	Per the applicable zoning district[4]	Per the applicable zoning district	N/A	N/A
Rear	4 feet minimum	Sufficient for fire and safety	4 feet minimum	4 feet minimum		
Side (including street-side)	4 feet minimum		4 feet minimum	4 feet minimum		
From any other structure located on the same lot[5]	5 feet minimum	N/A	5 feet minimum	5 feet minimum	N/A	N/A

(1) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys, or other similar architectural features may extend into required setbacks as specified in Section 29.40.070 (b) of the Zoning Code.

(2) Includes attached garages.

(3) Such as storage rooms, boiler rooms, passageways, attics, basements, or garages.

(4) Front setback requirements shall not preclude construction of an 800 square-foot accessory dwelling unit.

(5) Measured from the exterior wall surface and/or supporting posts.

A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Jeffrey Barnett, Chair Susan Burnett Melanie Hanssen Kathryn Janoff Emily Thomas
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

P R O C E E D I N G S:

CHAIR BARNETT: We'll now move on to Item 3 on the agenda, which concerns Accessory Dwelling Units. We're again asked by Staff to forward a recommendation to the Town Council on Amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding Accessory Dwelling Units.

The proposed amendments also correct outdated references to sections of the Town Code, included in sections pertaining to termination of nonconforming use, requirements for two-unit developments under SB 9, and civil penalties.

Per Staff, the environmental impacts of the proposed amendment were analyzed in the Environmental Impact Report of the 2040 General Plan, and additionally the proposed amendments are exempt pursuant to CEQA Section 15061(b)3.

This is Town Code Amendment Application A-23-002; the project location is townwide; and the Applicant is Town of Los Gatos.

Are there any disclosures on this item? If not, Mr. Mullin, I invite you to make a presentation.

SEAN MULLIN: Thank you. In response to changes in State law the Town has updated the Town Code regarding ADUs in 2017 and 2020. New housing legislation continues to be signed into law, impacting ADUs on almost an annual basis. The latest bills impact ADUs; SB 897 and AB 2221 were signed into law and took affect on January 1st of this year.

With the latest changes at the State level Staff identified that the current ADU Ordinance requires updating once again. In addition to current State law Staff evaluated feedback and technical assistance from HCD regarding aspects of the Town's current ordinance, and direct input from residents of the Town regarding the impact of neighboring ADUs after construction. Staff determined that an overhaul of the current ordinance is necessary to align with State law, respond to HCD guidance, and address privacy impacts of new ADUs.

The Draft Ordinance that is being considered tonight carries forward much of the current ordinance language while introducing new content required by the State. The Draft Ordinance is reorganized into a framework that provides details on definitions, regulations, process, and fees. Your Staff Report discusses each of the draft ADU code sections and provides an assessment of the existing

regulations and how and why they are modified under the Draft Ordinance.

Overall, the Draft Ordinance provides a comprehensive framework for ADU regulations that complies with State law, incorporates feedback from HCD, and introduces design standards to help reduce privacy impacts resulting from ADU construction.

Included with the Draft Ordinance are three additional Town Code sections outside of the ADU ordinance that require minor revisions to update cross-references to the ADU sections that would change with the Draft Ordinance.

An addendum has been distributed correcting Table 1-2 in the Draft Ordinance and Staff recommends that these changes be incorporated into any motion to recommend approval to the Town Council.

In conclusion, Staff recommends that the Planning Commission review the Draft Ordinance and forward a recommendation of approval to the Town Council.

This concludes Staff's presentation and we are available to answer any questions.

CHAIR BARNETT: Thank you so much, Mr. Mullin, and I'll turn to my Commissioners and see if they have any questions. Commissioner Hanssen.

COMMISSIONER HANSSEN: I wanted to ask the question for the benefit of the public, because I believe this to be the case. These changes in the ADU Ordinance are required for us to have a certifiable Housing Element, or they have to be done for the State to consider?

ATTORNEY WHELAN: The Town's ordinance needs to comport with State law, and in the absence of an amendment the State law would apply anyway, and so it makes sense to have the two be consistent.

JENNIFER ARMER: And I can add that while this is one of the implementation programs in the Housing Element, it isn't one of the rezonings that is required to be done prior to the January 31, 2024 deadline.

COMMISSIONER HANSSEN: Thank you for that clarification. I just wanted to make sure, since we had the meeting last night and there were a lot of people that were concerned about the deadlines.

With the last item I did not mention this, but Ms. Armer just did, that the last item was the required zoning changes that we need to comply with the January 31, 2024 deadline so that we don't have an issue with State control.

The only remaining step, as I understand it, and this is a question, is for the Town Council to approve those zoning changes?

JENNIFER ARMER: That is correct.

COMMISSIONER HANSSEN: Thank you.

CHAIR BARNETT: Other questions at this time? You've probably already answered this question, but can you State that the amendments that we're asked to recommend to the Council are all in effect required to comply with State law?

SEAN MULLIN: Thank you for that question. I would characterize that most of the changes that Staff has recommended are required to comply with State law. Staff has introduced some design standards that are not required by State law that would address some of the feedback that we received from residents as ADUs have been built next door. Typically the feedback is related to second-story ADUs and the privacy impacts from windows and decks.

An additional change that's outlined in the Staff Report relates to lot coverage and exempting ADUs from lot coverage, which is not required by State law, but would help remove barriers to creation of ADUs, which aligns with the Housing Element.

CHAIR BARNETT: Thanks so much. Commissioner Janoff.

COMMISSIONER JANOFF: Thank you. A follow up question with regard to the design standards being invoked. The first question, are these objective design standards?

SEAN MULLIN: Thank you for that question and that clarification. They are objective design standards, and if you took a close look at them next to the SB 9 Ordinance that was adopted last year, they're very similar to some of the design standards that are included there.

COMMISSIONER JANOFF: Just to follow up, even though an application to build an ADU is a ministerial process, the objective design standards would still apply?

SEAN MULLIN: Yes.

CHAIR BARNETT: Other questions at this time? Commissioner Hanssen.

COMMISSIONER HANSSEN: I wanted to clarify that like the SB 9 Ordinance, we are allowed to do that even though it's not in the State law? We're allowed to have some design standards; we have the latitude to do that?

SEAN MULLIN: That is correct, as long as they're objective design standards.

COMMISSIONER HANSSEN: Got it. Thanks.

CHAIR BARNETT: We'll now open the public portion of the public meeting and invite comments from members of the public, if you have not already submitted a card, and we don't have any as far as I know. Oh, we do. I'm sorry; it's in my blind spot. Mr. Fagot.

LEE FAGOT: Good evening, Commissioners. Thank you for the time and effort you've put in, for a long time, repeatedly, to help us get this resolved. Truly appreciate it, and for the Staff working diligently, as well.

I do have a question on Table 1-2, Accessory Dwelling Unit Setback Requirements, on the side, including the street side, the setback for new attached ADU within an existing space of a primary dwelling or accessory structure. For the rear and side it simply says, "is sufficient for fire and safety." What is the definition of sufficient? Is it 4' or is it 11' as is the guidance on emergency evacuation requirements for roadways and pathways? Can you provide more specificity to that requirement? Thank you.

CHAIR BARNETT: Staff, I would appreciate a response for Mr. Fagot.

SEAN MULLIN: Thank you. It's sort of an ambiguous term, "sufficient for fire and safety." It's directly out of the State law. As I understand it, it has

to do with evaluation on a case-by-case basis by the Building Division and the Fire Department. When we're looking at conversion of existing space, we're talking about a building that's already located there and they're simply converting it to an ADU that's attached, and that evaluation would take place under the Building Permit.

JENNIFER ARMER: To phrase it an additional way, it's really just saying that an ADU within the existing building would only be allowed to locate in a portion of the building that is safe for Fire, that it isn't so close to a property line that that causes a concern for the Fire Department, but as we just stated, it isn't new construction. For the new construction addition onto an existing house there are specific setbacks.

CHAIR BARNETT: Commissioner Hanssen.

COMMISSIONER HANSSEN: I'm surprised that the State law would let us do that, and maybe I don't know the process. It's not a rubber stamp thing. Someone would have to look at it, make a determination, and come out and see it. And you said it was in the State law, but it seems inconsistent with trying to not have any barriers to that, especially when it's the existing structure anyway.

SEAN MULLIN: Thank you. I think it recognizes opportunity in the already built environment to create

ADUs, and under review of a Building Permit the building official and the plan checkers are looking at the residential code, which has provisions in it as I understand not being a building official, to allow fire safety construction, looking at fire specifically, up to the property line. That may mean that windows might need to be changed under a plan check to be tempered and non-operable if they're too close to a property line, or exterior materials need to be fire rated if they're within 3' of a property line. I think the State's approach, my interpretation, is that it provides additional opportunity to create units in an already constructed building.

CHAIR BARNETT: Other questions? Mr. Beckstrom.

ERIC BECKSTROM: It's amazing to watch you guys and the process. I didn't know what the second story window was about in terms of regulations. I don't know if you could map that out a little bit. Maybe I misheard.

CHAIR BARNETT: Could Staff answer that question?

SEAN MULLIN: Thank you. I'm assuming that the speaker is talking about the design standards. The design standards require that the windows on a second story that are located less than 10' from rear or side property lines be Clerestory with the bottom of the glass located at least 6' above the finished floor of that second story, so in

lay-person's term, transom window. That's to limit the view into neighboring yards to the side and the rear.

There is an exception in that statement that says, "except as necessary for egress purposes as required by the Building Code." Should a bedroom be located on a side property line within 10' a transom window wouldn't allow proper egress, and if that's the only option available to that bedroom given the configuration of the ADU, the Town would allow a regular window that meets egress requirements to go into that space.

CHAIR BARNETT: Thank you. Any further comment or question?

ERIC BECKSTROM: That clarifies it, and I think especially the part about the egress. I appreciate and understand it. I'm not going to argue it or support it, but as an architect and somebody who has worked in Europe and with history and so forth, what can happen on some houses is they just look like they have bullet windows on the second floor.

A house, when it presents itself, is really a face, and a house is nice and welcomes people, actually it signals to people; like a temple tells you to come in, that's what architecture does. I'm not arguing with it, but it's a weird thing, because I've worked in a lot of

different jurisdictions, it's nothing about Los Gatos, but these second floor windows that are up high and transoms, in a way it takes away the humanity of the space inside.

I live in Los Gatos just off Loma Alta with all these historic houses, so when a window is larger and lower and you're in that space, imagine you're a child and all you see is sky and blue? When it's a taller window you actually see your neighbors.

I was just walking here from my house and there's a house that has a bunch of little transom windows on the second floor, because it was done ten years ago. The house that's next door to that is 1890s and has 7' tall double-hung windows, but nobody thinks about that. It's almost a big deal, because all the houses that I've worked on for years, people come in and it has big windows, it feels like you can see outside, it's why people moved to Los Gatos.

CHAIR BARNETT: Your time is up.

ERIC BECKSTROM: Thank you. Thanks for listening.

CHAIR BARNETT: Let me see if there are any questions from my fellow commissioners. I don't see any. Thanks so much. We have a card from Mr. Khanel.

PRADEEP KHANEL: Pradeep Khanel. I'm one of the residents of Los Gatos, one-and-a-half years in the town,

so I'm potentially considering an ADU in the future; I have a detached garage that is one-and-a-half floors.

I haven't done much research on what the regulations and rules are, so on a very high level I wanted to understand the new changes, the State changes. Has it made the process stricter or kind of relaxed? What I heard when I moved into Los Gatos was that the Town was kind of promoting and encouraging ADUs as much as possible. Is that still the sentiment or has that changed, or what is the implication on a high level? Thank you.

CHAIR BARNETT: Stand by. Questions from Commissioners? I don't see any. Would Staff respond to his question?

SEAN MULLIN: Thank you for that question. I think the general momentum behind the State is to make ADUs easier and easier to create. I think our ordinance, while it's getting longer in content, captures all the requirements of the State law and goes beyond the State law to make creation of ADUs easier; it removes barriers to creation.

JENNIFER ARMER: I would also add that over the last year the Town has continued to work in compliance with State law to simplify the process.

At the beginning of this year the process that was required for a new Accessory Dwelling Unit was changed so that it no longer requires a separate Accessory Dwelling Unit Permit from the Planning Department prior to the Building Department. Now there is one form that is filled out for a new ADU that provides the information that's needed for Planning and Building and the request for the new address for the ADU all at once to simplify, streamline, and reduce the fees that are required for those ADU processes.

CHAIR BARNETT: Thank you. I appreciate you coming today. I want to see if there are questions for you from Commissioners. Commissioner Thomas.

COMMISSIONER THOMAS: I don't have a question for the speaker, but thank you all for coming tonight and submitting public comment.

I did have a follow up question for Staff. I know that part of this is related to aligning with State laws and some of our implementation programs associated with the Housing Element, but I do know that there are some other jurisdictions that have additional incentives, I would say, other than the ordinances, so one of the questions is are there other plans for having ready-to-go plans online or

some of those other programs that I know some other local cities have?

SEAN MULLIN: I can start and then defer to Ms. Armer. I'm not aware of any plans to have pre-approved plans. Several cities have that, and other cities have some allowances that the Town has not explored at this point, but if there are ideas that the Planning Commission has to remove barriers or allow different product types with ADUs, that could be part of your recommendation to the Council.

JENNIFER ARMER: What I would add on that subject is that in Santa Clara County there are a number of different regional agencies, groups of the different planning departments who do connect, and there is a planning collaborative that's been developing a handbook and website that helps step residents through the process. They've actually just published that in the last month, and so that is now available online. It's a little bit broader than specifically to Los Gatos' regulations and processes, but there are a number of resources like that, and they are working to have some designs kind of pre-designed.

It wouldn't be pre-approved, because each of our sites has its own specific situation and consistency in design with the main house is required, but they are working to provide some of these kind of pre-designed items

for ADUs to try to simplify and shorten and lessen the expense for those processes. So even if that's not being done here in Los Gatos, the regional groups are working on providing that.

CHAIR BARNETT: Commissioner Hanssen.

COMMISSIONER HANSSEN: Thank you for that question, Commissioner Thomas. I wanted to follow up. I think we asked this when we were discussing the Housing Element, because we have a certain number of units that are contributing to our RHNA that we expect to have. When we were having these discussions we were like let's make sure that we're encouraging and educating people on how to do ADUs so it's easy for them, like putting those links on our Town website so people like our recent speaker could say they really do want us to do ADUs and I don't know what to do, but I can just click on this and get help.

JENNIFER ARMER: Yes, thank you. We do have an ADU page on our website, with this particular example that I was giving of information on the regional level. We're taking a look at that to make sure that it is consistent with our processes before we post it and link it from our website, but that is something that we're considering.

In addition to that, in terms of making it easier for ADUs to be built, our Town Attorney just reminded me

that the Town doesn't actually charge a transportation impact fee for ADUs, even if they are over the 750 square feet where the State would allow us to charge at least a partial impact fee for transportation, so there are those elements as well where the impact fee, for example, are reduced.

COMMISSIONER HANSSEN: Thank you.

CHAIR BARNETT: Do we have any speakers on Zoom, Mr. Paulson?

JOEL PAULSON: Thank you, Chair. No, I don't see any hands raised on Zoom for this item.

CHAIR BARNETT: Thank you. We'll now close the public portion of the public hearing on Item 3 and ask if Commissioners have any remaining questions for Staff, wish to comment on the proposed recommendation, or introduce a motion regarding the recommendation for consideration by the Council. Commissioner Thomas.

COMMISSIONER THOMAS: I do have a question about the parking minimum, because I know that that was just carried over from our current ordinance, and I was wondering if that was just carried over because it doesn't conflict with any State laws, or if it was looked at with regard to reducing that? I know that that is on the list of

one of the things that can really help with eliminating some of the barriers.

SEAN MULLIN: Thank you for that question. It was evaluated to make sure that it was aligning with State law, and there was one minor change made to it; we moved a sentence out of the introduction paragraph down into the lettered list, otherwise we didn't make any other changes, because it did align with the State law.

COMMISSIONER THOMAS: I think that when I was looking at this–I know Staff worked really hard and did a great job and I really appreciate how thorough it was—there are usually not many people living in these ADUs, and there already are a lot of exceptions for the parking minimum, and I think that it would be something that the Town could easily commit to reducing, especially with all the work that we are planning on do.

I'm interested to hear what the other Commissioners think about that, especially because I think in this area we're hoping a lot of the ADU use is going to be people that are retiring, downsizing, moving back in with families, young children, and I'm just curious what my fellow commissioners have to say about it. This feels like low-hanging fruit to me.

CHAIR BARNETT: Are there any comments by Commissioners at this time? Commissioner Janoff.

COMMISSIONER JANOFF: Just a question. If you could point to the specific change that you were recommending?

COMMISSIONER THOMAS: Just getting rid of having a parking minimum, just eliminating it, unless there's something specific. I know in some jurisdictions if the garage is being turned into an ADU and then that parking is also eliminated, sometimes there is some substitution that is needed, but other than that just eliminating any restrictions associated with it.

SEAN MULLIN: Through the Chair, I can add some clarification. Relative to that specific scenario, per State law and the Draft Ordinance, if you eliminate a garage or convert it to an ADU you do not have to replace the parking, and that is included in our ordinance and that's actually the one sentence I think we moved. If the Planning Commission wanted to make the recommendation to eliminate the parking requirement, that would continue, in my read, to align with State law, because the State law is providing the minimums that you need to allow, and if we went a step further to be more permissible it's my understanding that that would be consistent with State law.

CHAIR BARNETT: Thank you. Commissioner Hanssen.

COMMISSIONER HANSSEN: I actually think it's a good idea to be more lenient on parking than the State law requires, encouraging the production of ADUs.

SEAN MULLIN: Through the Chair, I'd say in a majority of the ADUs that we process they would meet one of these exemptions, and so parking is not something that we tend to have a lot of conversations about. When we get up into the hillsides usually it's the transit exemption that gets triggered. You're far away from transit and most of those properties—not all, but most—tend to be able to accommodate the additional parking space that's required. My experience is it's not a conversation we have very often that people are having a hardship meeting the parking limit when it is required. I just wanted to offer that.

CHAIR BARNETT: Thank you. Commissioner Janoff.

COMMISSIONER JANOFF: It could be that people can't meet it, so they're not having a conversation; we don't really know. To me it's one of those situations where if it isn't a problem to reduce it, then why not do that, and that further underscores the Town's desire to increase housing; it's just one of those things you can add to the Housing Element. I would be in favor of doing that. We

talked about reducing parking requirements in a number of ways that seems consistent with that.

CHAIR BARNETT: For the public's knowledge, I want to confirm that the amendments were drafted by Staff but have been reviewed by Town Council.

SEAN MULLIN: Clarification, by the Town Attorney.

CHAIR BARNETT: By the Town Attorney, excuse me.

ATTORNEY WHELAN: Yes, that's accurate.

CHAIR BARNETT: Okay, thank you for that. I think we're ready for a motion.

COMMISSIONER THOMAS: Sorry, I have one more question. Could I ask something else? I did also have a question about any density bonuses associated with ADUs, because I know that there are some jurisdictions that have also done something like that. Again, these are going above and beyond some of the State laws obviously, but I know that it's like a density bonus for multiple ADUs, which allows for construction of one unrestricted ADU for every affordable ADU deed restricted one. I know the City of San Diego adopted it.

JOEL PAULSON: Through the Chair. First of all, we don't count ADUs as density. We don't have anything that goes to the extreme that the City of San Diego has gone

through. That is one opportunity that they chose to go with so that they could encourage actual deed restricted affordable ADUs. Virtually none of our ADUs are deed restricted, but that is one of the ways that folks could encourage those deed restricted ADUs which are truly affordable. Ultimately I think San Diego is a little different scenario than we are, especially when it comes to transit and many other topics, but there currently isn't anything that goes as far as, say, the City of San Diego.

COMMISSIONER THOMAS: Thank you. So there are no other incentives that we could do to help with affordability?

JOEL PAULSON: There are, and there is an ordinance currently—we haven't finished it yet—which is the potential for using below market price fees for potentially building permit or a portion of building permit fees, but that program hasn't been fleshed out yet.

COMMISSIONER THOMAS: Okay, thank you.

CHAIR BARNETT: Commissioner Janoff.

COMMISSIONER JANOFF: I just wanted to reflect that at the rate that this ordinance continues to evolve, given that the State law is continuing to evolve, as we go forward into the sixth cycle of the Housing Element and see opportunities for change or further incentives, we can

always observe and make those recommendations at a later point. We may want to learn many more things from other jurisdictions, but I don't feel compelled to try to put them all in here tonight; I think it's a good idea to continue to keep looking at it.

CHAIR BARNETT: Commissioner Hanssen.

COMMISSIONER HANSSEN: I wanted to comment that I appreciate the suggestion from Commissioner Thomas to come up with ideas and look at what other people are doing to do with that. I think it might be a little premature for that and I concur with Commissioner Janoff's comment that the ADU laws are continuing to evolve and more things will come back from the State, and I don't know that that would be the thing that would encourage people to do deed restricted ADUs.

I haven't had those conversations directly with people and I'm sure what is going on is having a deed restricted ADU, if they decide to sell their home, is a liability to someone that was buying the home and they would have to look at that, so I'm not sure that that would be the thing that would fix it, and I think it would need to be studied, so I think we're good with what we have with the change in the parking.

CHAIR BARNETT: I see a growing consensus. Commissioner Thomas.

COMMISSIONER THOMAS: I just want to add one more thing. Thank you, Chair. I agree. It was interesting to see the different ways that some other jurisdictions have tried to get them… Obviously our ADUs can't be sold separately, so I don't even know how the City of San Diego is doing these kinds of things, but it was interesting because there are some other places that have been able to make them affordable rentals.

I think that if these things come up in the future we should just keep on eye on it, which is why I wanted to bring it up. I agree that it's very far ahead to try to get it in here, and I also noticed that San Mateo County is working with a third party that basically provides support to applicants, and it seemed like a very cool project that was very low risk and impact to the County and Redwood City. It was like Redwood City, San Mateo County, it was some places up there, and that organization looked like they were doing a lot of helpful work, so if they reach out to us it would be great to partner with them, but I sounds like something like that is in the pipeline for Santa Clara County, which would be great.

JENNIFER ARMER: There are discussions about that and other similar potential programs.

CHAIR BARNETT: Other questions? Since Commissioner Thomas brought up the issue about separate sales, can you comment on that, Mr. Mullin.

SEAN MULLIN: Sure, thank you for that. The State law currently prohibits separate sale of an ADU, and I'm going to make the distinction between ADU and JADU. Separate sales of an ADU is prohibited unless it meets these very narrow criteria for being created by a nonprofit housing group and sold to a qualified buyer, which is defined by income. So there's a very small carve-out exception to allow a sale of an ADU separate from the house.

Relative to Junior Accessory Dwelling Units, which remember, are physically attached to the single-family residence, they are prohibited from sale and a deed restriction is required to be recorded that prohibits the sales among some other characteristics that need to be adhered to.

CHAIR BARNETT: Thank you for that clarification. I think we're ready for a motion. Commissioner Janoff.

COMMISSIONER JANOFF: I would propose a motion. First off, I'm looking at the recommendation on page 10 of

the Staff Report, and that is what I'm going to turn into a recommendation, with your concurrence.

My recommendation is that we recommend to Town Council approval of the amendments to Chapter 20 of the Town Code; the Draft Ordinance amendments, Exhibit 2 of the Staff Report.

The Planning Commission can make Findings 1 and 2 of the Staff Report on the same page, and we would recommend that parking be eliminated from the ADU Ordinance, and the motion would incorporate Table 1.2, Accessory Dwelling Unit Setback Requirements, as provided in Item 3 Addendum.

CHAIR BARNETT: Thank you. Do we have a second? Commissioner Hanssen.

COMMISSIONER HANSSEN: I second the motion.

CHAIR BARNETT: Any discussion? I don't see any, so we'll have a raise of hands for those who support the motion, and that's unanimous. Thank you very much. No appeal rights on this update?

JENNIFER ARMER: That is correct, because it's a recommendation to Town Council, there is no appeal.

(END)

DIVISION 7. ACCESSORY DWELLING UNITS[1]

Sec. 29.10.305. Intent and authority.

This division is adopted to comply with amendments to Government Code §§ 65852.2 and 65852.22 which mandate 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. (Section 29.10.305)

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

Sec. 29.10.310. Definitions.

(Section 29.10.310)

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.

Efficiency unit. ~~A~~s defined by Section 17958.1 of the Health and Safety Code.

Junior accessory dwelling unit~~. A junior accessory dwelling unit is~~ a dwelling unit that does not exceed a floor area of five hundred (500) square feet and is contained within the space of a proposed or existing ~~primary dwelling or detached accessory dwelling unit. 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. If the junior accessory dwelling unit is contained within the proposed or existing space of a primary dwelling, it may include separate sanitation facilities, or it may share sanitation facilities with the primary dwelling. If the junior accessory dwelling unit is contained within the proposed or existing space of a detached accessory dwelling unit, it shall include separate sanitation facilities.~~

Manufactured home. ~~A~~s defined by Section 18007 of the Health and Safety Code.

Nonconforming accessory dwelling units~~. A nonconforming accessory dwelling unit is an accessory dwelling~~ unit that exists under the following circumstances:

(1) A unit which was created or converted lawfully but which due to a zone change or an amendment to the zoning ordinance, has become nonconforming.

(2) A unit which was created lawfully while within the County, but which upon annexation to the Town, became nonconforming.

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

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 eighty (80) percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling. [Section 29.10.320 (a)]

(b) *Design and development standards.*

(1) *Number.* Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling. [Section 29.10.320 (c)]

Not more than a number equal to twenty-five (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. [Section 29.10.320 (c)]

(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.~~ [Section 29.10.320 (b)(1)]

(3) *Setbacks.* [Section 29.10.325 (b)]

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 ~~in the R-1, R-D, R-M, RMH, and R-1D zones.~~

Accessory dwelling units shall comply with the following minimum setbacks:

a. Front setbacks of the zone for a primary dwelling.

b. Rear and side setbacks of 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 and shall not exceed sixteen (16) feet in height, unless the accessory dwelling unit is contained within the existing second story space of a primary dwelling or accessory structure;~~ added to an existing second story of a primary dwelling 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 in the R-1, R-D, R-M, RMH, and R-1D zones. [Section 29.10.325 (a)]

(5) *Maximum unit size* ~~*and maximum number of bedrooms.*~~ The maximum floor area of an accessory dwelling unit is one thousand two hundred (1,200) square feet. ~~The maximum number of bedrooms is two (2).~~ [Section 29.10.325 (c)]

Detached accessory dwelling units exceeding a combined square footage of four hundred fifty (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 six hundred (600) or one thousand (1,000) square feet in the HR and RC zones shall

not be subject to Development Review Committee or Planning Commission approval. [Section 29.10.320 (c)]

(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 eight hundred (800) square feet shall be permitted*. [Section 29.10.320 (d)]

~~(7) *Lot coverage.* Accessory dwelling units must comply with lot coverage maximums for the zone; except, notwithstanding the lot coverage standards in this subsection, an accessory dwelling unit that does not exceed a floor area of eight hundred (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 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.~~ [Parking requirements eliminated with 9/13/23 Planning Commission recommendation]

~~a. *Exceptions.* No parking space 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 or junior accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or 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 (1) 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 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 residential appearance of the property. Detached junior accessory dwelling units shall be~~

(10) *Town codes and ordinances.* All accessory dwelling units shall comply with all the provisions of this chapter and other applicable Town codes. [Section 29.10.320 (p)]

(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. [Section 29.10.320 (q)]

(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: [Section 29.10.315 (c)]

a. Adverse impacts on health, safety, and/or welfare of the public.

(13) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling or accessory structure. The following provisions shall apply:

[Section 29.10.325 (i)]

a. The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential use.

b. The accessory dwelling unit shall have separate entrance from the primary dwelling.

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 one hundred fifty (150) square feet beyond the physical dimensions of an 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.

(14) *Rentals longer than 30 days*. Rentals for durations of less than thirty (30) days, including short-term rentals (as defined by the California Government Code), are prohibited. [Section 29.10.320 (s)]

(15) *Maximum number of dogs, cats, or litters*. All accessory dwelling units shall comply with Section 4.40.010 of the Town code. [Section 29.10.320 (t)]

(Ord. No. 2270, § I, 2-6-18 ; Ord. No. 2307 , § I, 4-21-20)

Sec. 29.10.325 Nonconforming units.

(a) ~~*Permits*~~. The owner of a nonconforming accessory dwelling unit must obtain a~~n accessory dwelling unit~~ permit. ~~Any application received after December 31, 1987, shall be subject to an application fee and may be subject to a civil penalty pursuant to Section 29.20.960(4).~~

Where an application has been submitted for a nonconforming accessory dwelling unit permit and Town records do not establish its nonconforming status, the property owner will have sixty (60) days from the date the Town provides notice of its findings to submit any facts and evidence to support a claim that the unit is nonconforming as defined in this Article. If at the end of sixty (60) days evidence has not been submitted by the property owner to establish the accessory dwelling unit is nonconforming to the satisfaction of the Community Development Director, the unit shall be determined to be an existing unlawful accessory dwelling unit pursuant to section 29.10.315 and subject to its regulations. [Section 29.10.340 (a)]

(b) *Units existing at time of annexation*. Upon annexation a lawful accessory dwelling unit shall become nonconforming and the owner must either apply for a~~n accessory dwelling unit~~ permit within one (1) year of the date of annexation~~, or the unit shall be determined to be an unlawful accessory dwelling unit pursuant to section 29.10.315.~~ [Section 29.10.340 (b)]

~~(c) *Number*. A maximum of two (2) nonconforming accessory dwelling units are allowed on a single lot. All other accessory dwelling units on the property must be abated.~~

~~(d) *Housing code*. Nonconforming accessory dwelling units shall comply with the Town's housing code as follows:~~

~~(1) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (b) shall be required to comply with the Town housing code.~~

~~(2) Any nonconforming accessory dwelling unit receiving an accessory dwelling unit permit pursuant to subsection (c) shall be required to comply with the Town housing code and all improvements shall be completed within one (1) year from the date of application.~~

~~(3) Where a timely application under subsection (b) or subsection (c) has been filed, and approved, an extension from the compliance date of up to six (6) months may be granted by the Community Development Department for good cause shown. Any extension request for longer than six (6) months may be granted by the Planning Commission upon finding that a hardship exists.~~

~~(4) Remodeling and reconstruction: Remodeling and reconstruction of nonconforming accessory dwelling units shall be as follows:~~

~~a. Where a timely application under subsection (a) or subsection (b) has been filed and approved, an accessory dwelling unit may be remodeled providing the building height and floor area do not exceed that which is allowed for a new accessory dwelling unit.~~

~~b. Community Development Director approval is required for the remodeling or reconstruction of an accessory dwelling unit in the case of destruction. The proposed construction shall be designed so as to architecturally harmonize with the surrounding structures so long as the construction does not increase the height or size of the unit. The factors to be considered when reviewing the design of such proposed construction include:~~

~~1. Building height.~~

~~2. Building materials and compatibility.~~

~~3. Colors and materials.~~

~~4. Setback conformity.~~

~~5. Floor area ratio.~~

(Ord. No. 2270, § I, 2-6-18)

Sec. 29.10.330. Elimination and/or demolition of existing accessory dwelling units.

In order to eliminate and/or demolish, without replacement, an approved accessory dwelling unit, the Development Review Committee shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing accessory dwelling unit, the Development Review Committee must make the demolition findings pursuant to section 29.10.09030. (Section 29.10.350)

(Ord. No. 2270, § I, 2-6-18)

~~Sec. 29.10.335. Expansion of existing or nonconforming accessory dwelling units.~~

~~For the purposes of this section only, expansion of an accessory dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet. Requests for expansion of any nonconforming accessory dwelling unit shall be subject to the same requirements as a new accessory dwelling unit.~~

(Ord. No. 2270, § I, 2-6-18)

Secs. 29.10.340—29.10.400. Reserved.

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