

**TOWN OF LOS GATOS
SPECIAL MEETING OF THE TOWN COUNCIL AGENDA
JUNE 30, 2022
TELECONFERENCE
7:00 P.M.**

*Rob Rennie, Mayor
Maria Ristow, Vice Mayor
Mary Badame, Council Member
Matthew Hudes, Council Member
Marico Sayoc, Council Member*

PARTICIPATION IN THE PUBLIC PROCESS

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow 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 Mondays 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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SPECIAL MEETING OF THE TOWN COUNCIL AGENDA
JUNE 30, 2022
TELECONFERENCE
7:00 PM

IMPORTANT NOTICE

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.). Consistent with AB 361 and Town of Los Gatos Resolution 2021-044, this meeting will not be physically open to the public and the Council will be teleconferencing from remote locations. Members of the public can only participate in the meeting by joining the Zoom webinar (log in information provided below).

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/87060038867?pwd=aFlHS0FBOTBIYlBZdHJhTitpM1kzUT09>. Passcode: 879301. You can also type in 870 6003 8867 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
- **Join by telephone.** Dial: USA 877 336 1839 US Toll-free or 636 651 0008 US Toll. Conference code: 969184

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. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.

When called to speak, you will 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 are unable to participate in real-time, you may email to PublicComment@losgatosca.gov the subject line “Public Comment Item #__” (insert the item number relevant to your comment). 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.

REMOTE LOCATION PARTICIPANTS *The following Council Members are listed to permit them to appear electronically or telephonically at the Town Council meeting: MAYOR ROB RENNIE, VICE MAYOR MARIA RISTOW, COUNCIL MEMBER MARY BADAME, COUNCIL MEMBER MATTHEW HUDES, and COUNCIL MEMBER MARICO SAYOC. All votes during the teleconferencing session will be conducted by roll call vote.*

RULES OF DECORUM AND CIVILITY

To conduct the business of the community in an effective and efficient manner, please follow the meeting guidelines set forth in the Town Code and State law.

The Town does not tolerate disruptive conduct, which includes but is 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 microphone when directed to do so;
- repetitiously addressing the same subject.

Town Policy does not allow speakers to cede their commenting time to another speaker.

Disruption of the meeting may result in a violation of Penal Code 403.

MEETING CALL TO ORDER

ROLL CALL

CONTINUED PUBLIC HEARING *(From June 20, 2022. Members of the public may be allotted up to three (3) minutes to comment consistent with the Participation instructions contained on page 2 of this agenda.)*

1. Conduct a Public Hearing, Review the Planning Commission Recommendations, Determine Any Additional Modifications, Adopt the Draft 2040 General Plan, and Certify the Final Environmental Impact Report.

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.

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/30/2022

ITEM NO: 1

DATE: June 28, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Conduct a Public Hearing, Review the Planning Commission Recommendations, Determine Any Additional Modifications, Adopt the Draft 2040 General Plan, and Certify the Final Environmental Impact Report.

REMARKS:

On June 20, 2022, the Town Council received public comments on the Draft 2040 General Plan and Environmental Impact Report (EIR); and began the review of the Draft 2040 General Plan. The review included discussion and progress motions on all of the recommendations from the Planning Commission as well as additional changes recommended by Council Members.

The review and discussion included the following progress motions or consensus:

1. In the Introduction, modify the General Plan Advisory Committee (GPAC) recommendations for the Vision and Guiding Principles to retain language about the mix of businesses.
 - *Staff prepared the following modified language for consideration with a new sentence shown underlined:*
The Town of Los Gatos is a welcoming, family-oriented, and safe community nestled in the beautiful foothills of the Santa Cruz Mountains. The Town takes pride in its small-town character, historic neighborhoods, local culture and arts, excellent schools, and a lively and accessible downtown. The Town is pedestrian friendly and offers a choice of mobility options, housing opportunities, and superior public facilities and services, governed by an open and responsive local government that is fiscally sound. The Town includes a mix of businesses throughout Town that serve all residents, workers, and visitors. A dynamic and thriving community, Los Gatos is committed to racial, social, and environmental justice and underscores its commitment to long-term well-being by embracing sustainability.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

REMARKS (continued):

2. In the Introduction, accept recommendations 1 through 8, except on Page 1-3, in the description of the role of the Town Council replace the word “political” with “elected”;
3. In the Racial, Social, and Environmental Justice Element, accept recommendation 9 for a new Implementation Program;
4. Request review of recommendations 10 through 14, and 42, as well as the whole of the Racial, Social, and Environmental Justice Element and relevant definitions in the Appendix by American Leadership Forum Insights:
 - *Staff recommends revised definitions be used, based on recommendations from American Leadership Forum Insights:*
 - *Equity. Ensures that outcomes in the conditions of well-being are improved for marginalized groups, lifting outcomes for all. Equity is a measure of justice.*
 - *Equality. Is sameness; everyone gets the same thing. Equality focuses on everyone getting the same opportunity, but often ignores the realities of historic exclusion and power differentials among whites and other racialized groups.*
 - *Implicit Bias. Attitudes or stereotypes that affect our understanding, decisions, and actions in an unconscious manner.*
 - *Environmental Justice. The fair treatment of people of all races, cultures, incomes, political and religious affiliation, and national origins with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies including climate adaptation strategies.*
 - *Staff recommends the following definitions be added, based on recommendations from American Leadership Forum Insights:*
 - *Explicit Bias. Conscious attitudes and beliefs about a person or group, also known as overt and intentional bias.*
 - *Social Capital. A concept in social science that involves the potential of individuals to secure benefits and invent solutions to problems through membership in social networks. Social capital revolves around three dimensions: interconnected networks of relationships between individuals and groups (social ties or social participation), levels of trust that characterize these ties, and resources or benefits that are both gained and transferred by virtue of social ties and social participation.*
 - *Staff recommends the following wording modification be made to Planning Commission recommendation 11 to include “economically”, based on recommendations from American Leadership Forum Insights:*
 - *In the Racial, Social, and Environmental Justice Element, modify Policy RSEJ-6.2 to state, “Support leadership development programs for historically marginalized, economically, and socially disadvantaged individuals and groups to enhance effective engagement in Town processes.”*
5. In the Mobility Element, accept recommendations 15 through 17;
6. In the Mobility Element, correct reference to bike lanes on Shannon Road;

REMARKS (continued):

- *Town Council approved Class II Bike Lanes with a buffer on Shannon Road. Council did state that if there is an opportunity to install barriers in the future for Class IV bike lanes, staff should consider working with the residents.*
7. In the Mobility Element, request modified language for Policy MOB-11.3 to leave room for improvements to efficiency and safety;
 - *After further consultation with the Parks and Public Works Department, staff recommends that Policy MOB-11.3 be retained as showing in the Draft 2040 General Plan without further modifications. The Town may implement or support improvements intended for efficiency or safety on this segment of SR 17 that are consistent with this policy.*
 8. In the Public Facilities, Services, and Infrastructure Element, accept recommendations 18 through 22;
 9. In the Open Space, Parks, and Recreation Element, accept recommendations 23 through 25.
 10. In the Environment and Sustainability Element, accept recommendations 26 through 38, with additional staff review of recommendation 39 for improved wording;
 - *Staff prepared the following modified language for consideration with deletions shown in ~~striketrough~~ and additions shown underlined. Staff further recommends that additional modifications be considered for more specific language once the current work on land acknowledgement has been completed.*
 - Policy ENV-13.8, "Support a community sense of stewardship for historic and cultural resources through supporting talks, tours, and other programs that increase awareness and promote Los Gatos as a destination with historic cultural resources and through including Indigenous Ohlone ~~Ohlone~~ People in the conversation and planning."
 - Section 8.8, "Los Gatos is in an area once occupied by Indigenous Ohlone ~~(or Costanoan)~~ ~~People~~, which extends from the point where the San Joaquin and Sacramento rivers flow into the San Francisco Bay to Point Sur, with the interior Coastal Ranges most likely constituting the inland boundary. Before colonization, Indigenous People Ohlone ~~Ohlone~~ lived in base camps of tule reed houses and seasonal specialized camps. Indigenous People Ohlone ~~Ohlone~~ ate food gained by hunting, gathering, and fishing. Mussels were particularly important to their diet, as well as sea mammals and acorns.

Seven Franciscan missions were built in Indigenous People's Ohlone ~~Ohlone~~ territory in the late 1700s, and all Indigenous People ~~members of the Ohlone group~~ were eventually forced into the mission system. After the establishment of the missions, the ~~Ohlone~~ population of Indigenous People of this area was decimated from roughly 10,000 people in 1770 to 1,300 in 1814. In 1973, the population of Indigenous People of

REMARKS (continued):

- ~~this area people with Ohlone descent~~ was estimated at fewer than 300 after what is widely cited as a genocide. The descendants of the Indigenous People of this area ~~Ohlone~~ united in 1971 and have since arranged political and cultural organizations to revitalize, maintain, and pass on their culture.”
- *Staff recommends an additional Implementation Program in the Racial, Social, and Environmental Justice Element to review and update language used in the Environment and Sustainability Element in regards to Indigenous People to be consistent with the Town’s work on a land acknowledgement.*
11. In the Environment and Sustainability Element, modify Policy 10.1 to include a bullet point to encourage a reduction in packaging and microplastics getting into the environment;
 - *Staff prepared the following language for consideration: “Promote and implement programs that reduce packaging and microplastics that get into the environment;”*
 12. In the Environment and Sustainability Element, modify Implementation Program NN to include “storage”;
 - *Staff recommends the following modified language, “Incentivize installation of roof-top solar and onsite energy storage on all new construction, including parking facilities, using the latest in green building technology.”*
 13. In the Hazards and Safety Element, accept recommendations 40 and 41;
 14. In the Land Use Element, accept recommendations 43 through 46;
 15. Replace the term “missing middle housing” with “small multi-unit housing”;
 16. Study the implications of reverting Low Density Residential to 0-5 dwelling units per acre, with the exception of those properties within the Community Place Districts;
 - *Additional discussion below.*
 17. Replace the term “Community Place Districts” with “Community Growth Districts”;
 18. In the Land Use Element, delete Policy LU-1.3;
 19. In the Land Use Element, study alternative language for Goal LU-5 to incorporate the concepts and/or language from Goal LU-1 of the 2020 General Plan;
 - *Staff prepared the following modified language for consideration with deletions shown in ~~strikethrough~~ and additions shown underlined: “Goal LU-5: Maintain, cherish, and enhance the Town’s a sense of place and small-town character in residential neighborhoods to meet the required housing needs, while expanding housing opportunities for a diverse population.”*
 20. In the Land Use Element, in Goal LU-2, replace the word “urban” with the word “community”;
 21. Replace “urban services” with “municipal services”;
 - *Staff recommends that this change exclude the use of the term of art: “Urban Service Area” as this is an area established by Santa Clara County LAFCO.*
 22. In the Community Design Element, accept recommendations 47 through 52, with modified wording to recommendation 49 to replace “and” with “or”;

REMARKS (continued):

The meeting included an initial discussion of housing density limits and the development table, and the Town Council continued that discussion, along with discussion of the Final Environmental Impact Report (EIR) to June 30, 2022. Additional information on these topics is included in the sections below.

HOUSING BUILDOUT DISCUSSION:

A. Reduction in Densities in the Low Density Residential Designation

One motion by the Council was a request that staff and the consultant study the possibility of reverting Low Density Residential to 0 to 5 dwelling units per acre (du/ac), with the exception of those Low Density Residential properties within the Community Place Districts (now called Community Growth Districts) which could have a “Low-Medium” Density Residential designation of 0 to 10 du/ac.

Los Gatos currently has approximately 1,800 acres of land designated for Low Density Residential, of which just over 150 acres (or eight percent) are located in the Community Growth Districts. If the maximum allowed density in all Low Density Residential was reduced outside of the Community Growth Districts, the Town could expect an estimated 90 percent reduction in potential units within the Low Density Residential designation from the Draft 2040 General Plan. Because of the small portion of the Town’s Low Density Residential parcels that are located within the Community Growth Districts, it is estimated that this change would reduce the projected housing production from the Planning Commission recommendation by approximately 181 units. If the Council chooses to apply the 0 to 5 du/ac density to all Low Density Residential properties Town-wide, the development capacity would be reduced by 198 total units, which is only a 17-unit difference from the progress motion.

While it is feasible to implement a new Low-Medium Density Residential (0 to 10 du/ac) land use designation, or an overlay zone for those Low Density Residential properties within the Community Growth Districts, this technique was considered, and not selected because of concerns expressed by the General Plan Update Advisory Committee in regards to the complexity and potential confusion that would result.

In addition, the Council discussed and did not make a progress motion on a potential quarter-mile buffer around each Community Growth District which could change existing Low Density Residential parcels to the Low-Medium Density Residential (0 to 10 du/ac) designation. While it is appreciated that the Council is considering appropriate places for increases in density, the unique neighborhood circumstances surrounding each Community Growth District would require extensive analysis to determine logical boundaries associated

HOUSING BUILDOUT DISCUSSION (continued):

with a quarter-mile criterion, identify specific properties to be included, and then run a full calculation of redevelopment potential of those parcels. The work involved in this analysis is not feasible at this time. Staff recommends that the Council not pursue this option.

If Council decides to proceed with a reduction in the Low Density Residential designation to the levels in the 2020 General Plan (0 to 5 du/ac) Town-wide in combination with the Planning Commission recommended modifications to the other residential designations and their densities in the Land Use Element, the General Plan Residential Buildout table (Table 3-1 on page 3-4 of the Draft 2040 General Plan, available: www.losgatos2040.com) would be modified as follows:

| Land Use Designation | | Density Range (du/ac) | Typical Density (du/ac) | Assumed Redevelopment | New Housing (Vacant Land) | New Housing (Redevelopment) |
|--|----------------------------|-----------------------|-------------------------|-----------------------|---------------------------|-----------------------------|
| LDR | Low Density Residential | 0 to 5 | 4 | 5% | 75 | 13 |
| MDR | Medium Density Residential | 14 to 22 | 18 | 10% | 201 | 302 |
| HDR | High Density Residential | 30 to 40 | 36 | 15% | 110 | 268 |
| NC | Neighborhood Commercial | 10 to 20 | 18 | 10% | 26 | 91 |
| CC | Community Commercial | 20 to 30 | 26 | 15% | 0 | 156 |
| MU | Mixed-Use | 30 to 40 | 36 | 20% | 126 | 605 |
| CBD | Central Business District | 20 to 30 | 26 | 15% | 21 | 113 |
| Subtotal | | | | | 559 | 1,548 |
| Housing Units, New and Redeveloped | | | | | | 2,107 |
| Housing Units, ADUs | | | | | | 500 |
| Housing Units, Existing Projects | | | | | | 475 |
| TOTAL NEW THROUGH 2040 | | | | | | 3,082 |
| TOTAL NEW THROUGH HOUSING ELEMENT CYCLE (2031), excluding 300 ADUs and 400 Pipeline Project Units | | | | | | 2,382 |

An additional line was added to the table above to exclude the 300 ADUs that would be projected to be built after the eight-year Housing Element cycle (25 units per year) and the 400 units from Pipeline Projects that are expected to receive building permits before the Housing Element update is approved, and therefore would not be counted toward the 6th cycle Regional Housing Needs Allocation (RHNA) allocation.

HOUSING BUILDOUT DISCUSSION (continued):

B. Additional Options for Residential Densities Reductions

A request from a Town Council Member during the discussion was for additional information on what additional modifications could be made to bring the total number at the bottom of the Residential Building Table 3-1 of the Draft 2040 General Plan to 1,993 units (Regional Housing Need Allocation) plus a 15 percent buffer (2,292 total units). The following list of potential reductions was provided to Planning Commission for its consideration.

- Revert Low Density Housing designation housing density back to the existing 2020 General Plan level: 279 units from the Draft 2040 General Plan and 198 units from the Planning Commission recommendation as discussed above;
- Revert Medium Density Housing designation housing density back to the existing 2020 General Plan level: 327 units from the Draft 2040 General Plan and 263 units from the Planning Commission recommendation;
- Remove housing from Office and Service Commercial designations: 313 units from the Draft 2040 General Plan and 0 units from the Planning Commission recommendation as this was included in the Planning Commission recommendation;
- Revert properties in the new Community Commercial designation back to Neighborhood Commercial: 58 units from the Draft 2040 General Plan and from the Planning Commission recommendation (not included in Planning Commission recommendation);
- Reduce the allowed density in the Mixed-Use designation from 40 dwelling units per acre to 30 dwelling units per acre: 255 units from the Draft 2040 General Plan and from the Planning Commission recommendation (not included in Planning Commission recommendation);
- Reduce the allowed density in the High Density Residential designation from 40 dwelling units per acre to 30 dwelling units per acre: 111 units from the Draft 2040 General Plan and from the Planning Commission recommendation (not included in Planning Commission recommendation); or
- Revert properties in the new Central Business District designation back to housing density allowed in the existing 2020 General Plan: 76 units from the Draft 2040 General Plan and from the Planning Commission recommendation (not included in Planning Commission recommendation).

If Town Council were to proceed with all of the above reductions, then the Total NEW at the bottom of Table 3-1 would be revised to be reduced by 1,419 units, to be 2,319 units. This would be only 27 units over the target 2,292 units through the year 2040 or 1,619 units through 2031.

HOUSING BUILDOUT DISCUSSION (continued):

| | |
|--|--------------|
| Housing Units, New and Redeveloped | 1,344 |
| Housing Units, ADUs | 500 |
| Housing Units, Existing Projects | 475 |
| TOTAL NEW THROUGH 2040 | 2,319 |
| TOTAL NEW THROUGH THE HOUSING ELEMENT CYCLE (2031), excluding 300 ADUs and 400 Pipeline Project Units | 1,619 |

As further discussed below, staff recommends that the Commercial, Mixed-Use, and High Density Residential designations be maintained at the levels included in the Draft 2040 General Plan, to not significantly affect the Housing Element update process.

C. Critical Designations for Housing Element

The Tier 1 sites included in the Housing Element Draft Site Inventory approved by Town Council on June 7, 2022, included sites in the Central Business District, Neighborhood Commercial, Community Commercial, Mixed-Use Commercial, North Forty Specific Plan, Low Density Residential, Medium Density Residential, and High Density Residential designations. In addition, there are sites in the Community Commercial and Office Professional designations that are currently listed as Tier 2, and may be added to the Site Inventory if needed. Based on the Site Inventory, the Commercial, Mixed-Use, and High Density Residential designations are the most critical to planning the housing required for the Regional Housing Need Allocation (RHNA).

D. Redevelopment Assumptions

The General Plan Residential Buildout Table includes an assumed redevelopment for those properties that are not vacant. This assumed redevelopment is not 100 percent for every developed property as it is highly unlikely that every property owner would be interested in demolishing existing buildings and constructing new. Instead, a reasonably foreseeable assumption is between 5 and 20 percent. The assumed redevelopment was lower where the planned density was low, and higher where planned density was higher because a greater density and greater height is more likely to incentivize redevelopment. These calculations were guided by an economist who was part of the General Plan consultant team. The economist provided the information regarding redevelopment potential as contained in the Alternatives Analysis Report, based on their expertise and familiarity with redevelopment and growth throughout the Bay Area, including Santa Clara County.

E. Properties in the Wildland Urban Interface

Attachment 27 is a map showing the parcels and associated land use designations that are included in the Wildland Urban Interface (WUI) beyond the Hillside land use destinations.

HOUSING BUILDOUT DISCUSSION (continued):

The Council's progress motion to reduce Low Density Residential to the 2020 levels would address a substantial portion of the area of concern raised in public testimony.

F. Senate Bill (SB) 330 and Downzoning

At the June 20, 2022 Town Council meeting, Councilmember Hudes asked whether Senate Bill 330, which amended a number of Government Code sections, precludes the Town from reducing allowable density on property in the future if the Town finds that the densities proposed in the General Plan need adjustment in the future. Government Code Section 66300(b) precludes a local agency from "changing the general plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan designation, specific plan land use designation, or zoning district in effect at the time of the proposed change, below what was allowed under the land use designation or zoning ordinances . . . in effect on January 1, 2018, except as otherwise provided. . . ." In other words, the Town Council could elect to reduce densities in the future so long as allowed densities remained at or above January 1, 2018, levels.

ENVIRONMENTAL ASSESSMENT:

Attachment 26 itemizes additional information, clarification, and correction of typos in response to two private letters in the Final Environmental Impact Report (EIR). Some of these clarifications resulted in revisions to the Draft EIR as noted in the Attachment. Under the California Environmental Quality Act, modifications to responses to non-agency comment letters do not require recirculation of the Final EIR (CEQA Guidelines Section 15088.) The Final EIR has been updated online to include all revisions at: www.logatos2040.com

Because the modified housing densities currently under consideration by the Town Council are within the development projections considered in the EIR for the Draft 2040 General Plan and alternatives, no additional modifications or analysis would be required for certification of the EIR and adoption of the 2040 General Plan. In other words, reducing the development capacity in the 2040 General Plan is covered by the Final EIR.

PUBLIC COMMENT:

Attachment 28 includes additional public comments received between 11:01 a.m., Monday, June 20, 2022, and 11:00 a.m., Tuesday, June 28, 2022.

ATTACHMENTS:

Attachments previously received under separate cover:

(available online here: <http://losgatos2040.com/documents.html>)

1. Draft 2040 General Plan
2. Draft EIR
3. Revised NOA and Transportation Section
4. Final EIR

Attachments previously received with June 20, 2022 Staff Report:

5. Draft Resolution Certifying the EIR for the 2040 General Plan, with Exhibit A Draft Findings of Fact and Statement of Overriding Considerations
6. Draft Resolution Approving the 2040 General Plan
7. Planning Commission Recommendation
8. April 13, 2022 Planning Commission Staff Report, with Exhibits 5-10
9. April 13, 2022 Planning Commission Addendum Report, with Exhibit 11
10. April 13, 2022 Planning Commission Desk Item Report, with Exhibits 12-13
11. April 13, 2022 Planning Commission Verbatim Minutes
12. April 25, 2022 Planning Commission Staff Report, with Exhibits 14-15
13. April 25, 2022 Planning Commission Desk Item Report, with Exhibits 16
14. April 25, 2022 Planning Commission Verbatim Minutes
15. April 27, 2022 Planning Commission Desk Item Report, with Exhibits 17
16. April 27, 2022 Planning Commission Verbatim Minutes
17. May 2, 2022 Planning Commission Staff Report
18. May 2, 2022 Planning Commission Desk Item Report, with Exhibits 18
19. May 2, 2022 Planning Commission Verbatim Minutes
20. Planning Commission Recommendation Informational Memo
21. Study Session Questions and Responses
22. Breaking it Down Series
23. Public Comment received between 11:01 a.m., Monday, May 2, 2022, and 11:00 a.m., Wednesday, June 15, 2022

Attachments previously received with June 20, 2022 Desk Item:

24. Council Member Comments
25. Public Comment received between 11:01 a.m., Wednesday, June 15, 2022, and 11:00 a.m., Monday, June 20, 2022

Attachments with this Staff Report:

26. Summary of Final EIR Edits
27. Map of non-hillside properties in the WUI
28. Public Comment received between 11:01 a.m., Monday, June 20, 2022, and 11:00 a.m., Tuesday, June 28, 2022



2040 General Plan

Final Environmental Impact Report Addenda and Errata for Town Council

SCH# 2020070175

prepared by

Town of Los Gatos

Planning Division, Department of Community Development

110 East Main Street

Los Gatos, California 95030

Contact: Jennifer Armer, Planning Manager

prepared with the assistance of

Rincon Consultants, Inc.

449 15th Street, Suite 303

Oakland, California 94612

June 2022

Final EIR Addenda and Errata

The Draft 2040 General Plan and associated Final Environmental Impact Report (EIR) were presented to the Planning Commission over a series of three hearings. On May 2, 2022, which was the third and final hearing, the Planning Commission recommended approval of the Draft 2040 General Plan and certification of the Final EIR. Following this recommendation, the Town's Planning Department provided the Final EIR to outside legal counsel for a final review before bringing the Final EIR in front of the Town Council for a decision on certification. Outside legal counsel provided the Town with a series of comments or edits to the content of the Final EIR. The majority of the comments or edits pertained to minor clarifications, such as revising text that contained typographical errors. However, some of the comments pertained to minor clarifications in the Response to Comments section of the Final EIR and required some additional text to be added to the Final EIR. The added text is provided only to elaborate on content already contained in the Final EIR that was presented to the Planning Commission in April and May 2022 and did not substantially change any of the responses or alter any of the content related to impact findings. Below is a complete summary of the edits or revisions to the Final EIR that the Town Planning Department made in response to the outside legal comments. Edits in the Final EIR that were made in June 2022 Final EIR compared to the Final EIR prepared in March 2022 are listed below and shown in ~~strikeout~~ and underline. These updated responses resulted in a few additional revisions to the Draft EIR, that are noted within this document and reflected in the June 2022 Final EIR.

1. Revisions to Response to Comment

1.1 Comment Letter 9

1. **RESPONSE 9.5:** Third paragraph was revised to read,

"The Draft EIR, itself, does not propose a development or redevelopment scenario for Los Gatos. Rather, the Draft EIR evaluates impacts that would or could be reasonably expected to result from implementation of the 2040 General Plan. As described in Response 9.2, above, the Draft EIR assumes the General Plan is a planning and guidance document and uses the potential growth the Town is likely to achieve by the year 2040 as its baseline for analysis of potential impacts. As previously stated, this takes into account both the potential for new development on available acreage and the potential for redevelopment of existing developed areas. The projected 3,738 dwelling units evaluated in the Draft EIR is not a hypothetical number but takes into consideration multiple factors, focusing on the total buildout for the Town and not just a 20-year horizon. These factors include, first, existing vacant land for development and the redevelopment of sites within the Town. This first segment totals 2,763 dwelling units as noted on page 3-4 in the Land Use Element of the Draft 2040 General Plan. The second factor includes a projected 500 dwellings that reflect ADU production. This project was calculated based on the historical average ADU production in the Town of 25 ADUs per year, projected through the next 20 years, totaling 500. The third and final factor taken into consideration is the 475 dwelling units already approved but not yet constructed for existing projects. It is important to note that the 475 dwelling units are already pre-approved and are in the pipeline for construction but most, if not all, will not count toward the Town's 6th Cycle RHNA and Housing Element based on

cut-off dates for the application and entitlement process for these projects. For this reason they are included in the reasonably foreseeable potential growth number.”

2. **RESPONSE 9.7:** Third paragraph, last sentence was revised to read, “. . . the use of the higher number ensures that a reasonably foreseeable ‘worst-case-scenario’ has been used in assessing potential significant impacts.
3. **RESPONSE 9.12:** Second paragraph, last sentence was revised to read, “It is upon the expectation and requirement that future proposed development be consistent with these policies that the less-than-significant determination is based.”
4. **RESPONSE 9.13:** Third paragraph, last sentence was revised to read, “The commenter does not provide any indication that failure to specifically discuss the two policies was related to any environmental significant impact. Additionally, future development proposals would be reviewed for consistency with these policies.”
5. **RESPONSE 9.19:** Third paragraph was revised to read, “According to the 2017 BAAQMD *CEQA Air Quality Guidelines*, and as described on page 4.3-15 of the Draft EIR, PM10 is the greatest pollutant of concern during construction activities. For this reason, the BAAQMD has identified feasible fugitive dust control measures for construction activities that are recommended for all projects to reduce impacts. Future development projects would include adherence to the BAAQMD’s feasible fugitive dust control measures, which the BAAQMD also refers to as best management practices. If implementation of the BAAQMD best management practices is unable to reduce project-level construction emissions to below BAAQMD significance thresholds, the project would be subject to a more comprehensive analysis and consideration of additional feasible mitigation to address the significant impact, as required by CEQA. Additionally, the BAAQMD ~~These measures~~ best management practices have been incorporated into the Draft EIR as mitigation measure AQ-1 on page 4.3-16 of the Draft EIR. Mitigation measure AQ-1 also requires new discretionary projects to reduce construction emissions of pollutants, including reactive organic gas pollution and other pollutants with a project-level threshold but no plan-level threshold. Accordingly, as described on page 4.3-16 of the Draft EIR, with implementation of mitigation measure AQ-1, construction activities would result in less than significant impacts. No revisions to the Draft EIR are required in response to this comment.”
6. **RESPONSE 9.21:** Third paragraph, first sentence was revised to read, “Generally, urban land does not provide habitat for special-status species...”
7. **RESPONSE 9.24:** First paragraph, third sentence was revised to read, “Finally, the commenter states that tribal cultural resources are not required to be identified prior to groundbreaking activities...”

8. **RESPONSE 9.40:** Last paragraph, second to last sentence was revised to read, “Section 5, Errata, includes additional edits to General Plan goal and policies numbers included in the Draft EIR and cited in the commenter’s footnote.”

9. **RESPONSE 9.51:** First paragraph, last sentence was revised to read, “The commenter asserts that this conclusion conflicts with, and is not supported by, substantial evidence in the record.”

10. **RESPONSE 9.54:** The response was revised to read,
“The commenter states that the Draft EIR’s ~~cites~~ a vehicle trip increase that does not appear in the Transportation Analysis and ~~reliance~~ that reliance on the projected increase in the number of trips to determine noise increases is misplaced, citing CEQA Guidelines section 15130 and Kings County Farm Bureau. The commenter states that the Draft EIR’s ~~reliance~~ relies on a ratio theory to justify its less than significant impact conclusions in violation of CEQA. The commenter does not explain what it means by “ratio theory.” In a footnote, the commenter states that the Draft EIR refers to the Transportation Analysis as Appendix TRA, but the Transportation Analysis is actually provided as Appendix C.

Page 4.12-14 of the Draft EIR states that “buildout of the 2040 General Plan would result in over 27,000 new daily vehicle trips on area roadways studied for the Transportation Analysis (Appendix C)...” The commenter is correct that “27,000” does not specifically appear in the Transportation Analysis. The Transportation Analysis does not provide a total trip increase that would result from buildout of the proposed 2040 General Plan. Instead, the Transportation Analysis provides existing vehicle trips on specific roadway segments in Los Gatos and the vehicle trips that would occur on these same segments in 2040 with buildout of the 2040 General Plan. The trips expected on individual roadway segments is presented in Table 7-1 on page 66 of the final Transportation Analysis (Draft EIR Appendix C). The “over 27,000 trips” cited on page 4.12-14 of the Draft EIR is based on the sum of vehicle trips that would occur on these roadway segments in 2040 and is an approximate estimate. In other words, in order to quantify an approximate number of trips in total for the Draft EIR, the new trips on each roadway segment in Table 7-1 of the Transportation Analysis were added together, and the resultant sum is slightly more than 27,000 total trips.

From the citations and statement, it appears the commenter is attempting to argue that the Draft EIR does not take into consideration all potential noise impacts or analyze noise impacts based upon the increased number of anticipated traffic. In *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 723 (*Kings County Farm Bureau*), the court held that, in considering whether an EIR must include related projects. (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 869). Here, the Draft EIR does take into consideration all proposed and approved projects, as well as potential growth of the Town and region (as reflected in the VTA traffic model) in order to ~~determination~~ determine potential noise levels. See comment 9.55 regarding cumulative impacts. Neither Guidelines section 15130 nor *Kings County Farm Bureau* refute this.

Instead, the Draft EIR specifically looks at the potential traffic increase in light of the General Plan policies, stating:

Buildout of the 2040 General Plan would result in over 27,000 new daily vehicle trips on area roadways studied for the Transportation Analysis (Appendix C), as well as increased VMT (refer to Section 4.15, *Transportation*). The total existing daily trips occurring on area roadways are 279,700 trips. Therefore, implementation of the 2040 General Plan would result in less than an approximately 10 percent increase in vehicle trips on area roadways as a whole. A 40 percent increase in trips equates to a noise increase of less than 1.2 decibels. As discussed in Section 4.12.1, a 3-dBA increase is considered noticeable. Therefore, 1.2-dBA increase in noise would not be perceptible. Although the increase could be more than 10 percent on some streets, depending on the specific uses and locations of development that would be allowed under the 2040 General Plan, a doubling of traffic volumes would be required to reach the threshold of noticeability (a 3-dba increase in noise levels). A doubling of traffic volumes (i.e., a 100 percent increase) is not anticipated under the 2040 General Plan. Additionally, the market share of electric vehicles, which are quieter than traditional gasoline vehicles, is anticipated to increase over time, especially in response to Executive Order B-48-18, which promotes the use of zero-emission vehicles, electric vehicle charging stations, and hydrogen refueling infrastructure. The increased use of electric vehicles would decrease traffic noise compared to anticipated levels assuming only gasoline-powered vehicles. However, electric vehicles do generate some roadway noise because of tire friction on the road surface (Draft EIR page 4.12-14).

The commenter's assertion that minor increases in vehicle trips could result in significant impacts if the existing noise levels on the roadway or roadways is already excessive is incorrect. As described on page 4.12-14 of the Draft EIR, although the General Plan could increase vehicle trips by more than 10 percent on some streets, depending on the specific uses and locations of development that would be allowed under the 2040 General Plan, a doubling of traffic volumes would be required to reach the threshold of noticeability (a 3-dba increase in noise levels). A doubling of traffic volumes (i.e., a 100 percent increase) is not anticipated under the 2040 General Plan. Therefore, even on the busiest and therefore noisiest roadways in or through Los Gatos, the General Plan would not result in a noticeable increase in noise level.

The commenter is correct that page 4.12-9 mistakenly refers to the Transportation Analysis as Appendix TRA to the Draft EIR. The Transportation Analysis is provided as Appendix C to the Draft EIR. Accordingly, page 4.12-9 of the Draft EIR is revised as follows:

Projected traffic volumes in the year 2040, provided by Fehr & Peers, were used to qualitatively describe future noise levels resulting from project traffic. The traffic impact analysis prepared by Fehr & Peers is provided as Appendix C Appendix TRA.

The nomenclature used to identify the appendices to the Draft EIR are inconsequential to the EIR analysis because nomenclature does not affect the contents or availability of the appendices. Additionally, the Draft EIR makes clear that the Transportation Analysis is provided

as Appendix C. For example, the Table of Contents to the Draft EIR identifies each appendix to the document, including identifying the Transportation Analysis as Appendix C (see Draft EIR page viii) and all appendices were made available for public review along with the Draft EIR. Because the 2040 General Plan would not result in a noticeable increase in noise level on even the busiest streets in Los Gatos, Accordingly, no other revisions to the Draft EIR are necessary in response to this comment."

11. **RESPONSE 9.56:** The response was revised to read,

"The commenter once again states that the Draft EIR is invalid because it fails to consider the maximum build-out potential of the General Plan, rather than the assumed 3,738 housing units. The commenter then goes on to state that the analyzed housing units of 3,738 is well above the ABAG population growth forecasts by nearly 30 percent. The commenter also states in a footnote that the Draft EIR incorrectly refers to City of Beverly Hills on page 5-1 and fails to describe a significant and unavoidable VMT impact in Section 5.2, *Irreversible Environmental Effects*.

As noted and explained in detail in Response 9.2, use of projected growth rather than maximum potential buildout is supported by CEQA and has been affirmed by the Courts. (*San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, 616, 622). Furthermore, as noted on page 4.13-6 of the Draft EIR, ABAG is in the process of adopting an updated regional Plan Bay Area 2050, which will contain the sixth cycle housing requirements and new population estimates for the region. Draft housing allocations are approximately 1,993 units as of the writing of this report. If they were all built and occupied by new residents, this would result in a population increase of 4,800 new residents, for a total Town population of 37,850. This is approximately 13 percent more than the 2040 population estimates and more in line with the model used and described in detail in Response 9.2.

Therefore, no revisions to the Draft EIR are necessary in response to this portion of the comment.

The commenter is correct that the page 5-1 of the Draft EIR incorrectly refers to the City of Beverly Hills. Accordingly, page 5-1 of the Draft EIR is revised as follows:

The proposed project would not be expected to induce substantial economic expansion to the extent that direct physical environmental effects would result. Moreover, the environmental effects associated with any future development in or around Los Gatos Beverly Hills would be addressed as part of the CEQA environmental review for such development projects.

The commenter is correct that ~~implementation~~ of the 2040 General Plan would result in a significant and unavoidable impact related to VMT, as described on page 4.15-23 of the Draft EIR. However, the commenter's opinion that Section 5.2, *Irreversible Environmental Effects*, of the Draft EIR fails to describe this significant and unavoidable impact is not correct. As

described on page 5-2 of the Draft EIR, Section 15126(c) of the CEQA Guidelines requires that EIRs evaluating projects involving amendments to public plans, ordinances, or policies contain a discussion of significant irreversible environmental changes. Unlike some impacts such as energy consumption, increased VMT is reversible. For example, VMT and its impacts could be reduced by increased access to transit in the future, thereby reversing VMT impacts identified in the Draft EIR. Section 5.1 of the Draft EIR pertains specifically to *irreversible* impacts, and because VMT can be reversed with infrastructure investments at the regional or state level, the significant and unavoidable VMT impact of the 2040 General Plan is not irreversible. Accordingly, no other revisions to the Draft EIR are necessary in response to this comment.”

12. **RESPONSE 9.60:** First sentence was revised to read, “The commenter contends that the Draft EIR should analyze impacts associated with potential fire and police facilities and that by failing to do so, the Town has illegally deferred required analysis ~~is deferral of mitigation.~~”

13. **RESPONSE 9.62:** The bulleted list and succeeding paragraph were revised to read,

- **“Incorporate neighborhood electric vehicle network.** (This strategy is considered infeasible because the Town cannot propose or force the installation of electric vehicle charging stations on private property, such as at residences or within existing shopping centers).
- **Implement or provide access to a commute reduction program.** (This strategy is considered infeasible because the Town is legally unable to require private employers and businesses to reduce worker commutes and has no ability to enforce use of a commute reduction program by individuals to ensure its effectiveness).
- **Provide transit passes.** (This strategy is considered infeasible because the Town has no approved funding mechanism for providing transit passes to residents or people working in Los Gatos and no means of verification that such passes would be used if issued).
- **Providing a guaranteed ride home service to users of non-auto modes.** (This strategy is considered infeasible because the Town has no transit system that it operates, such as taxi service or an approved funding mechanism for such services. Further, there is no way to measure the effectiveness or guaranteed use of such service).

However, OPR’s reduction strategies are not a requirement for a project to reduce VMT and this list is not exhaustive. Instead, this list is meant to guide lead agencies on potential strategies that could be utilized. Further, the effectiveness of any such strategies is dependent upon the community preferences, the likelihood of successful application of the strategies by users, and ability of the Town to implement the necessary mechanisms and funding. Therefore, it is not necessary to include each measure as part of the proposed project.”

14. **RESPONSE 9.64:** Second-to-last paragraph, was revised to read, “Finally, the case law referenced in this comment ~~is for concerned~~ project level EIRs which had components provisions that did not conform to the lead agencies’ general plans. Conformance with ~~the a~~ General Plan is a statutory requirement which requires General Plan amendments if the project cannot be changed and the agency decision-makers want to approve it. In this case, the EIR is a program level EIR document that ~~is analyzing~~ analyzes the proposed 2040 General Plan. If the

2040 General Plan is approved, any future projects would need to conform to the 2040 General Plan. Projects and provisions that were approved prior to that time would not need to be reapproved under the new 2040 General Plan policies as suggested by the commenter.”

15. **RESPONSE 9.66:** The second paragraph, second sentence should be revised to read, “However, ~~some one~~ one of the typographical errors does occur as described by the commenter, only in the ~~recirculation~~ recirculated Draft EIR now instead of the Draft EIR.”

16. **RESPONSE 9.77:** The response was revised to read,

“The commenter identifies the four project alternatives and that the alternatives are derived from the 2040 General Plan Land Use Alternatives Report. The commenter also identifies a typographical error in Table 6-1. The commenter also provides a footnote that describes inconsistencies in the Draft EIR pertaining to the 2040 population of Los Gatos...

...The commenter is correct that there are inconsistencies in the 2040 population of Los Gatos within the Draft EIR. Pages 4.13-6 and 5-1 of the Draft EIR both refer to a 2040 population of 42,021 people. Other sections and pages of the Draft EIR, such as pages 2-15, 4.14-24, and 4.16-17 refer to the 2040 population as 39,221 people. The 2040 population estimate of 39,221 is correct and is based the sum of existing population plus the population that would reside in Los Gatos with buildout of the General Plan, as described on pages 2-15 and 2-16 of the Draft EIR. Accordingly, page 4.13-6 of the Draft EIR is revised as follows:

According to the 2040 General Plan Land Use Element, General Plan 2040 implementation may allow up to 3,738 new residential units by 2040 (Table 4.13-3). This additional housing could result in 8,971 new residents by 2040. This would increase the total population to approximately 39,221 42,021 persons, which would be 18.7 percent 27.1 percent above ABAG’s 2040 population forecast of 33,050 (ABAG 2019)

Page 5-1 of the Draft EIR is revised as follows:

As discussed in Section 4.13, *Population and Housing*, the buildout anticipated under the 2040 General Plan could accommodate an estimated 8,971 new residents and 3,738 new dwelling units in Los Gatos. With the estimated growth under the General Plan, Los Gatos would have a 2040 population of approximately 39,221 42,021 residents. This would result in a population that would exceed ABAG growth projections by 18.7 percent 27.1 percent.

The revisions above reduced the severity of impact PH-1 beginning on page 4.13-6 because this impact is a comparison of growth resulting from the project compared to forecasted growth by ABAG, and the correct figure of 39,221 is closer to the ABAG estimate than 42,021. Therefore, no revisions to the Draft EIR are necessary in response to this comment.

17. **RESPONSE 9.79:** The second-to-last paragraph was revised to read,

“With regard to the 2,000-housing-unit objective, this is clearly stated in the Project Description as a ~~focus~~ central or primary objective for the 2040 General Plan: “Among the central objectives of the 2040 General Plan are to achieve the Regional Housing Needs Allocation (RHNA) goal of 2,000 dwelling units developed by the Association of Bay Area Governments.” (Draft EIR page 2-7). The commenter themselves recognized this in their comment 9.8. This housing unit number is taken from the RHNA and is not arbitrarily applied to the alternatives analysis, but rather, is an allocation from a regional planning document used as a ~~baseline~~-primary objective for the overall 2040 General Plan.”

18. **RESPONSE 9.84:** A paragraph was added to the end of the response to read,

“The commenter’s suggestion that the cumulative impacts analysis in the Draft EIR is also flawed because it concludes cumulative impacts are less than significant while also determining if the 2040 General Plan would contribute to the less than significant impact is not correct. Section 15130 of the CEQA Guidelines state that cumulative impacts should be evaluated for significance. “CEQA requires no cumulative impact analysis in the EIR if the combined impact is not significant or the project's incremental contribution to the impact is not cumulatively considerable.” *League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) 75 Cal.App.5th 63, 148 (citing *San Francisco Baykeeper, Inc. v. State Lands Com.* (2015) 242 Cal.App.4th 202, 222; *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 909). If determined significant, the analysis should continue to determine whether the proposed project would contribute to the impact in a way or intensity that is cumulatively considerable. The Draft EIR uses this approach for cumulative impacts determined to be significant. The CEQA Guidelines do not prohibit a lead agency from using the same approach for cumulative impacts that are determined to be less than significant, which is the approach in the Draft EIR. Therefore, the cumulative impacts analysis in the Draft EIR is not flawed, and no revisions to the Draft EIR are necessary in response to this comment.”

19. **RESPONSE 9.85:** A paragraph was added to the end of the response to read,

“The Town decided to recirculate Section 4.15, Transportation, of the Draft EIR in part based on input from members of the public during the public comment period on the Draft EIR and in part based on the fact that, after completion of the Draft EIR, the Town determined that the Transportation Analysis included as Appendix C to the Draft EIR identified a significant and unavoidable impact that was identified as less than significant in the Draft EIR Section 4.15. Specifically, Impact T-1 in Section 4.15 of the Draft EIR, pertaining to conflicts with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities, was identified as a less-than-significant impact requiring no mitigation. The Transportation Analysis prepared for the project and included as Appendix C to the Draft EIR identified a potentially significant and unavoidable impact related to conflicts with transit operations. Section 4.15 of the Draft EIR was also recirculated to evaluate vehicle miles traveled (VMT) using an additional threshold of significance not included in the first circulation of the

Draft EIR. The recirculation also included minor clarifications to Section 4.15, as well, such as correcting typographic errors.”

1.2 Comment Letter 16

1. **RESPONSE 16.7:** The second half of the second paragraph and the last sentence were revised to read, “Therefore, the Draft EIR also evaluates the development of 3,738 residential units. A fraction of the 3,738 residential units could occur in the hillside areas of the Town, but most development would occur outside of the Hillside Residential area due to steep slopes and poor access to the sites to that hinder development. The Draft EIR evaluates impacts of development in the Hillside Residential area, which are more closely related to hazards associated with slopes and wildfire, for example, such as Impact GEO-1 beginning on Draft EIR page 4.7-19 pertaining to landslides.

Because the Draft EIR evaluates the projected buildout of 3,738 units, including the fraction that would occur within hillside areas of Los Gatos (that including the 166 units mentioned by commenter), No revisions to the Draft EIR are necessary in response to this comment.

2. **RESPONSE 16.8:** The last paragraph was revised to read,

“This comment is similar to Comment 16.7. Please see Response 16.7, above. As described therein, no revisions to the Draft EIR are necessary in response to this comment. No revisions to the Draft EIR are required because the analysis considers impacts of hillside development and buildout of 3,738 units, including a fraction that could occur in hillside areas of Los Gatos. If the Town were to decide to downzone properties in the Hillside Residential land use designation areas such that fewer units could be constructed in these areas of Los Gatos, buildout of the 2040 General Plan would be less than 3,738 units. Accordingly, by evaluating buildout of 3,738 units, including some within the hillside areas of Los Gatos, the Draft EIR analysis is conservative, and impacts related to unit count, such as unplanned population growth impacts, would be reduced with downzoning.”

3. **RESPONSE 16.10:** The second and third paragraph were revised to read,

“The General Plan does not provide intersection designs or signal timing, as those are specific to each individual intersection and ~~would occur~~ the necessity of such analysis would be determined on a project level as individual projects are implemented and potentially contribute to increased automobile delay at intersections. At the Town-wide planning level, it is unknown which intersections would have unacceptable transit delay and to what degree these measures would decrease transit travel time because it would be largely dependent on the design of individual development projects and their relationship to intersections and transit routes once future development occurs. Therefore, it is infeasible and speculative to develop site specific or intersection specific mitigation measures to modify intersections with new designs or signal timing at this time because there is no information on whether future projects would affect

particular intersections in a way that contributes to this impact. (See *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, 636–637 [finding the rejection of mitigation was appropriate where the Housing Element EIR considered potential mitigation measures and determined that none of them were feasible to eliminate the project's potential significant impact on transit].)

Additionally, each project will impact intersections uniquely and in some instances, where intersections already operate unacceptably or close to unacceptable for transit, project development could indirectly improve those intersection transit impacts, and therefore mitigation measures may not be necessary. As individual projects requiring discretionary approvals or permits are proposed in Los Gatos, those projects would undergo environmental review, as applicable, pursuant to CEQA. The project-level CEQA analysis for individual projects will consider site-specific impacts, such as impacts to transit operations related to intersection congestion. Project-specific mitigation measures would be imposed to the extent feasible to reduce project-level impacts. For the reasons and examples above, potential roadway operation improvements would be a separate project proposal from the 2040 General Plan and would be subject to their own environmental review at that time. Additionally, the 2040 General Plan has many policies to encourage transit use, including working with VTA to facilitate transit services, encouraging ride-sharing and supporting regional efforts. Beyond the public transit efforts, uses and goals already in place there are no known additional feasible mitigation measures to include.”

4. **RESPONSE 16.11:** The response was revised to read,

“The commenter states that the EIR must describe feasible alternatives which the Recirculated Draft EIR does not and therefore is in violation of CEQA. The commenter also provides a footnote stating that the Executive Summary of the Draft EIR refers to seven Opportunity Areas in General Plan area when there are actually eight Opportunity Areas in the General Plan area.

~~This comment~~The first portion of this comment pertaining to feasible alternatives is similar to Comment 9.76. Please see Response 9.76, above. As described therein, no revisions to the Draft EIR are necessary in response to this portion of the comment.

The commenter’s assertion that there are eight Opportunity Areas in the General Plan area is correct, but the General Plan renamed these areas using the term “Community Place Districts.” Although the commenter is correct about the number of Opportunity Areas (Community Place Districts) in the 2040 General Plan, the commenter is incorrect that the Draft EIR inaccurately describes seven Opportunity Areas. The Executive Summary of the Draft EIR does describe seven Opportunity Areas, but this is correct because pages ES-3 and ES-4 of the Draft EIR are describing the Opportunity Areas studied or developed specifically in the Land Use Alternatives Report, which identifies seven Opportunity Areas and not the eight that were ultimately developed and included in the 2040 General Plan. Accordingly, no other revisions to the Draft EIR are required in response to this comment.

5. **RESPONSE 16.14:** This first paragraph and second bulleted list were revised to read,

“The commenter expresses that the Draft EIR must explain in detail why none of the OPR’s VMT reduction strategies are feasible within the Town. The commenter additionally provides a link to these strategies within OPR’s website. “CEQA does not, however, require discussion of every mitigation measure the agency rejected as infeasible.” (San Diego Citizenry Group v. County of San Diego (2013) 219 Cal.App.4th 1, 15, citing Santa Clarita Organization for Planning the Environment v. City of Santa Clarita (2011) 197 Cal.App.4th 1042, 1054–1056)...

Several of OPR’s potential measures were not included as VMT reduction strategies in the 2040 General Plan or Draft EIR as they were considered infeasible for the purposes of the 2040 General Plan. These include the following (as previously described in Response 9.62):

- **Incorporate neighborhood electric vehicle network.** (This strategy is considered infeasible because the Town cannot propose or force the installation of electric vehicle charging stations on private property, such as at residences or within shopping centers).
- **Implement or provide access to a commute reduction program.** (This strategy is considered infeasible because the Town is legally unable to require private employers and businesses to reduce worker commutes and has no ability to enforce use of a commute reduction program by individuals to ensure its effectiveness).
- **Provide transit passes.** (This strategy is considered infeasible because the Town has no approved funding mechanism for providing transit passes to residents or people working in Los Gatos and no means of verification that such passes would be used if issued).
- **Providing a guaranteed ride home service to users of non-auto modes.** (This strategy is considered infeasible because the Town has no transit system that it operates, such as taxi service or an approved funding mechanism for such services. Further, there is no way to measure the effectiveness or guaranteed use of such service).
- ~~Incorporate neighborhood electric vehicle network;~~
- ~~Implement or provide access to a commute reduction program;~~
- ~~Provide transit passes; and~~
- ~~Providing a guaranteed ride home service to users of non-auto modes.”~~

6. **RESPONSE 16.15:** Second paragraph, second sentence was revised to read, “...the release if of the NOP and Draft EIR.”



Parcels In Very High Fire Hazard Severity Zones, excluding Hillside Residential

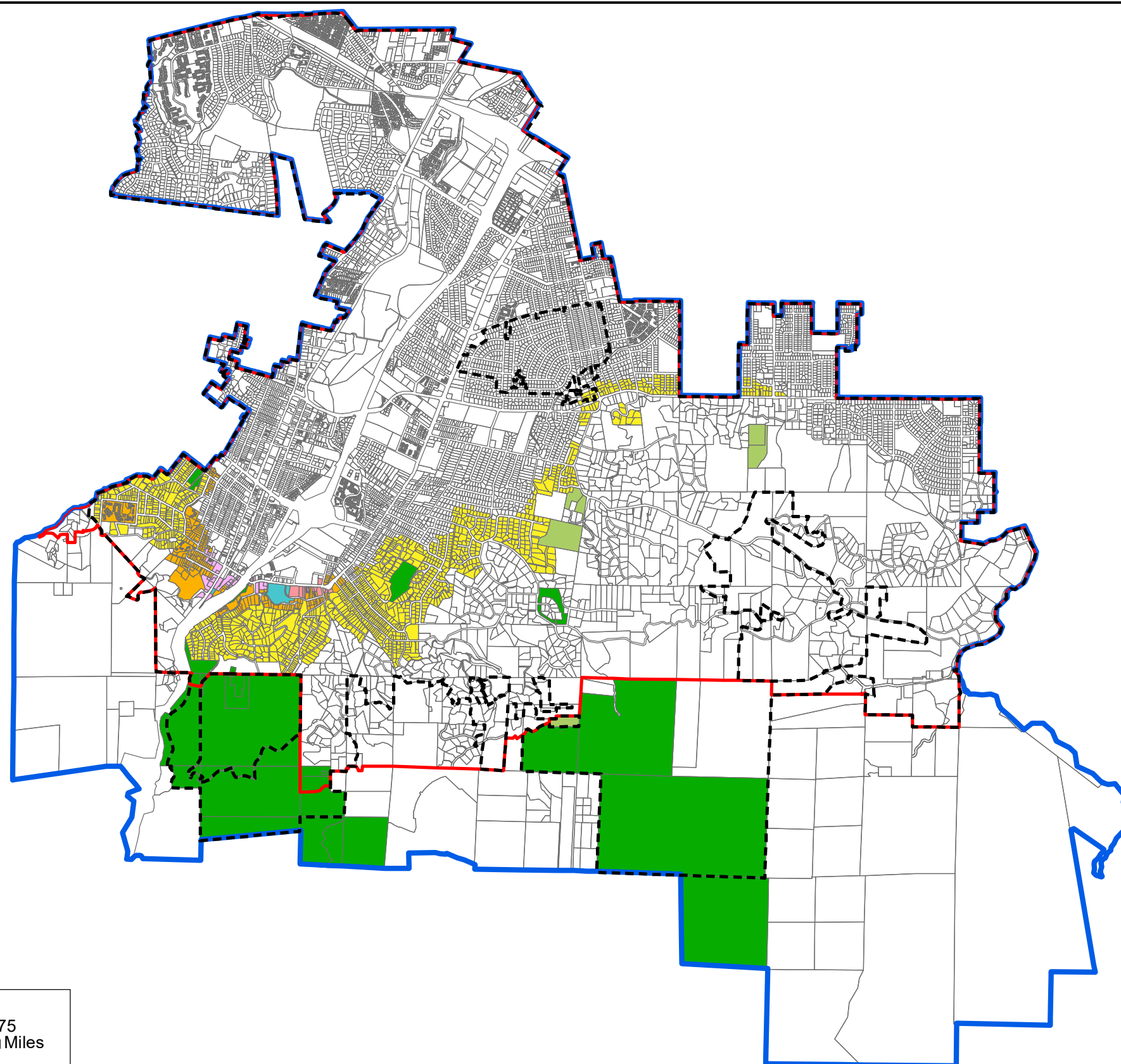
Land Use Designation

- Hillside Residential (HR)
- Low Density Residential (LDR)
- Medium Density Residential (MDR)
- High Density Residential (HDR)
- Mixed Use (MU)
- Neighborhood Commercial (NC)
- Community Commercial (CC)
- Central Business District (CBD)
- Office Professional (OP)
- Service Commercial (SC)
- Light Industrial (LI)
- Public (PUB)
- Open Space (OS)
- Agriculture (AG)
- Albright Specific Plan (A-SP)
- North Forty Specific Plan (NF-SP)

- VTATAZ
- Community Place Districts

Town of Los Gatos

- Town Limit
- Planning Area
- Urban Service Area



***This Page
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From: Karyn Meadows [REDACTED]
Sent: Monday, June 20, 2022 11:23 AM
To: GP2040 <GP2040@losgatosca.gov>
Subject: Comments on the Draft 2040 General Plan

EXTERNAL SENDER

Hello, I wanted to add my comments to the email that Matthew Hudes sent out summarizing the 3 key areas and questions that remain.

1. Should virtually every residential area in Town be "upzoned" into more dense neighborhoods?

My answer to this is NO unless you are talking about only ADU's. Any other upzoning in current residential areas of single family homes will utterly ruin the character and charm that we came here to live in, buy in and invest in. Our local Santa Clara population is decreasing - WHY do you want to triple the RHNA??? It will be absolutely devastating to this very small town.

2. Will services and infrastructure keep pace with the safety and quality of life that our residents expect?

Really cannot see that this happening at all if you try to build so quickly. Especially if you want to grow 70% over RHNA. Again, this will ruin the character of our town.

Should growth be spread over a 20-year period such that services and infrastructure can keep pace, or should all growth be permitted on day-one of the 20 year plan?

It would only make sense for growth to be spread out over the 20 year period. There is no way for safety, services, and quality of life to be preserved if you try to permit all growth on day 1.

On the key questions:

Density on top of Density - we do NOT want that additional upzoned density. It would ruin it for us. It would ruin the open-ness, the character, the entire area. It would just ruin it.

For upzoning properties in high fire danger areas, it really makes no sense to upzone them unless it's to add 1 or 2 homes. We've seen what happens in mtn communities that have wildfires. It's not good!!

Although the GOAL of increased density would be affordable homes, the reality is that MANY, possibly MOST of the lots will be taken by large luxury residences. There are too many developers here and they are not interested in doing affordable homes. **Maybe the regulations should change to support LOCAL buyers and NOT INVESTORS.** That would certainly help the housing stock here without building up and ruining the character of the town.

SB9 SHOULD be counted as part of your housing plan. Period!! It will be for the most part, intended to house, therefore it only makes sense to count it.

Best, Karyn Meadows, Resident

From: Helen Sun [REDACTED]
Sent: Monday, June 20, 2022 2:01 PM
To: GP2040 <GP2040@losgatosca.gov>
Subject: Fwd: Council Will Vote Soon on Housing and General Plan

EXTERNAL SENDER

Dear town council,

Please see my comments shared with council man Hudes below on the expansion plan of 2040. The town has already become more denser/populated over the last few years since we moved here. I am concerned about how the general 2040 plan will change the feel and look of the town and also the burden on the infrastructure of this small town. I would ask the town leaders to sincerely consider preserving the culture of the town and also also not over expanding to the surrounding forest.

Can we find out how the nearby towns are handling this issue, ie. Saratoga, Los Altos, Palo Alto, etc, so that we can all expand wisely and responsibly? Thank you!

Best,

Helen

Begin forwarded message:

From: Helen Sun [REDACTED]
Date: June 18, 2022 at 14:43:39 PDT
To: Matthew Hudes [REDACTED]
Subject: Re: Council Will Vote Soon on Housing and General Plan

Hi Councilman Hudes,

Thanks for sending this to me. Personally, I don't think it makes sense, nor is it realistic to add another 4000 homes to this tiny town. Our infrastructure and already in crisis resources do not support the expansion at this scale and speed. Will that be another school or two added to the district OR our children and teachers will have to suffer with even larger class size and less resources available to them? I really believe this will hurt our town both near and long run. Thanks!

Helen

On Jun 18, 2022, at 14:26, Matthew Hudes [REDACTED] wrote:

Hi Helen,

On Monday night at 7:00 PM the Los Gatos Town Council will consider the Draft 2040 General Plan which includes as many as 3,904 additional homes in Los Gatos. This is an opportunity, before a vote is taken, for your voice to be heard regarding **Housing, Neighborhood Character**, and the **Future of Our Town**.

Town Council

7:00 PM June 20, 2022

<https://losgatosca-gov.zoom.us/j/88004227157?pwd=ZG1pc3pscTZwZXdCWjc2SkM3b2Nzd0>

Passcode: 320795.

In April, the Planning Commission reviewed the Draft 2040 General Plan and made some recommendations to the Council. I have had many conversations with folks around Town, and I am summarizing three key areas and some questions that remain:

- 1. Should virtually every residential area in Town be "upzoned" into more dense neighborhoods?**
- 2. Will services and infrastructure keep pace with the safety and quality of life that our residents expect?**
- 3. How can we preserve the character of our community while guiding the Town into the future?**

As always, please feel free to reach out to me at [REDACTED] and you can send your comments to the Town at gp2040@losgatosca.gov

Thanks for your engagement,

Matthew Hudes
Councilmember, Town of Los Gatos

Key questions:

1. Density on top of Density

Increased density is when additional homes are built in spaces previously zoned for fewer homes. The Draft 2040 General Plan and the Planning Commission Recommendation call for **increased density (also called "upzoning") in virtually every residential area in Los Gatos**. The State's **SB9 mandate also allows for additional density** on top of the upzoning.

- Do we need that additional upzoned density? And can our town handle the associated **impacts of traffic, parking, water-use, and wildfire hazard**?
- Why should any properties be upzoned in **the Very High Fire Hazard Severity Zone**, some of which are on narrow roads with flammable vegetation?
- And what is the goal of this **transformation of Los Gatos neighborhoods**—will increased density result in **affordable housing** or just **many large luxury residences on small lots**?

2. Overall growth

As drafted, the 2040 General Plan, would allow Los Gatos to grow by at least 8,971 people or 28%, which is almost three times greater than the Town's growth rate in the last 20 years. Infrastructure and services will need to keep pace with growth in order **for safety and quality of life to be maintained**. Town-wide upzoning could result in even greater stress on our services and infrastructure,

yet **the fiscal impact of this growth has not been analyzed** in the Draft 2040 General Plan.

- Why would Los Gatos plan for **nearly double the amount that the State is mandating** in its latest Regional Housing Needs Allocation (RHNA)? (California's and Santa Clara County's populations have decreased over the last several years.)

| STATE MANDATE (RHNA) | DRAFT 2040 GENERAL PLAN | PLANNING COMMISSION RECOMMENDATION |
|----------------------|-------------------------|------------------------------------|
| | 3,738+166 Hillside | 3,280+116 Hillside |
| 1,993 | 3,904 | 3,396 |
| | 95% over RHNA | 70% over RHNA |

- Should growth be **spread over a 20-year period such that services and infrastructure can keep pace**, or should **all growth be permitted on day-one of the 20 year plan**? (A 5-year review process has been proposed; however, recent State law (SB330) allows those reviews to **only increase density**, not to decrease density. In other words, should we “Grow as we Go” rather than front-load development?
- Surely SB9 will result in additional housing; however the 2040 General Plan projects zero new units. **Should SB9 housing be counted?**

3. Character

There should be growth, and **affordable housing must be included and encouraged** in our 2040 General Plan.

- How can we provide more housing wisely in order to **preserve the character of the community while guiding the Town into the future?**
- What are **our principles and values** that we can use as a guidepost to carefully select areas for increased development?

At this time, my thoughts are preliminary, and I am open to information provided at upcoming hearings. I will not express a final opinion until the Council votes on these matters. Any expression is by me as an individual, not by the Council.

Matthew Hudes for Town Council · CA 95030, United States

This email was sent to [REDACTED] To stop receiving emails, [click here](#).

▪

From: Jbestill [REDACTED]
Sent: Monday, June 20, 2022 2:35 PM
To: GP2040 <GP2040@losgatosca.gov>
Subject: Housing and General Plan

EXTERNAL SENDER

Council Members and Staff:

I have reviewed the proposed Housing and General Plan. I am very concerned about the large number of homes recommended here, the lack of specificity about the kind and location of the housing and, most importantly, the lack of fiscal analysis this proposed plan entails. This decision can not and should not be made without a clear understanding of the fiscal impact on the current and future revenue and expenses a proposal such as this will have on the Town. A fiscal analysis should have been part of the initial study for this type of proposal. The Council now has the opportunity to call for what should already be part of the Plan. I strongly urge the Council to reject this plan as currently envisioned and call for a fiscal analysis that includes a thorough outline of the type and location of future housing that meets the needs of our community and public.

John (Jack) Estill

Lecturer Emeritus, San Jose State University, Department of Economics

[REDACTED]

Los Gatos, CA 95032

[REDACTED]

From: Tami Shoot [REDACTED]
Sent: Monday, June 20, 2022 6:07 PM
To: GP2040 <GP2040@losgatosca.gov>
Cc: [REDACTED]
Subject: Draft 2040 General Plan pertaining to Housing Density

EXTERNAL SENDER

To Los Gatos Town Council Members,

I am adamantly against the Draft 2040 General Plan for Housing Density increasing housing in the downtown and outlying areas of Los Gatos. As I understand it, this proposal increasing housing by almost 9k people and/or 28%! An increase that is 3x greater than what has occurred over the last 20 years! That is a shameful proposition! This will detrimentally affect our traffic, water supply, peace, safety, property values, charm and the very heart and soul of beautiful Los Gatos. I urge you to please fight against this proposal. There is plenty open land in South San Jose where extra housing can be added to Santa Clara County without such an impact as squeezing more people in our already densely populated area that we pay a premium to live in. North 40 was proposed and built to allow more housing in the area. This already is and will be very impactful on traffic and everything else that I've aforementioned. I was against this too, but it happened anyway! And now they want to add even more?! Just say NO! Please!

Thank you for your time.

Tami Shoot

[REDACTED]

Los Gatos, CA 95030

[REDACTED]

From: Gregg Kerlin [REDACTED]
Sent: Tuesday, June 21, 2022 12:23 PM
To: [REDACTED]; GP2040 <GP2040@losgatosca.gov>
Subject: 2040 Plan Comments

EXTERNAL SENDER

I am in full support of expanding housing for teachers, retail clerks, police and local firefighters. Much of the regional planning is targeted to lower income housing and I believe that should be the referenced groups should be primary in designing new housing for Los Gatos.

The projects made by the 2040 plan for increased housing seem very optimistic since the 2020 census shows that Los Gatos actually lost population!!! Consequently, if the housing is affordable to people offering services support to the town is affordable, then perhaps we can do good at more than one level. However, let's use realistic projections.

I studied the 2040 plan's Safety section and compared it to the neighborhoods covered and plans by the Community Emergency Response Team (CERT) to understand how we allocate resources across the various risk zones. Some things were clear to me: Almond Grove and Civic Center (Downtown) is the subject of many different hazard events.

Moreover, the hillsides (whether within the Town's concept of zoning or not) are the trigger points of local disasters: wildfire, flooding, and in particular, landslides. We need to pay attention to the importance of pre-emptive planning on behalf of our mountainside neighbors since their rights become ours.

This leads me to believe that the Town needs to plan new housing sights more toward the northeast regions of Los Gatos, which in general is 1) closer to transportation corridors, and 2) less subject to increase public safety risk and congestion.

Beyond that, I don't have the knowledge to comment.

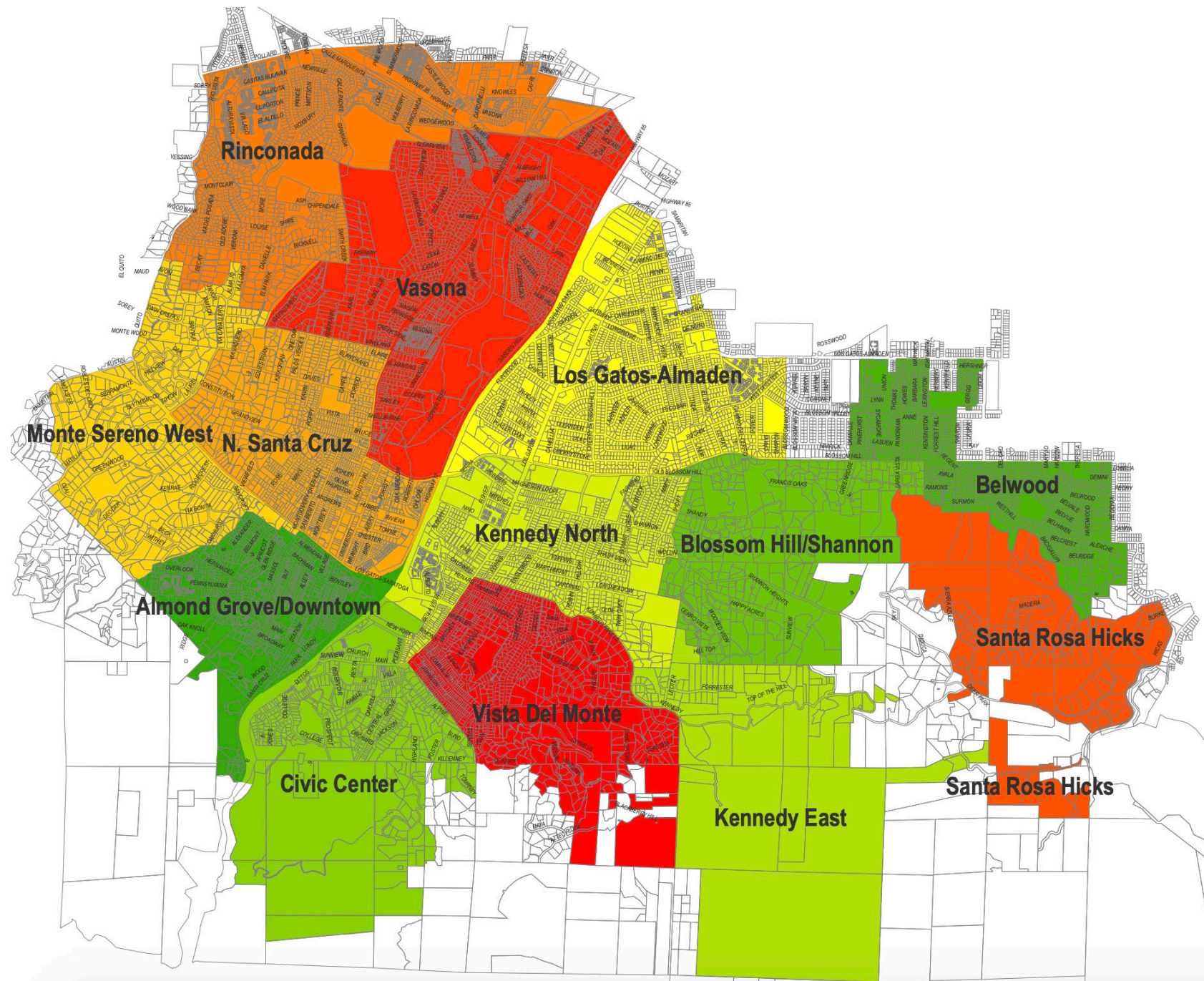
Regards,
Gregg Kerlin
[REDACTED]
Los Gatos

Extract from my simple study.

LG Town 2040 Safety Plan - Hazard Types

- LG 2040 Safety Plan provided graphics showing types of hazards the Town would face by using graphics.
- The Los Gatos Community Emergency Response Team (CERT) Incident Command Post (ICP) neighborhood map was overlaid onto each of the Town's 2040 Hazard graphics.
- Some interpretation and inferences are offered.

The Town of Los Gatos Defined. CERT Neighborhoods. (NICPs) to provide for the safety of its citizens in a disaster. This geographic assignment of Incident Command Posts includes Monte Sereno, similar to the Town's policing responsibilities.



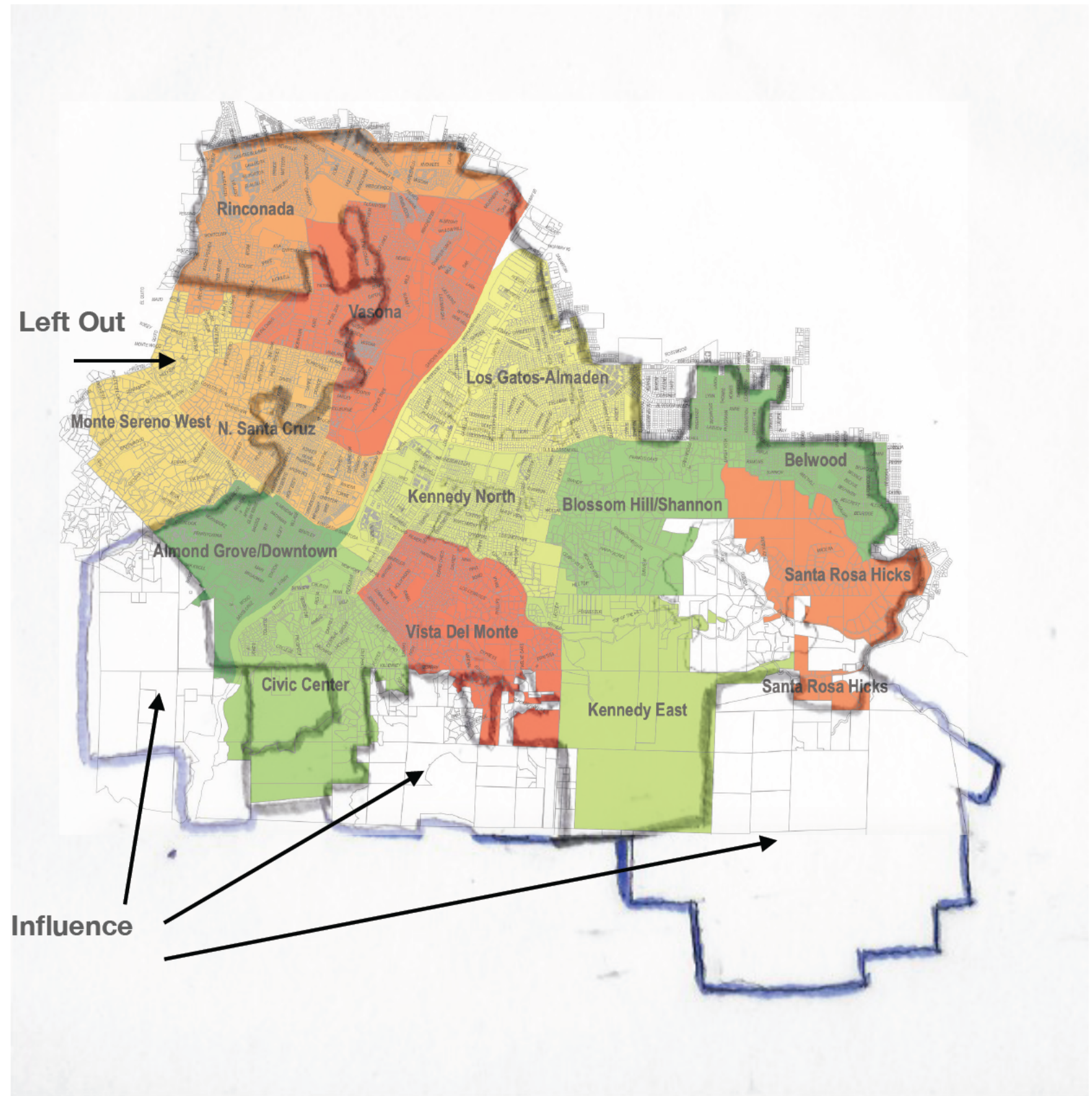
CERT NICP Coverage Vs. LG Town 2040 Safety Coverage

The Town of Los Gatos 2040 General Plan addresses safety concerns along with housing plans.

The safety mappings in the General Plan are of use to see how various hazards relate to CERT ICPs.

Note that the General Plan 2040 excludes Monte Sereno entirely and effectively 'cuts-off' portions of existing CERT ICPs.

In additional, the white enclosed area are consider zones of "Town influence" in the 2040 plan, while at the present time, we have no CERT coverage for those areas.



POTENTIAL HAZARDS BY CERT NEIGHBORHOODS



OVERALL RISK LEVEL



OVERALL RISK LEVEL

| Incident Area | CERT ICP | Fire Hazard | Landslides | # Fault Lines | Ground Shaking | Liquifaction | Historical Wildfire | Flood Zone | Dam Inundation | Hazardous Material Sites |
|---------------------------|----------|-------------|---------------|---------------|----------------|--------------|---------------------|------------|----------------|--------------------------|
| Almond Grove | Yes | Very High | Small Section | 3 | High | Partial High | Yes | | High | |
| Civic Center | Yes | Very high | Significant | 4 | High | | | | | |
| Areas of Town's Influence | No | Very High | High | 5 | Very Low | | Yes | | | |
| Blossom Hill | No | Very High | High | 3 | Low | | | | | |
| Vasona | Yes | | | 5 | Low - Moderate | Very High | | Yes | Very High | 2 |
| Vista Del Monte | No | | Significant | 5 | Moderate | | | | | |
| Kennedy North | Yes | High | Small Section | 2 | Moderate | | | | | |
| Kennedy East | No | Very High | | 2 | Very Low | | | | | |
| Santa Rosa Hicks | No | | High | 5 | Low | | | Some | | |
| Rinconada | Yes | | Small Section | 2 | Low | Partial High | | | | |
| Los Gatos Almaden | Yes | | | 3 | Low | | | | | |
| North Santa Crus | Yes | | | 1 | Moderate | | | | High | |
| Belwood | Yes | | | 1 | Low | | | | | |
| Monte Sereno West | No | High | | 2 | Moderate | | | | | |

ICP - Incident Command Post

High Level Observations

- Two active ICP zones need exercise drills and evaluation due to their elevated risk profile: Almond Grove and Civic Center.
- While CERT has paid attention to Wild Fire and Ground Shaking risks, both the Town and CERT do not have concrete plans for managing the high risk of LandSlides. Some planning and education would be beneficial on how to respond.
- The “Town’s Area of Influence” needs a plan and good definition. Clearly the hillside of Los Gatos most everywhere are substantial impact zones directly impacting the Town boundaries. It may be both socially responsible and wise to consider active involvement by the Town with the “Influence Zones” since these will be potentially impacting the Town whether we attend to them or not. Outreach into the hillsides and mountains is to our benefit. The area above St. Joseph’s Hill is also a critical zone.
- Some assessment should be made on the number of people impacted and how CERT can prepare. Residents in landslide areas are NOT covered by actual CERT ICP posts: Vista Del Monte, Blossom Hill, Kennedy East, and Santa Rosa Hicks. This should include considerations for Saint Joseph hillside.

Additional Comment for 2040 Plan — New housing should not include the higher risk zones of the Town as opportunity housing areas if other sites are available. In fact, the further one goes to the east and north (Hwy 85, Rinconada, Los Gatos Almaden, the better it is from a safety perspective.

From: ALLEN BRANCH [REDACTED]
Sent: Tuesday, June 21, 2022 3:19 PM
To: GP2040 <GP2040@losgatosca.gov>
Subject: General Plan

EXTERNAL SENDER

We are appalled that the Town proposes to approve an increase to the new housing units required by the state. The Town has yet to absorb the impact of the very large new development near Good Samaritan. The Town does not yet have actual information about the impact of this development on traffic, our schools, and the Town's infrastructure.

Now the proposal is to increase housing units by 3000 plus and make significant changes to the zoning in order to accomplish such changes. We have resided in Los Gatos for nearly 32 years and there have been a number of changes to the community and traffic during this period. But during that period, the Town had not set a goal for expansion of this significance. These proposed changes will, no doubt, change this community in ways that the town did not predict, nor can it adequately address. Further, those of us who chose to live in Los Gatos because it was not a high density housing area will have lost what we sought when we moved here.

Approval of this plan should be delayed. Although the Town has had a number of zoom meetings regarding the General Plan, the coverage of these issues has been spotty. A better job needs to be done in bringing these issues to the general public and the approval hearing should not be scheduled when many families are on vacation Susan and Allen Branch

From: Annette Seaborn [REDACTED]
Sent: Tuesday, June 21, 2022 4:03 PM
To: Erin Walters <EWalters@losgatosca.gov>
Cc: Jennifer Armer <JArmer@losgatosca.gov>; Corvell Sparks <CSparks@losgatosca.gov>; WooJae Kim <WKim@losgatosca.gov>
Subject: Re: 9 Forrest Avenue Los Gatos - APN 529-10-017

Hi Erin, I was not able to make the last meeting. Did anything change? I would like to increase the density of this property to "high density", or subdivide the property into 2. If that happened, the lots sizes would look exactly the same as the neighboring property.

Please advise. Thank you.

ANNETTE SEABORN - Area Specialist
2020, 2018 & 2017 #2 CB individual producer - Realtor

Coldwell Banker Realty [REDACTED]
[REDACTED]
[REDACTED]



INTERNATIONAL PRESIDENT'S PREMIER

"Documents prepared by other have not been verified"

On Jun 14, 2022, at 10:44 AM, Erin Walters <EWalters@losgatosca.gov> wrote:

Good Morning Annette,
Thank you for your email.

The property located at 9 Forest Avenue (APN: 529-10-017) is zoned R-M: 5-12, Medium Density Residential with a current density range of five to 12 dwelling units per acre. Based on the current density and size of the parcel per County records (13,076 s.f.) the property may yield between 1-3 units. How many units are currently on the stie.

Here is a link to the RM zoning regulations: [RM-Zone-Handout \(losgatosca.gov\)](#)

Draft 2040 General Plan

The draft General Plan 2040 proposes to increase the density range in Medium Density Residentials to 14 to 22 units per acre. Based on the draft density and size of the parcel per County records (13,076 s.f.) the property may yield between 4-6 units.

The Town Council will be holding a special meeting Monday, June 20, 2022 at 7:00 p.m. to review the Planning Commission's recommendations on the Draft 2040 General Plan. We encourage the public to attend and/or submit written comments for the June 20th Town Council meeting.

Here is a link to the website, draft document and links to Monday's meeting agenda. The material will be available after 5pm on Friday, June 17th. <https://losgatos-ca.municodemeetings.com/>

Please check with the Town's Engineering Department to determine if dedication would be required for this property. You may contact Corvell Sparks, Associate Engineer. I have cc'd him on this email.

<image001.png>

Town and County records note this property is pre-1941 and will require review by the Historic Preservation Committee for removal from the inventory or demolition.

I am available Wednesday at 10am and Thursday at 9am to set up a call to discuss your proposed project and the application process. Let me know what works best for you.

Sincerely,

<image003.jpg>

Erin Walters • Associate Planner

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

Ph: 408.354.6867 • 408-354-6872

www.losgatosca.gov • ewalters@losgatosca.gov

COMMUNITY DEVELOPMENT HOURS:

Counter Hours: 8:00 AM – 1:00 PM, Monday – Friday

Phone Hours: 8:00 AM – 5:00 PM, Monday – Friday

Erin's Office Hours – M-F – 9:00 a.m. to 3:00 p.m.

Town offices are now open. In accordance with the Santa Clara County Public Health Office Order, we strongly recommend masks indoors regardless of vaccination status. All permit submittals are to be done online via our Citizen's Portal platform. All other services can be completed at the counter. For more information on permit submittal, resubmittal, and issuance, please visit the [Building](#) and [Planning](#) webpages.

<[image004.jpg](#)>

General Plan update, learn more at www.losgatos2040.com

<[image005.png](#)>

Housing Element update, learn more at <https://engagelosgatoshousing.com>

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Think Green, please consider the environment before printing this e-mail.

From: Annette Seaborn [REDACTED]
Sent: Monday, June 13, 2022 10:07 PM
To: Joel Paulson <jpaulson@losgatosca.gov>
Cc: Erin Walters <EWalters@losgatosca.gov>
Subject: Re: 9 Forrest AVE Los Gatos

Second request.... Can I please get some clarity? I am not sure how to proceed.. Thank you

ANNETTE SEABORN

On Jun 7, 2022, at 8:13 PM, Annette Seaborn [REDACTED] wrote:

Hi Joel, I would like to submit an application to increase my units per acre at 9 Forrest Ave. I understand you are looking for areas to add more units. This property is in a high density area however is not designated and such. Can you please let me know how to move this request forward? Thank you.

ANNETTE SEABORN - Area Specialist
2020, 2018 & 2017 #2 CB individual producer - Realtor

Coldwell Banker Realty [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

<cb-awards-premier-i.jpg> INTERNATIONAL PRESIDENT'S PREMIER

"Documents prepared by other have not been verified"

From: John Shepardson [REDACTED]
Sent: Wednesday, June 22, 2022 12:25 AM
To: Council <Council@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>
Cc: Rob Rennie <RRennie@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>
Subject: General Plan 2040: RHNA Plus 15 percent & More

EXTERNAL SENDER

Dear Mr. Hudes:

Hard for me to understand RHNA plus 15 position given others' statements not enough. RHNA is 8 years. GP is 20 years. Can you explain the basis for your position. I don't have an agenda. I'm trying to be curious and figure out the housing allocation process and numbers.

Are the RHNA numbers fair? Why the big jump? What is projected growth? Do we need the buffer?

I like the concept of small town feel.
It's a feeling, an emotional sense.

Rod Diridon promotes growth in transit areas so we the South Bay is more like Paris than LA.

If spread out additional housing outside of transit areas, will it result in lots of cars parked on streets and increased traffic congestion?

Community growth areas seem to allow additional homes while reducing traffic impact—shorter distance to drive and assuming people will walk or bike. More commercial development will drive up RHNA numbers.

Note Cupertino is putting in concrete barriers to protect bicyclists.

Santa Row houses a lot of people. How many bike? Don't see many.

Cambridge, England—people of all ages ride bikes.

Copy and paste from <https://www.theguardian.com/environment/bike-blog/2011/aug/17/cambridge-model-cycling-city>

What makes Cambridge a model cycling city?

With considerate drivers, dedicated bicycle parking and bike-friendly city planning, it's no wonder cycling is a popular means of transport

He says: "It is the ordinary people of Cambridge who cycle; it is your parents having the courage and confidence to cycle that means children have the confidence. If you don't have parents who cycle it is difficult."

He added: "Once children get to 11 they cycle to school unaccompanied in Cambridge. In fact they will probably not allow their parents to accompany them after that"

I spoke to an 88-year-old man on a bike. Like everyone I spoke to here, he simply sees cycling as the best way to get around.

In Cambridge cycling has consistently remained a popular means of transport and so investment into cycling has continued over the years. People teach cycling to their children, who in turn cycle into adulthood. It is just a part of normal life. Where many towns are now choked with cars, Cambridge's faith in the bicycle has made it sadly unique among British towns and cities. Perhaps more positively, however, this has made it a model for what can be achieved when people believe in the bicycle.



Should additional housing be in Blossom Hill area given their group's advocacy for 525K feet for Albright and ended up at like 467K, well over EIR Superior alternative of 350K? Certainly RHNA numbers increased because over 350K? Equity....

How do we promote equity and diversity while keeping the small town feel? That's the sweet spot to meet both objectives.

What about community gardens?

Or innovative farming: copy and paste from <https://farmflavor.com/florida/walt-disney-world-farm-grows-magical-produce-earth/>

Vertical Growing Techniques (Not Just for Beanstalks Anymore!)

What if there were a way to increase food production while using less water, less fertilizer, fewer pesticides and even less space? At Disney, this isn't just fantasy. Traditional growing methods require huge, horizontal plots of land, but at Epcot, produce is climbing upward to achieve this dream. Plants are grown vertically using either stacked gardens or specialized trellises that allow crops to reach gravity-defying heights. Produce grown in this way uses a fraction of the space required by conventional methods, saving water and increasing yields.



Thank you for reading this email.

Respectfully,

John Shepardson, Esq.

Sent from my iPhone

From: Phil Koen [REDACTED]
Sent: Thursday, June 23, 2022 9:46 AM
To: Jennifer Armer <JARmer@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>
Cc: Town Manager <Manager@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>; [REDACTED]; Rick Van Hoesen [REDACTED]; Lee Fagot [REDACTED]; Tran Nguyen [REDACTED]; Joanne Rodgers [REDACTED]; Gabrielle Whelan <GWhelan@losgatosca.gov>; David Weissman [REDACTED]
Subject: Staff Memo on Opportunity Housing - City of San Jose

EXTERNAL SENDER

Hello Ms. Armer,

During the Special Meeting of the Town Council this past Monday evening, in response to a series of questions from Council Member Sayoc, you stated there wasn't any additional information regarding developing Missing Middle Housing available.

I have attached a staff report written by the City of San Jose dated December 1, 2021, which provides a very thoughtful analysis of the financial feasibility of the redevelopment of properties into two to four units on a typical 7,500 sq. ft (60 x 125 feet) parcel in various residential neighborhoods throughout the City of San Jose. Additionally, the memo discusses the implications of SB 9 since many of the configurations studied would be allowed by SB 9.

I believe this information is critical to any land use decision regarding duplex, triplex and quadplex housing that is currently being deliberated by the Town Council. Perhaps you could review the material and provide the Town Council with Staff's view of the most appropriate location for duplex, triplex and quadplex housing types which maximizes the financial feasibility of development.

Unfortunately, I do not believe the GPAC, PC or Town Council ever received an analysis of the financial feasibility of redeveloping a typical 8,000 sq. ft single family residential parcel into two-to-four-units in Los Gatos. This goes to the heart of the question as to whether or not the Town ever studied the financial feasibility of the redevelopment of an existing neighborhood as shown in Figure 3-5 (attached) of the draft 2040 General Plan.

Without knowing whether the redevelopment of the parcels as shown in Figure 3-5 are financially feasible, how can one reasonably conclude that "implementing the missing middle" is the "how to meet the housing needs of Los Gatos" as stated section 3.2 of the draft 2040 General Plan?

Based on the City of San Jose study, the conclusion was that in the Tier 1 market (which is the highest market value area of San Jose which is below the market value of Los Gatos) the redevelopment of a stacked fourplex rental or condo (like housing type D in figure 3-5) was not feasible in existing residential neighborhoods. If a fourplex is not feasible neither would a stacked duplex such as types C and E. Since San Jose did not study the cottage court type, it is unknown as to its feasibility.

I did confirm with the Chair of the GPAC that a financial feasibility analysis similar to the City of San Jose's was never presented to the GPAC.

Lastly, the City of San Jose study shows that in the Tier 1 market (which is a good proxy for Los Gatos), the housing types studied are only affordable to households above 120% AMI. The newly published State Income Limits established the Santa Clara County Area Mean Income (AMI) to be \$168,500 (see attachment). 120% of \$168,500 would be an income level of \$202,200. Stated another way all of the redeveloped housing types shown in Figure 3-5 (e.g., Missing Middles)would not be affordable to very low- and low-income families.

If the Town has chronically under performed in our ability to develop housing for the very-low and low income groups, and we are struggling to determine an answer to how to properly plan for the amount of very-low and low income housing allocated by the 6th cycle RHNA, why is the Town promoting a land use policy such as LU 1.2 which seemingly benefits only those earning over \$202,200 and fails to address the housing needs of income groups earning between \$84,250 and \$168,500? The policy seems to conflate affordability with "less expensive". They are very different measures. To be clear, we believe the land uses goal needs to be centered on the concept of supporting housing types that are "affordable" and not simply "less expensive" since "less expensive" is a subjective term.

Thank you for your assistance.

Phil Koen
Los Gatos Community Alliance



Memorandum

TO: PLANNING COMMISSION
SUBJECT: Opportunity Housing and SB 9
Implementation

FROM: Christopher Burton
DATE: December 1, 2021

COUNCIL DISTRICT: Citywide

| | |
|------------------------|---|
| Type of Permit | Not a permit |
| Project Planner | Jerad Ferguson |
| CEQA Clearance | Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from a decision-making body. |
| CEQA Planner | David Keyon |

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council take the following action:

1. Decline to move forward with the City's Opportunity Housing effort at the present time in order to focus on implementation of Senate Bill 9 (SB 9), which requires the City to allow most of the Opportunity Housing types contemplated as part of the Four-Year Review of the General Plan process.
2. Direct staff to develop citywide design standards for implementation of SB 9.
3. Direct staff to explore allowance for "SB 9-type" housing projects within R-2 Zoning Districts and on historic properties that do not qualify under SB 9.

PROJECT BACKGROUND

General Plan Four-Year Review

The *Envision San José 2040 General Plan* (General Plan) is a comprehensive, innovative, and forward-thinking policy document that lays the framework for becoming a fiscally-sound and environmentally sustainable city of great places. Over 5,000 individuals participated in the General Plan update process from 2008 through 2011, and the General Plan was approved unanimously by the City Council on November 1, 2011.

The General Plan sets forth Goals and Policies requiring the City to conduct a review of the Plan every four years. The purpose of the General Plan Four-Year Review (Four-Year Review) is to evaluate significant changes in the planning context and achievement of key General Plan goals. The General Plan requires the City to reconvene a Task Force during each Four-Year Review to provide community and stakeholder engagement in reviewing and evaluating success in the implementation of the General Plan and to recommend any mid-course actions needed to achieve its goals.

Based on the outcome and recommendations from the Four-Year Review Task Force process, the City Council could decide to amend the General Plan goals, policies and actions, and/or the Land Use/Transportation Diagram to further the achievement of the General Plan's Vision and Major Strategies.

On June 11, 2019, the City Council approved the staff recommended scope of work for the second General Plan Four-Year Review and provided additional scope items as detailed in a [memo issued by Mayor Sam Liccardo, Councilmember Sergio Jimenez, Councilmember Raul Peralez, and Councilmember Sylvia Arenas on June 7, 2019](#). One of the items in the City Council approved scope of work is the subject of this Staff Report, the consideration of "Opportunity Housing."

1. *Explore allowing single-family parcels currently designated "Residential Neighborhood" to redevelop to 2-4 units per parcel with the following parameters from the outset:*
 - a. *Limit to parcels proximate to transit-oriented Urban Villages or immediately adjacent to residential parcels with existing medium-density building types, e.g., duplexes or triplexes.*
 - b. *Develop a set of design guidelines that would maintain current allowed heights and keep setbacks comparable to existing single-family homes to ensure development would be well integrated into neighborhoods.*
 - c. *Allow flexibility on the number of units allowed per parcel that would vary based on lot size, location, and other factors.*
 - d. *Clarify that any redevelopment remains within the discretion of the property owner.*
 - e. *Specify that this would be sensitive to historic neighborhoods.*
 - f. *Validate that opportunity housing projects are cost effective.*

In November 2019, a 42-member Task Force was reconvened to evaluate the scope identified by the City Council. Ten Task Force meetings were held between November 2019 and November 2020. The first four meetings were held in-person; however, just prior to the fifth Task Force meeting, on March 16, 2020, the Santa Clara County Public Health Officer issued a shelter in place order to slow the spread of COVID-19. With the rise of COVID-19 cases and legal orders to keep residents safe and limit new cases, City staff continued to work remotely and transitioned the Task Force meetings to a virtual format after a four-month hiatus. The first virtual meeting was held on June 25, 2020.

All meetings were open to the public, and a total of approximately 1,000 attendees participated in the Task Force Meetings; approximately 110 attended the four in-person meetings and approximately 890 attended the six virtual meetings. All meeting materials including agendas, synopsis, presentations, reports, and Task Force and public correspondence are available on the Planning Division website (<http://www.sanjoseca.gov/GeneralPlanReview>). The subject of this Staff Report and related hearing is limited to Opportunity Housing. The other General Plan Four-Year Review scope of work items will be considered, or have been considered, in separate public hearings. The background of Opportunity Housing, the General Plan Four-Year Review Task Force recommendations and previous staff recommendations related to Opportunity Housing are discussed below.

Opportunity Housing Background

At the [December 19, 2019 Task Force meeting](#), staff provided background information to the Task Force about missing middle housing, which is multi-unit housing similar in scale to single-family. This included presentations from Opticos Design and from a developer who had recently completed construction of a new duplex in the City.

At the [February 27, 2020 Task Force meeting](#), staff presented additional background information related to missing middle housing. This included information about missing middle housing initiatives in other cities across the country and a review of proposed state legislation at that time. Staff also presented an initial policy

framework with respect to Opportunity Housing that would allow two to four units of housing on parcels designated Residential Neighborhood. Parcels would be limited to those proximate to local or regional transit Urban Villages, and parcels adjacent to existing medium or high density residential. There would also be provisions preventing the redevelopment of parcels with rent-controlled units or properties that were renter-occupied. These recommendations aligned directly with scope of work provided by the Council.

There were many public comments at this meeting that were positive and supportive of staff recommendation on opportunity housing as it allows more housing in the City for the housing shortage while also addressing historic racial segregation and inequities. Some community members suggested that Opportunity Housing should be expanded citywide and to consider allowing more units closer to transit. Other community members were concerned that opportunity housing would disrupt historic neighborhoods, the historic resources inventory should be completed prior to implementing the policy, would add pressure on existing infrastructure, lack of early outreach, and the vulnerability it would create for starter neighborhoods that may be attractive to smaller developers to purchase and redevelop. Given time constraints there was not Task Force discussion at this meeting.

At the [July 30, 2020 Task Force Meeting](#), staff recommended establishing a conceptual Opportunity Housing policy framework with a work plan process based on the feedback received from the Task Force and community. The conceptual policy framework would be used as a starting point for further research on Opportunity Housing as part of the work plan. The work plan would involve short-term and long-term tasks including, but not limited to, completing public outreach, a Cost Effectiveness Study, a Displacement Risk Assessment, General Plan amendments, Zoning Code updates, and design standards. Task Force members provided comment and asked detailed clarifying questions of staff regarding their recommendation. There were 42 community members that provided public comment with varying degrees of support, opposition, and general questions and concerns regarding Opportunity Housing. The topic was continued to the next Task Force meeting.

At the [August 20, 2020 Task Force meeting](#), staff presented the Task Force with a further refined draft policy framework and work plan for Opportunity Housing based the feedback received at the previous meeting. This recommendation is detailed further below. Some Task Force members expressed concern that the staff time and resources to implement Opportunity Housing would detract from implementation other General Plan process such as Urban Village planning. Other members were supportive of Opportunity Housing but were concerned with the limited geography defined in the scope of work. These Task Force members were in favor of allowing Opportunity Housing citywide to provide more housing opportunities, and to undo historical exclusionary patterns that reinforce segregation.

Opportunity Housing Recommendations

Staff Recommendation to the Task Force

The final staff recommended policy framework and work plan were the result of feedback from the public that earlier iterations of the Opportunity Housing recommendations were being developed without community engagement, and that more extensive community input should be conducted first. The Four-Year Review process was not scoped or resourced to provide extensive community engagement beyond the Task Force meetings. Based on this feedback, and the limitation of what could be done in as part of the Four-Year Review process, staff modified its proposal to be a work program that proposed action items that should be completed if Council were to move forward with Opportunity Housing. This proposed work program included extensive community engagement. The staff proposal did, however, retain the initial policy recommendation on the geography of where Opportunity Housing should be allowed, as the geography was specified within the scope of work from the City Council. Below is staff's full recommendation to the Task Force on Opportunity Housing:

Staff recommends continuing to explore allowing up to four units on parcels with a Residential Neighborhood designation in areas generally a half-mile walking distance around Transit Urban Villages, taking into

consideration natural, human-made, and neighborhood boundaries, and on properties adjacent to existing multifamily housing types or properties designated for multifamily housing. Should the City Council direct staff to further explore Opportunity Housing, the following actions will need to be initiated:

1. *Conduct a citywide community engagement effort:*
 - a. *Work with community organizations and leaders to encourage participation and diverse representation reflective of San José in the outreach process.*
2. *Explore creating an affordable housing incentive to encourage inclusion of units at affordable or moderately-priced levels in Opportunity Housing.*
3. *Find an approach that would allow Opportunity Housing while also minimizing displacement risk:*
 - a. *Conduct a Displacement Risk Analysis where Opportunity Housing would be implemented.*
 - b. *Determine if existing City protections for renters (i.e., just causes for evictions under the Tenant Protection Ordinance, Ellis Act Ordinance relocation requirements) would be sufficient or are additional protections needed to minimize and discourage displacement. Consider additional protections for renters such as not allowing Opportunity Housing on properties that have withdrawn from the market through the Ellis Act Ordinance, are qualifying properties under the Apartment Rent Ordinance, and have been occupied by renters in recent years.*
 - c. *Consider additional restrictions for use of Opportunity Housing units as short term rentals, beyond the City's existing ordinance.*
4. *Explore strategies to preserve historic areas and properties while also allowing Opportunity Housing:*
 - a. *Consider allowing the adaptive reuse of structures that are on or are eligible for inclusion on the City of San José's Historic Resources Inventory.*
 - b. *Consider an age-based rule for older homes applying for Opportunity Housing if updates to the Historic Resources Inventory are not completed by the time of implementation.*
5. *Update City policies and ordinances to allow Opportunity Housing:*
 - a. *Update the Citywide Design Standards and Guidelines to include Opportunity Housing design standards that ensure that Opportunity Housing projects are designed to be compatible with existing neighborhoods.*
 - b. *Revise the General Plan and Zoning Code to allow and facilitate Opportunity Housing while maintaining the intent for Opportunity Housing to blend in with the existing neighborhood.*

Task Force Recommendation

Many on the Task Force commented that they were concerned that limiting Opportunity Housing to areas proximate to transit would disproportionately impact less affluent neighborhoods and not provide new options for housing within higher resource neighborhoods. Following deliberation, the Task Force recommended approval of the staff recommendation (28 approved, 6 opposed) with the following modification:

Explore allowing up to four units on parcels with a Residential Neighborhood land use designation citywide.

The Task Force agreed with the further action items in the staff recommendation. The Task Force made the following additional recommendation to staff (27 approved, 6 opposed, 1 abstention):

Recommend to staff that during the period of study for Opportunity Housing that staff prioritizes Urban Village implementation.

Senate Bill 9

Governor Newsom signed Senate Bill 9 (SB 9) into law on September 16, 2021. The bill becomes effective on January 1, 2022. SB 9 applies to all cities and counties, and allows for 1) subdivision of a single-family zoned lot into two lots; and 2) construction of two units on a single-family zoned property. SB 10 authorizes a local government to voluntarily adopt a zoning ordinance to allow up to ten dwelling units on any parcel within a transit-rich area or urban infill site at a height specified in the ordinance. SB 9 and SB 10 were the subject of City Council Study Session entitled *Overview of Senate Bill 9 and Senate Bill 10 and Implications to Planning Policy and Zoning Regulations*. An information memorandum related to this study session provides additional background information on SB 9 and SB 10 **Exhibit B**. The implications of SB 9 and SB 10 as it relates to the previous Opportunity Housing recommendations is discussed in detail in the Analysis section.

ANALYSIS

The City Council approved the scope of work in June 2019 for the General Plan Four-Year Review that included exploring Opportunity Housing that would allow up to two to four units of housing on properties currently restricted to single-family homes.

In bringing the recommendations to the Task Force on Opportunity Housing, staff considered the scope of Opportunity Housing received from the City Council and spent time analyzing which parcels should be included based on proximity to transit and transit-oriented Urban Villages with the context of the scope of work received from the City Council. The Task Force recommended that parcels be considered citywide rather than any specific restriction around proximity to transit. With the passage of SB 9, the City will be required to allow duplexes and lot splits of single-family zone parcels citywide, and this aspect of the discussion around Opportunity Housing is no longer as relevant.

Feasibility Analysis

Following the conclusion of the Task Force meetings, Staff engaged a consultant, Strategic Economics, to prepare a financial feasibility analysis of Opportunity Housing. This follows the direction of the Council approved scope of work item 1.f to *Validate that opportunity projects are cost effective*. The full report is contained in **Exhibit A**. The report contains two sections, the first is a feasibility analysis of 12 prototypes of Opportunity Housing in San José. The second section, completed by the subconsultant Opticos Design, is a citywide parcel testing analysis, that was used to develop the lot configurations used in the 12 prototypes.

The analysis is useful to understand the likelihood, based on financial feasibility, that properties will be redeveloped into two to four units if Opportunity Housing were allowed in the City by City ordinance. While the report was created around the concept of Opportunity Housing, i.e., two to four units per parcel, the analysis is still useful in understanding the implications of SB 9 as many of the Opportunity Housing configurations analyzed would be allowed under SB 9.

Overall, there are several configurations in specific sub-markets within the City where redevelopment of single-family lots into multiple units is financially feasible. However, it is worth noting that there are still many situations where redevelopment is not financially feasible or where site constraints would prevent redevelopment. Extensive or sweeping redevelopment of single-family neighborhoods is unlikely given the findings of this financial feasibility analysis. This conclusion is also supported in a July 2021 study¹ released by the Turner Center for Housing Innovation at UC Berkeley. A key finding of this study was that 5.4 percent of all single-family lots in the state would be feasible for redevelopment under SB 9.

Sub-market Tiers

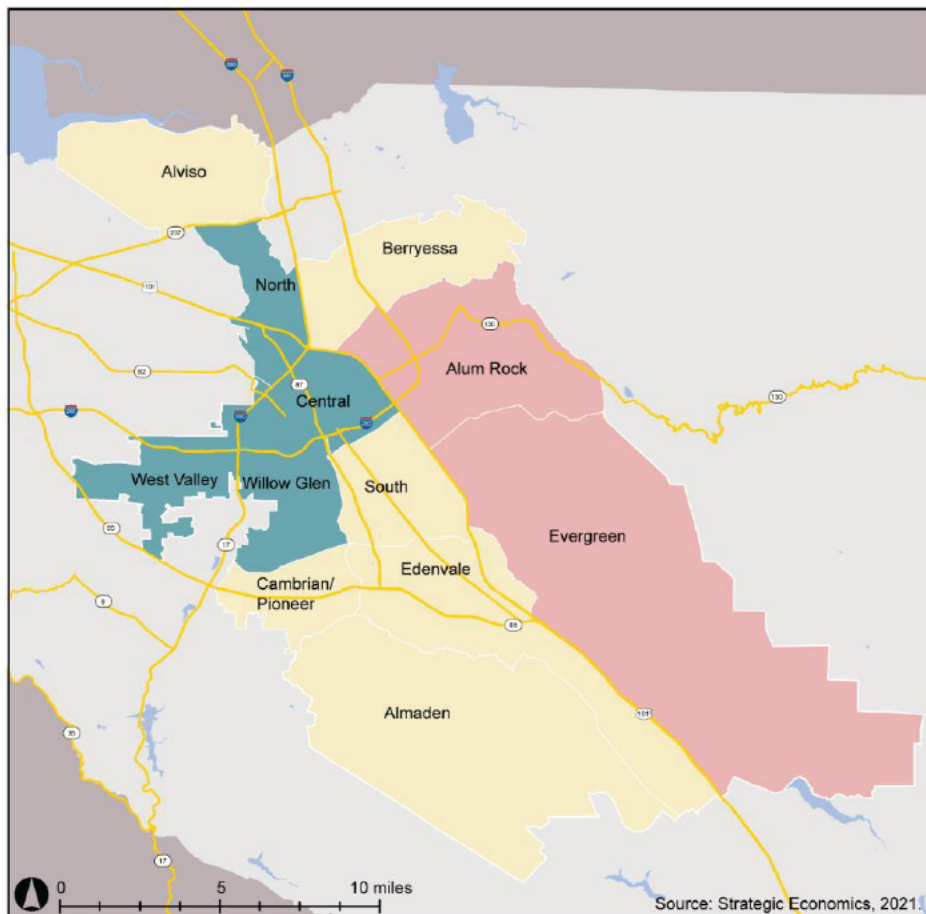
The 12 sub-areas used for the Development Fee Framework and the Inclusionary Housing Ordinance² were used as the basis for dividing the City into “market tiers” to reflect the areas of the city that have different land values, sales prices, and rents that would impact financial feasibility. The consultant analyzed sales data

¹ <https://turnercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf>
² si.maps.arcgis.com/apps/webappviewer/index.html?id=8518bc095ae54f4ea025d7743c650881

over time from Redfin for various for-sale home types across the City, as well as rental data from Costar across the City over time in order to classify each sub-area into a market tier. Figures 3 and 4 from the report by Strategic Economics (below) show the 12 sub-areas divided into three tiers for rental and three tiers for for-sale. Tier 1 represents the highest-market value and Tier 3 the lowest. There are slight variations between the two where a rental market is of higher-value than a for-sale market, or vice versa. For example, the Cambrian/Pioneer sub-area is in Tier 1 for-sale and Tier 2 rental.

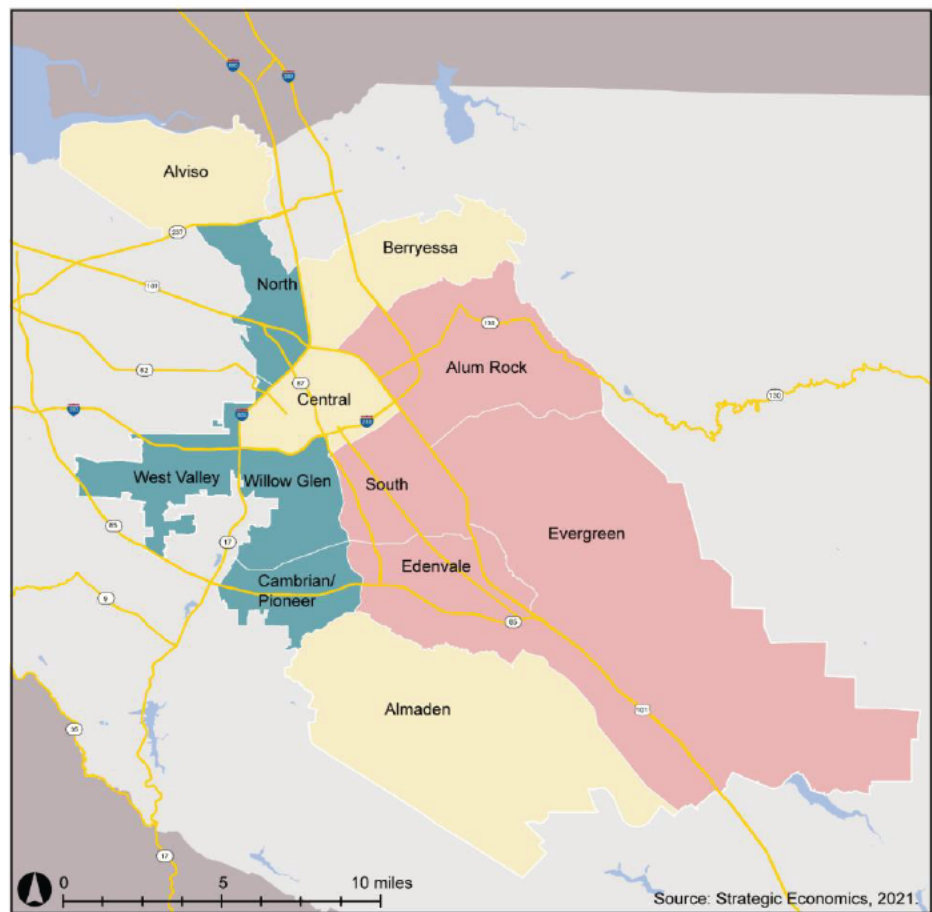
**San Jose Opportunity
Housing: Multifamily Rental
Subareas by Tier**

- Tier 1 (West Valley, Central, Willow Glen, North)
- Tier 2 (South, Berryessa, Alviso, Cambrian/Pioneer, Edenvale, Almaden)
- Tier 3 (Alum Rock, Evergreen)



San Jose Opportunity Housing: Condo/Townhome Subareas by Tier

- Tier 1 (West Valley, North, Willow Glen, Cambrian/Pioneer)
- Tier 2 (Central, Alviso, Berryessa, Almaden)
- Tier 3 (Alum Rock, South, Edenvale, Evergreen)



Lot Configurations

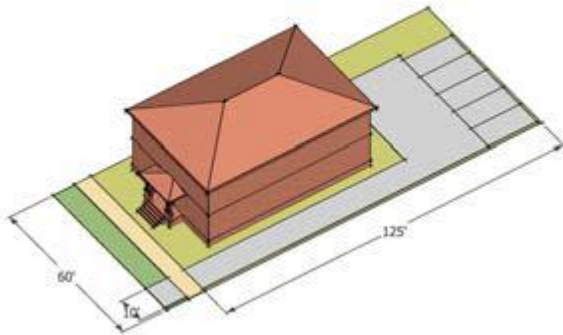
Based on the citywide review and analysis, there were 12 configurations selected that were used as prototypes and tested in each of the market tiers. One key finding of the citywide parcel analysis found that 79 percent of the over 149,700 parcels designated as Residential Neighborhood on the General Plan Land Use Diagram could accommodate a stacked fourplex. This equates to a lot size of at least 7,500 sq. ft. with dimensions at least 60 ft x 125 ft. Most configurations tested were within the bounds of the scope of work that contemplated up to four units on a lot. However, additional configurations with more than four units were tested in order to understand if a slight increase in density, still within a similar building size, would be more financially feasible. All configurations with two to four units assume one parking space per unit onsite (1:1 ratio). Below is a detailed description of the Opportunity Housing configurations that were used in the feasibility analysis:

Opportunity Housing Configuration (Two to Four Units):

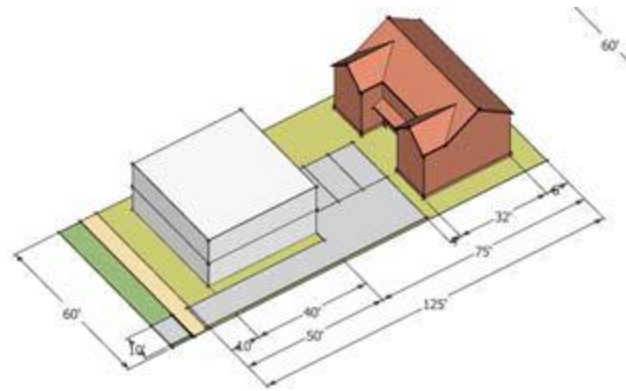
- **Stacked Fourplex (two stories):** A single building with four units. One common entrance and two-units on each floor. Tested as both a condo and a rental project.
- **Side-by-Side Large Duplex (two stories):** A traditional duplex condo with the same building footprint as the stacked fourplex.
- **Side-by-Side Duplex in Rear Yard (two stories):** A newly constructed side-by-side duplex in the rear yard of an existing single-family home. This was tested as both a condo and rental project.
- **Attached Townhomes (three stories):** Four attached townhomes on one lot and tested as condo.
- **Small Lot Single Family (three stories):** Four detached "small lot single family" units on one lot and tested as condo.

Additional Potential Configurations (six-eight units): These configurations are all three-stories but have parking ratios less than one per unit.

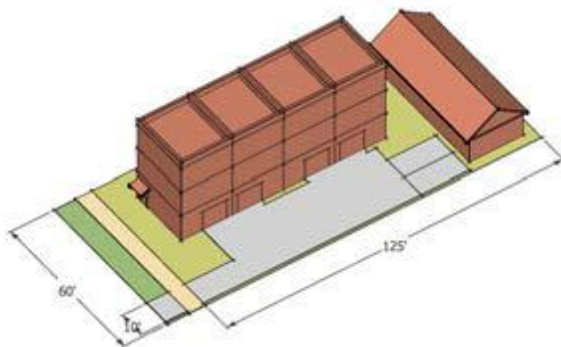
- Three-Story Sixplex: Adds a third story to the stacked fourplex, with two more units on the third story.
- Two-Story Eightplex: Same gross building square footage as the stacked fourplex, but with four units on each floor. These were tested only as rental and were the smallest unit size tested.
- Three-Story Eightplex: Same building square footage as three-story sixplex, but with three units that are smaller on first two floors. Tested as rental and condo.



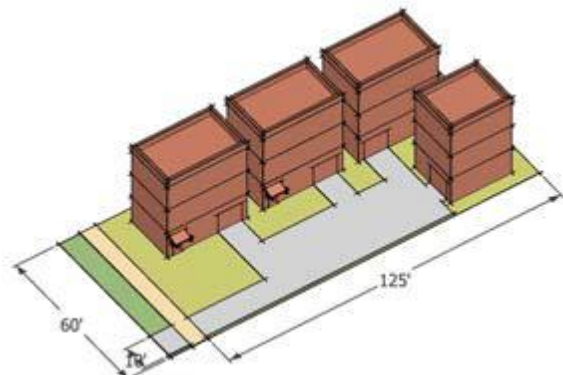
Stacked Fourplex
Two-Story Sixplex/Eightplex



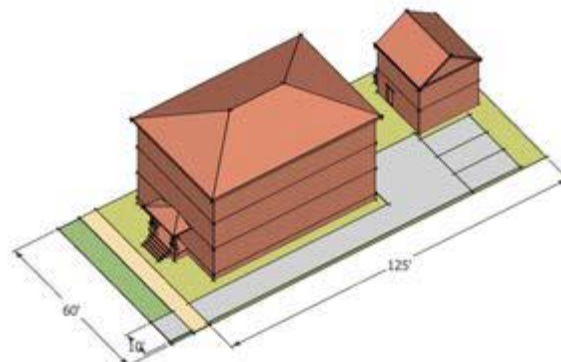
Side-By-Side Duplex in Rear Yard



Attached Townhomes



Small Lot Single Family



Three-Story Stacked Sixplex/Eightplex

Several Configurations are Financially Feasible

The 12 models were tested using a pro-forma model that calculated the project value (rental revenue or unit sales), subtracted development costs (all construction costs plus a profit), and calculated the residual value.

Therefore, to be considered feasible, the residual value would need to be greater or equal to the cost of acquiring the lot. The attached report from Strategic Economics goes into greater detail, but the results are summarized in the following table.

| 2-4 Unit Configurations | Tier 1 | Tier 2 | Tier 3 |
|---|---------------|---------------|---------------|
| Side-by-Side Large Duplex Condo | Feasible | Feasible | Not Feasible |
| Side-by-Side Duplex Condo in Rear Yard | Feasible | Not Feasible | Not Feasible |
| Side-by-Side Duplex Rental in Rear Yard | Not Feasible | Not Feasible | Not Feasible |
| Stacked Fourplex Rental | Not Feasible | Not Feasible | Not Feasible |
| Stacked Fourplex Condo | Not Feasible | Not Feasible | Not Feasible |
| Small Lot Single Family | Feasible | Feasible | Not Feasible |
| Attached Townhomes | Feasible | Not Feasible | Not Feasible |

| 6-8 Unit Configurations | Tier 1 | Tier 2 | Tier 3 |
|--------------------------------|---------------|---------------|---------------|
| Three-Story Sixplex Condo | Feasible | Not Feasible | Not Feasible |
| Three Story Eightplex Condo | Feasible | Not Feasible | Not Feasible |
| Three Story Eightplex Rental | Feasible | Not Feasible | Not Feasible |
| Three-Story Sixplex Rental | Not Feasible | Not Feasible | Not Feasible |
| Two Story Eightplex Rental | Not Feasible | Not Feasible | Not Feasible |

As shown the table, Tier 1 area has four 2-4 unit for sale configurations that are feasible and three 6-8 unit configurations that are feasible, one of which is rental. Tier 2 has two for-sale configurations that are feasible. No configurations are feasible in Tier 3 under this model.

Cash Flow Analysis

The pro-forma model used to test financial feasibility for the 12 lot configurations assumes that the property would be acquired. However, the pro-forma model would not cover situations where a homeowner may own their property outright or own a significant share of equity in the property, and seek to add additional units. For this situation, the consultant conducted additional analysis using a cash flow model. The cash flow analysis is also more relevant in the context of SB 9 since owner occupancy for three years is required in certain circumstances. The cash flow model assumes a property owner would finance construction of additional units through a cash-out refinance mortgage with a conventional 30-year fixed rate loan. The *Side-by-Side Duplex Rental in Rear Yard* configuration was used for this analysis as it is a likely configuration for this situation as it leaves the existing home intact.

The analysis showed that in typical situation in the Tier 1 area, the property owner could expect to break even by year 6, with year 1 being the start of construction and mortgage payments. This assumes rental income beginning in year 2 after the completion of construction. Tier 2 properties would break even in year 7. Tier 3 is more challenging due to the property value limiting the maximum loan value. These properties would break

even in year 14 and would need additional up-front development money since the overall development cost exceeds the maximum loan. Overall, this analysis paints a similar picture as the pro-forma model where it is conceivable that some homeowners may develop additional units in their rear yard, but there is unlikely to be a large number that do so.

A cash out refinance mortgage is the most likely financial product currently available to a homeowner to finance this type of project. However, this product is less than ideal since the homeowner would likely need to show sufficient income, excluding anticipated rental income of new units, in order to qualify for the mortgage. Since this situation is relatively new, and could soon be occurring statewide, it is possible that local or regional financial institutions could look to create new products to accommodate this type of redevelopment.

Affordability of Units

The report from Strategic Economics also analyzed the affordability of the configurations tested for feasibility. The two- to four-unit configurations that are feasible would require tenant or owner household incomes above 120% of Area Median Income (AMI) for Santa Clara County. However, it should be noted that the Three-Story Sixplex Condo, the Three-Story Eightplex Rental, and the Three-Story Eightplex Condo were determined to be feasible in the Tier I market. These configurations would be affordable to Moderate-income renters or homebuyers, who earn between 80 and 120% AMI.³ The configurations highlighted in green below are those that were determined to be feasible.

Tier 1 Affordability Summary

| Configuration | Income Needed to Rent or Purchase Unit | Affordable to Households at: |
|--|--|------------------------------|
| Two to Four Units | | |
| Stacked Fourplex Rental (2-BR) | \$153,320 | 125% AMI |
| Stacked Fourplex Condo (2-BR) | \$183,198 | 135% AMI |
| Side-by-Side Large Duplex Condo (4-BR) | \$339,550 | 195% AMI |
| Side-by-Side Duplex Rental in Rear Yard (3-BR) | \$172,000 | 105-115% AMI |
| Side-by-Side Duplex Condo in Rear Yard (3-BR) | \$210,224 | 130-140% AMI |
| Small Lot Single Family (3-BR) | \$237,702 | 145-155% AMI |
| Attached Townhome (3-BR) | \$237,291 | 145-155% AMI |
| Six to Eight Units | | |
| Three-Story Sixplex Rental (2-BR) | \$153,320 | 125% AMI |
| Three-Story Sixplex Condo (2-BR) | \$183,198 | 135% AMI |
| Two-Story Eightplex Rental (1-BR) | \$94,840 | 80-90% AMI |
| Three-Story Eightplex Rental | | |
| 1-BR | \$115,840 | 95-110% AMI |
| 2-BR | \$146,120 | 105% AMI |
| Three-Story Eightplex Condo | | |
| 1-BR | \$128,809 | 105-120% AMI |
| 2-BR | \$173,869 | 130% AMI |

Tier 2 affordability is included in the full report from Strategic Economics as Figure 26. There are two feasible configurations, the Side-by-Side Duplex Condo and the Small Lot Single Family. Both are above the moderate-

³ City of San José Rent and Income Limit Tables, Effective Date April 26, 2021,

www.sanjoseca.gov/home/showpublisheddocument/72973/637568410954100000

income range. The Side-by-Side Duplex Condo were affordable to households at 170% AMI and the Small Lot Single Family was affordable to households between 130-140% AMI. Tier 3 was not analyzed since there were no configurations that were found to be feasible. Overall, a slight increase in density by going to six to eight units improved affordability.

Senate Bill 9 Comparison with Opportunity Housing

As noted previously, SB 9 would allow most Opportunity Housing configurations with 2-4 units studied under the feasibility analysis. Below is a chart outlining which configurations would be allowed under SB 9 and its feasibility.

| Configuration | SB 9 | Feasibility | Notes |
|---|---|-----------------|--|
| Stacked Fourplex Rental & Condo | Not allowed | Not Feasible | |
| Side-by-Side Duplex Condo | Allowed | Tier 1 & Tier 2 | |
| Side-by-Side Duplex Condo in Rear Yard | Allowed with lot split | Tier 1 | |
| Side-by-Side Duplex Rental in Rear Yard | Allowed with lot split | Not Feasible* | Owner occupancy is required. |
| Small Lot Single Family | Allowed with lot split | Tier 1 & Tier 2 | Owner occupancy is required. |
| Attached Townhomes | Allowed with lot split; slight variation would be needed. | Tier 1 | Lot split and owner occupancy is required. Not all units could be attached. Small Lot Single Family more likely. |

*This configuration was also assessed under a cash flow analysis to examine this model from a homeowner's perspective discussed in the previous separate section.

Senate Bill 10

As noted in the background, SB 10 provides an optional route for cities to allow up to 10 units on any parcel within a transit-rich area or urban infill site. SB 10 would exempt the legislative acts of the City from CEQA, i.e., General Plan and zoning amendments. Individual development applications are still subject to CEQA unless the City were to provide for a ministerial approval process. However, it is staff's current understanding that SB 10 requires a city to allow 10 units to be constructed on every property zoned under SB 10, meaning the City could not use SB 10 to streamline zoning that would limit properties to Council's direction Opportunity Housing of up to four units, or the additional configurations tested in the feasibility analysis, such as six to eight units meeting the transit-rich or urban infill site definitions.

Reason for Recommendation

As noted previously, the Opportunity Housing configurations that have some level of feasibility shown in the feasibility analysis will be allowed throughout the City under SB 9. Those configurations not allowed by SB 9 are either not currently financially feasible, e.g., stacked fourplex, or contain more units than was contemplated under Opportunity Housing as defined in the City Council scope of work. Therefore, staff believes the best course of action at the present is to focus on implementation of SB 9, which takes effect on January 1, 2022, rather than pursuing the City's Opportunity Housing effort as proposed within the context of the General Plan Four-Year Review. In the future, the City could also consider allowing additional configurations beyond what is allowed under SB 9 such as sixplexes and eightplexes. However, more work,

including significant community outreach, would need to be done to understand where and how this type of housing should be facilitated in the city.

Citywide Design Standards

SB 9 requires a jurisdiction to allow at least two units of 800 square feet each on a single parcel. It also contains the following mandatory design standards:

- Cannot require more than four-foot side and rear setbacks for SB 9 developments.
- Cannot require more than one parking space per unit., except no parking can be required for projects within a half-mile walking distance of high-quality transit or major transit stops, as defined by state law, or if there is a car share vehicle located within one block.
- Must allow construction of attached units; however, attached units must be designed to meet all requirements for selling each unit individually.
- No setback can be required for existing structures.
- The City cannot require the correction of non-conforming zoning conditions on a property as a condition of approval of a SB 9 project or deny a SB 9 project due to existing non-conforming conditions.

The City may adopt additional objective design standards. This could include standards to assure new units fit better within the existing neighborhood, such as requiring front doors to be street facing and/or limiting the percentage of a front façade that is taken up by garage doors. Staff is recommending development of these design standards that would then be brought to the Planning Commission and the City Council for consideration. Staff anticipates that this effort would take a year to complete and would include robust community outreach.

R-2 Zoning District and Historic Properties

SB 9 applies only to R-1 zoned properties, but due to historical development and zoning patterns, many of San Jose's single-family residential properties are zoned R-2 and would not qualify for SB 9. R-2 allows the construction of duplexes only on a small percentage of properties if consistent with the General Plan designation and following CEQA compliance and a publicly noticed discretionary hearing process. Given the similarities of R-2 and R-1 zone properties, staff is recommending exploring allowing housing development types consistent with SB 9 on R-2 zoned properties. If no action is taken regarding the R-2 zoning district, it would be easier to develop a duplex on a property zoned R-1.

SB 9 does not apply to sites within a historic district or on a site that is designated historic. Under the City's Opportunity Housing effort, staff was considering allowing limited SB 9 type projects on historic properties where the project will not have a negative impact on the historic resource. Staff is recommending exploring allowing SB 9 type projects on historic properties, that could include adaptive re-use of existing historic structures. For example, the conversion of older larger historic homes into multiple units has occurred previously.

Prioritization of Urban Village Planning

The Task Force approved an additional recommendation to staff to prioritize Urban Village Implementation. This recommendation is consistent with Major Strategy #5 of the Envision San José 2040 General Plan:

Promote the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goals.

Urban Village implementation has progressed through the continued completion of Urban Village plans. To date, 13 Urban Village Plans are approved, one is in process (North 1st Street), and two have grant funding and

will be initiated in the next year (Southwest Expressway/Race Street and Eastside Alum Rock). Additionally, staff will be working with the Valley Transportation Authority per Council direction to update the Five Wounds Plans (covering Five Wounds, Little Portugal, 24th and William, and Roosevelt Park urban village plans) to allow mixed-use development to align with the opening of the 28th Street/Alum Rock BART station. Staff is also anticipating initiating work on the Capitol Caltrain Station Area plan in Spring 2022, which is an item resulting from the Monterey Corridor Working Group and supported by Task Force recommendations from the General Plan 4-Year Review.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from a decision-making body.

PUBLIC OUTREACH

Opportunity Housing was discussed at the following General Plan Four-Year Review Task Force meetings: December 18, 2019; February 27, 2020; July 30, 2020; and August 20, 2020. Approximately 444 members of the public attended the meetings on Opportunity Housing and provided comments and questions for staff and the Task Force. In addition, staff conducted outreach with the following neighborhood groups across the City on the topic of Opportunity Housing:

- 2/8/21 - Almaden Valley Community Association
- 2/29/21 – District 8 Community Round Table
- 3/8/21 – District 2 Leadership Group
- 3/29/21 – Shasta Hanchett Neighborhood Association Board
- 4/8/21 – District 9 Leadership Group
- 4/12/21 – SJ United District 2, 9, 10
- 4/15/21 – SJ United District 5, 7, 8
- 4/19/21 – Young Democrats of Silicon Valley
- 4/22/21 – SJ United Districts 1, 3, 4, 6
- 4/23/21 –SV@Home Housing Action Coalition
- 5/17/21 – District 1 Leadership Group

In the recommendations to the Task Force on Opportunity Housing, staff had contemplated a robust community engagement plan in the development of Opportunity Housing development standards if the City Council were to direct staff to moved forward with Opportunity Housing. Staff will conduct additional community engagement as part of the effort to implement SB 9.

Project Manager: Jerad Ferguson

Approved by: /s/ Michael Brilliot, Deputy Director for Christopher Burton, Planning Director

| |
|--|
| ATTACHMENTS |
| Exhibit A: Feasibility Analysis Report from Strategic Economics |
| Exhibit B: Information Memorandum on SB 9 and SB 10 |

Opportunity Housing and SB 9 Implementation

Links to Attachments A-B

Click on the title to view document

| |
|--|
| Exhibit A: Feasibility Analysis Report from Strategic Economics Exhibit B: Operations Plan |
| Exhibit B: Information Memorandum on SB 9 and SB 10 |

Correspondence received after November 24, 2021

| Number of Persons in Household: | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---------------------------------|---|---|---|---|---|---|---|---|
|---------------------------------|---|---|---|---|---|---|---|---|

| | | | | | | | | | |
|--|-----------------|--------|--------|--------|--------|--------|--------|--------|--------|
| Santa Clara County Area Median Income: \$168,500 | Acutely Low | 17700 | 20250 | 22750 | 25300 | 27300 | 29350 | 31350 | 33400 |
| | Extremely Low | 35400 | 40450 | 45500 | 50550 | 54600 | 58650 | 62700 | 66750 |
| | Very Low Income | 59000 | 67400 | 75850 | 84250 | 91000 | 97750 | 104500 | 111250 |
| | Low Income | 92250 | 105400 | 118600 | 131750 | 142300 | 152850 | 163400 | 173950 |
| | Median Income | 117950 | 134800 | 151650 | 168500 | 182000 | 195450 | 208950 | 222400 |
| | Moderate Income | 141550 | 161750 | 182000 | 202200 | 218400 | 234550 | 250750 | 266900 |

| | | | | | | | | | |
|---|-----------------|--------|--------|--------|--------|--------|--------|--------|--------|
| Santa Cruz County Area Median Income: \$119,300 | Acutely Low | 12550 | 14300 | 16100 | 17900 | 19350 | 20750 | 22200 | 23650 |
| | Extremely Low | 32700 | 37350 | 42000 | 46650 | 50400 | 54150 | 57850 | 61600 |
| | Very Low Income | 54450 | 62200 | 70000 | 77750 | 84000 | 90200 | 96450 | 102650 |
| | Low Income | 87350 | 99800 | 112300 | 124750 | 134750 | 144750 | 154700 | 164700 |
| | Median Income | 83500 | 95450 | 107350 | 119300 | 128850 | 138400 | 147950 | 157500 |
| | Moderate Income | 100200 | 114500 | 128850 | 143150 | 154600 | 166050 | 177500 | 188950 |

| | | | | | | | | | |
|--|-----------------|-------|-------|-------|--------|--------|--------|--------|--------|
| Shasta County Area Median Income: \$89,800 | Acutely Low | 9400 | 10750 | 12100 | 13450 | 14550 | 15600 | 16700 | 17750 |
| | Extremely Low | 16700 | 19050 | 23030 | 27750 | 32470 | 37190 | 41910 | 46630 |
| | Very Low Income | 27800 | 31800 | 35750 | 39700 | 42900 | 46100 | 49250 | 52450 |
| | Low Income | 44450 | 50800 | 57150 | 63500 | 68600 | 73700 | 78750 | 83850 |
| | Median Income | 62850 | 71850 | 80800 | 89800 | 97000 | 104150 | 111350 | 118550 |
| | Moderate Income | 75450 | 86200 | 97000 | 107750 | 116350 | 125000 | 133600 | 142250 |

| | | | | | | | | | |
|--|-----------------|-------|-------|-------|--------|--------|--------|--------|--------|
| Sierra County Area Median Income: \$90,000 | Acutely Low | 9450 | 10800 | 12150 | 13500 | 14600 | 15650 | 16750 | 17800 |
| | Extremely Low | 18900 | 21600 | 24300 | 27750 | 32470 | 37190 | 41910 | 46630 |
| | Very Low Income | 31500 | 36000 | 40500 | 45000 | 48600 | 52200 | 55800 | 59400 |
| | Low Income | 50400 | 57600 | 64800 | 72000 | 77800 | 83550 | 89300 | 95050 |
| | Median Income | 63000 | 72000 | 81000 | 90000 | 97200 | 104400 | 111600 | 118800 |
| | Moderate Income | 75600 | 86400 | 97200 | 108000 | 116650 | 125300 | 133900 | 142550 |

| | | | | | | | | | |
|--|-----------------|-------|-------|-------|-------|--------|--------|--------|--------|
| Siskiyou County Area Median Income: \$80,300 | Acutely Low | 8450 | 9650 | 10850 | 12050 | 13000 | 14000 | 14950 | 15900 |
| | Extremely Low | 16350 | 18700 | 23030 | 27750 | 32470 | 37190 | 41910 | 46630 |
| | Very Low Income | 27300 | 31200 | 35100 | 38950 | 42100 | 45200 | 48300 | 51450 |
| | Low Income | 43650 | 49850 | 56100 | 62300 | 67300 | 72300 | 77300 | 82250 |
| | Median Income | 56200 | 64250 | 72250 | 80300 | 86700 | 93150 | 99550 | 106000 |
| | Moderate Income | 67450 | 77100 | 86700 | 96350 | 104050 | 111750 | 119450 | 127200 |

| | | | | | | | | | |
|---|-----------------|-------|--------|--------|--------|--------|--------|--------|--------|
| Solano County Area Median Income: \$108,700 | Acutely Low | 11400 | 13050 | 14650 | 16300 | 17600 | 18900 | 20200 | 21500 |
| | Extremely Low | 22850 | 26100 | 29350 | 32600 | 35250 | 37850 | 41910 | 46630 |
| | Very Low Income | 38050 | 43450 | 48900 | 54300 | 58650 | 63000 | 67350 | 71700 |
| | Low Income | 60800 | 69450 | 78150 | 86800 | 93750 | 100700 | 107650 | 114600 |
| | Median Income | 76100 | 86950 | 97850 | 108700 | 117400 | 126100 | 134800 | 143500 |
| | Moderate Income | 91300 | 104350 | 117400 | 130450 | 140900 | 151300 | 161750 | 172200 |

| | | | | | | | | | |
|---|-----------------|-------|--------|--------|--------|--------|--------|--------|--------|
| Sonoma County Area Median Income: \$112,800 | Acutely Low | 11850 | 13500 | 15200 | 16900 | 18250 | 19600 | 20950 | 22300 |
| | Extremely Low | 25000 | 28550 | 32100 | 35650 | 38550 | 41400 | 44250 | 47100 |
| | Very Low Income | 41600 | 47550 | 53500 | 59400 | 64200 | 68950 | 73700 | 78450 |
| | Low Income | 66550 | 76050 | 85550 | 95050 | 102700 | 110300 | 117900 | 125500 |
| | Median Income | 78950 | 90250 | 101500 | 112800 | 121800 | 130850 | 139850 | 148900 |
| | Moderate Income | 94750 | 108300 | 121800 | 135350 | 146200 | 157000 | 167850 | 178650 |

Will these ever get built?
Assumes each lot = 8,000 sq ft

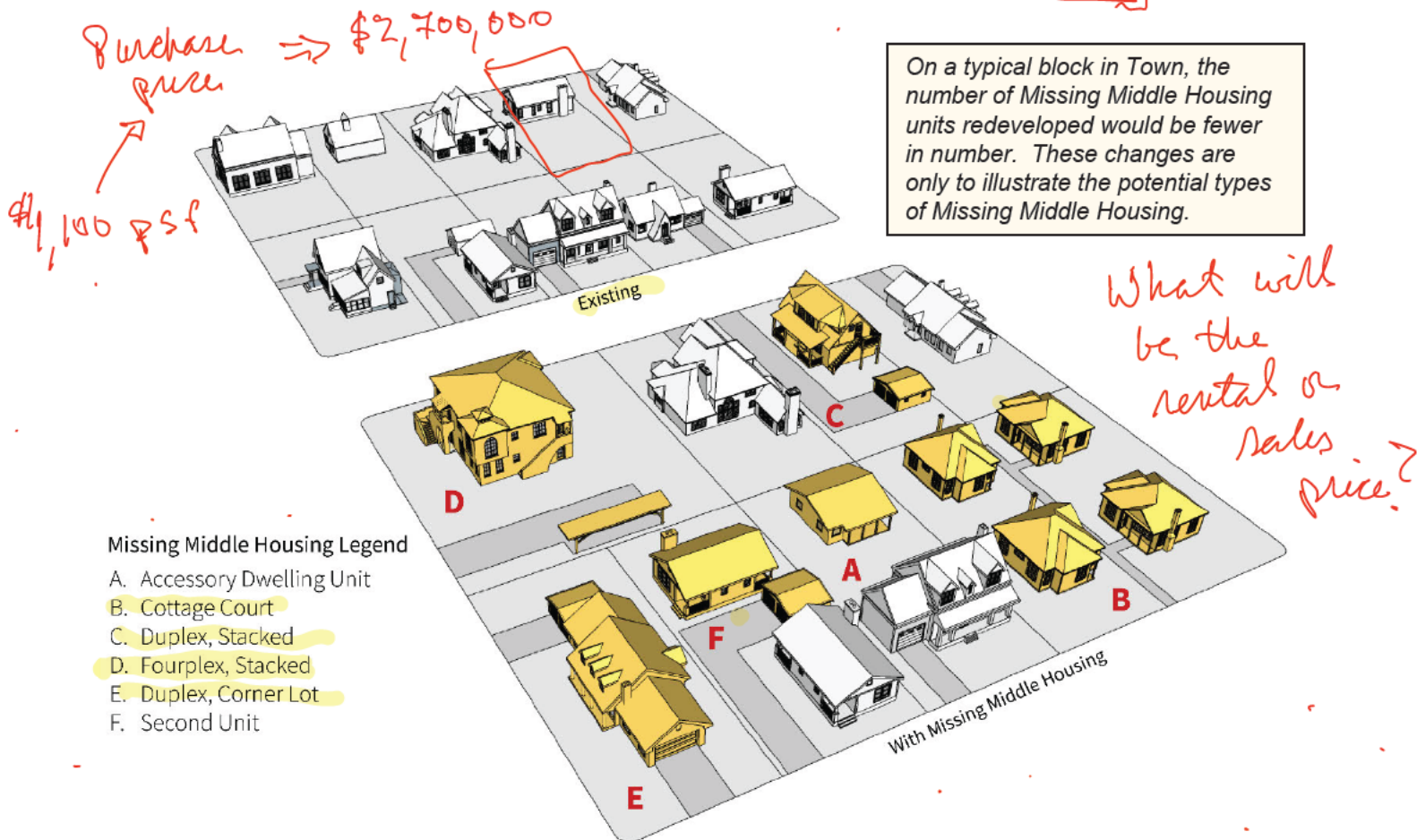


Figure 3-5 Missing Middle Housing Types Illustrated (Sample Concepts)

The following goal and policies will provide guidance on creation of missing middle housing.

LU-1

Provide opportunities for housing that can accommodate the needs, preferences, and financial capabilities of current and future residents in terms of different housing types, tenures, density, sizes, and costs.

LU-1.1

Mixed Residential Neighborhoods

Encourage creation of mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing choices in all neighborhoods. These housing types include, but are not limited to, single dwelling units, multi-family dwelling units, accessory dwelling units, small and micro units, use of pre-fabricated homes, and clustered housing/cottage housing.

LU-1.2

Missing Middle Housing

Support housing types and designs that increase density while remaining consistent with the building scale and character present in existing neighborhoods. This includes multi-family units or clustered residential buildings that provide relatively smaller, less expensive units within existing neighborhoods.

LU-1.3

Housing Adaptation

Encourage the adaptation of existing residential units to support multi-family use.

affordable for whom?

financially feasible?

≠ affordable housing

From: Francois, Matthew [REDACTED]
Sent: Friday, June 24, 2022 10:24 AM
To: Attorney <Attorney@losgatosca.gov>
Subject: Los Gatos: 2040 General Plan

EXTERNAL SENDER

Dear Ms. Whelan:

As you know, our firm represents Los Gatos Community Alliance (LGCA). For several months now, we have submitted letters to the Town Staff, Planning Commission, and Town Council outlining the myriad legal inadequacies with the EIR prepared for the Town's General Plan Update. Chief among those deficiencies is that the EIR did not study the impacts associated with the General Plan Update's significant upzoning in almost every land use category. We also pointed out there was no need for such upzoning to meet the Town's RHNA number and also that such upzoning would generally prohibit the Town from denying or reducing the density of a project that complied with the proposed new higher density limits under the Housing Accountability Act.

In our June 17, 2022 letter to the Town Council, we listed a series of reasonable changes to the General Plan Update that the Town Council could make to address LGCA's concerns and to ensure that the impacts of the plan it adopts have been studied in the accompanying EIR. We understand that the Council continued its discussion of the General Plan Update to next week. We're still hopeful that the Town Council will seriously and thoughtfully consider, and ultimately embrace, LGCA's requested changes. But, since that has not been the reception from the Town to LGCA's comments thus far, LGCA authorized us to prepare a draft Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. A copy of the draft Petition and Complaint is attached hereto.

It is also important to note that after the draft General Plan Update was released in June 2021, there was public concern over the massive density changes proposed. LGCA commissioned EMC to conduct a public poll regarding the General Plan Update. The results were clear and convincing. The overwhelming majority of Town residents do not support the proposed General Plan Update. Specifically, 60 percent of Los Gatos voters indicate that they would vote to reject this plan if it were to be put on a future ballot. See summary of polling results attached.

We hope that this information is helpful to you as you advise the Town Council on their options for decision-making on the General Plan Update. LGCA continues to encourage the Town Council to take land use planning actions that are supported by the law and reflect the desires and wishes of Town residents.

Thank you for your consideration of LGCA's views on this matter. Please do not hesitate to contact me with any questions regarding this correspondence.

Sincerely yours,
Matt Francois

Matthew D. Francois

[REDACTED] | San Francisco, CA 94105
[REDACTED]
[REDACTED]

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This electronic transmission, and any documents attached hereto, (a) are protected by the Electronic Communications Privacy Act (18 USC §§ 2510-2521), (b) may contain confidential and/or legally privileged information, and (c) are for the sole use of the intended recipient named above. If you have received this electronic message in error, please notify the sender and delete the electronic message. Any disclosure, copying, distribution, or use of the contents of the information received in error is strictly prohibited.

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7 Attorneys for Plaintiffs and Petitioners
LOS GATOS COMMUNITY ALLIANCE

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SANTA CLARA

11 LOS GATOS COMMUNITY ALLIANCE,

12 Plaintiffs and Petitioners,

13 vs.

14 TOWN OF LOS GATOS,
15 TOWN COUNCIL OF THE TOWN OF LOS
GATOS, and
16 DOES 1 through 20, inclusive.

Case No. _____

**VERIFIED PETITION
FOR WRIT OF MANDATE
AND COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

**[California Environmental Quality Act
("CEQA"), Pub. Res. Code §§ 21168,
21168.5; Code of Civ. Proc., §§ 1085, 1094.5;
1060; 526 et seq.]**

17
18
19 Petitioner and Plaintiff LOS GATOS COMMUNITY ALLIANCE ("LGCA" or
20 "Petitioner") respectfully petitions this Court for issuance of a writ of mandate pursuant to Code of
21 Civil Procedure ("CCP") section 1094.5 and Public Resources Code ("PRC") section 21168, or in
22 the alternative pursuant to CCP § 1085 and PRC § 21168.5, and complains for the issuance of
23 temporary, preliminary, and permanent injunctive relief and for a declaration of its rights pursuant
24 to CCP §§ 526 and 1060, directed at Respondents and Defendants TOWN OF LOS GATOS
25 ("Town") and TOWN COUNCIL OF THE TOWN OF LOS GATOS ("Town Council," and
26 collectively with Town and Does 1-20, "Respondents"), as follows:

27 ///

28 ///

1 **I. INTRODUCTION**

2 1. This action challenges the June ___, 2022 decision of the Town and Town Council
3 to approve its 2040 General Plan Update (the “Project”) and the accompanying Environmental
4 Impact Report (“EIR”)¹ for failure to comply with the California Environmental Quality Act
5 (“CEQA”), Public Resources Code § 21000 *et seq.* and 14 California Code of Regulations § 15000
6 *et seq.* (“CEQA Guidelines”).

7 2. The Project greatly increases densities and intensities in almost every land use
8 designation. Yet, the EIR does not study the reasonably foreseeable consequences of these major
9 changes. This fundamentally and irreconcilably violates CEQA. (*See, e.g.*, Public Resources Code
10 § 21065; CEQA Guidelines §§ 15146(b), 15378; *Laurel Heights Improvement Assn. v. Regents of*
11 *University of California* (1988) 47 Cal. 3d 376; *Las Virgenes Homeowners Federation, Inc. v.*
12 *County of Los Angeles* (1986) 177 Cal.App.3d 300, 307; and *Banning Ranch Conservancy v. City*
13 *of Newport Beach* (2012) 211 Cal.App.4th 1209, 1228-1229.)

14 3. Instead of the tens of thousands of additional housing units and tens of millions
15 square feet of new commercial development allowed by the Project, the EIR studied only a small
16 fraction of this development, *e.g.*, approximately 3,700 housing units and approximately 670,000
17 square feet of commercial development. The EIR’s failure to analyze the impacts of the “whole of
18 the project” undermines the EIR’s analysis of every single environmental resource from Aesthetics
19 to Wildlife.

20 4. The EIR acknowledges that it improperly relied on inconsistent and conflicting
21 baselines. The FEIR states that the EIR used future conditions as the baseline. Yet, the DEIR states
22 that it relied on existing conditions, at least as to vehicle miles traveled (“VMT”) and certain other
23 resource categories. EIRs have been overturned for relying on conflicting baseline information.
24 (*See, e.g.*, *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87
25 Cal.App.4th 99.) Courts have also stated that an EIR may not rely on a future conditions baseline
26 without any substantial evidence to support use of something other than the existing conditions
27

28 ¹ The EIR consists of the Draft EIR (“DEIR”) dated July 2021, Recirculated Draft EIR (“RDEIR”) dated November 2021, and Final EIR (“FEIR”) dated March 2022.

1 baseline. (*Neighbors for Smart Rail v. Exposition Metro Line Construction Auth.* (2013) 57 Cal.4th
2 439.) There is no substantial evidence in the record to support use of a future conditions baseline
3 here. Further, the EIR acknowledges that its analysis relies on a “plan-to-plan” comparison of
4 environmental impacts. Courts have ruled that such paper analysis violates CEQA. (*See, e.g.,*
5 *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d
6 350.)

7 5. The EIR fails to adequately analyze and address significant transportation impacts.
8 The RDEIR identifies a new significant unavoidable impact to transit vehicle operations due to
9 increased delays at intersections. Yet, the RDEIR does not impose feasible mitigation measures to
10 avoid or substantially lessen this significant impact. The RDEIR also fails to consider any
11 alternatives to this newly identified significant impact. In all these aspects, the EIR fails to comply
12 with CEQA. (Public Resources Code §§ 21002, 21002.1(a), CEQA Guidelines §§ 15126.4, 15126.6;
13 *Laurel Heights Improvement Assn., supra*, 47 Cal.3d at 400-403.)

14 6. The EIR also fails to adequately analyze and/or mitigate significant environmental
15 impacts in several resource categories. The EIR fails to properly consider or properly analyze
16 significant cumulative impacts. It fails to analyze a reasonable range of alternatives to the Project.
17 The EIR further improperly defers mitigation without specifying objective performance standards,
18 as required by CEQA.

19 7. Contrary to CEQA, the FEIR fails to provide a good faith effort at full disclosure in
20 response to the comments on the DEIR. Because the CEQA findings (“Findings”) are based on the
21 same flawed EIR analysis detailed in comment letters submitted by Petitioner and others, the
22 Findings are not supported by substantial evidence, as required. Had the analysis been done
23 correctly, the EIR would have disclosed new or substantially more severe environmental impacts.
24 Because the EIR did not address these impacts, they are likewise not included in the Findings.

25 8. Because of these fundamental and irreconcilable transgressions of CEQA, Petitioner
26 seeks a writ of mandate and/or declaratory relief requiring the Town to set aside its approvals
27 certifying the EIR and approving the Project.
28

1 **II. THE PARTIES**

2 9. Petitioner LGCA is an unincorporated, non-profit, public interest community
3 association committed to well-reasoned land use planning actions and promoting and enforcing the
4 provisions of CEQA. Members of LGCA reside in and own property in Los Gatos and will be
5 directly impacted by the Project's impacts.

6 10. Petitioner has significant interests in ensuring that Respondents adequately analyze
7 and mitigate the environmental impacts of the Project as well as properly develop a General Plan
8 that meets the Town's regional housing needs allocation ("RHNA"), including its affordable
9 housing obligations, while preserving the small town nature and character of the Town. LGCA has
10 a beneficial interest in the outcome of this case for itself and on behalf of its members.

11 11. Petitioner and/or its members testified and/or submitted comment letters and other
12 objections expressing concerns about Respondents' plans for, and inadequate consideration of, the
13 significant environmental impacts of the Project at all appropriate times up to and including the
14 Town Council hearing to certify the EIR and approve the Project on June ___, 2022. Petitioner
15 objected to the certification of the EIR and approval of the Project both orally and/or in writing prior
16 to the close of the public hearing before the filing of the notice of determination.

17 12. Petitioner brings this action in the public interest, for enforcement of the important
18 public rights and environmental interests intended to be protected by CEQA and to assure
19 compliance with CEQA and other applicable provisions of law implicated by the Respondents'
20 unlawful actions.

21 13. Respondent/Defendant Town is, and at all times mentioned herein was, a municipal
22 corporation organized and existing under the laws of the State of California. The Town has a
23 mandatory duty to comply with the California Constitution, State law requirements, including
24 CEQA, the CEQA Guidelines, and California zoning laws, as well as its own Town Code, when
25 considering discretionary activities and land use regulatory actions such as the Project.

26 14. Respondent/Defendant Town Council is the elected decision-making body of the
27 Town that certified the challenged EIR and approved the contested Project.

28 15. Petitioner is ignorant of the true names and capacities of those sued herein as DOES

1 1 through 20, inclusive, and therefore sues those respondents/defendants by such fictitious names.
2 Petitioner will amend this Petition to allege the true names and capacities of these fictitiously named
3 respondents/defendants when they have been ascertained. Petitioner designates all other unknown
4 persons or entities claiming any interests in the subject of this litigation as DOE
5 respondents/defendants.

6 **III. JURISDICTION AND VENUE**

7 16. This Court has jurisdiction over this proceeding pursuant to CCP §§ 1085, 1094.5,
8 and 1060, and CEQA, including but not limited to Public Resources Code §§ 21168 and 21168.5.

9 17. Venue in this Court is proper pursuant to CCP § 394, in that Respondents are located
10 within the County of Santa Clara.

11 18. All facts and issues raised in this Petition were presented to Respondents prior to
12 Respondents' decision to certify the EIR and approve the Project on June ___, 2022. Petitioner has
13 exhausted all available administrative remedies, and submitted timely objections orally and/or in
14 writing, prior to Respondents' approval of the Project.

15 **IV. FACTUAL BACKGROUND**

16 **A. Description of Project**

17 19. On February 6, 2018, the Town of Los Gatos began the process of updating its 2020
18 General Plan with what would be known as the 2040 General Plan (the "General Plan Update" or
19 "GPU"). The putative goals of the GPU include refining the General Plan, addressing emerging
20 trends and recent State laws, and considering new issues.

21 **B. Environmental Review**

22 20. On or about July 30, 2021, the Town circulated a Notice of Completion and
23 Availability for the DEIR. The DEIR was circulated for 45 days, concluding on September 13,
24 2021. Written comments were received during this time, and a Planning Commission public hearing
25 was held on September 8, 2021, to receive oral comments.

26 21. The DEIR stated that the Project would result in significant environmental impacts
27 as to Air Quality, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Noise, and
28 Transportation. As to Greenhouse Gas Emissions and Transportation, the DEIR found that

1 mitigation measures could not mitigate impacts to less than a significant level, and thus concluded
2 that the Project would result in significant and unavoidable impacts to these resource categories.

3 22. During this initial comment period, Petitioner submitted written comments in
4 correspondence dated September 13, 2021. Petitioner's comment letter raised numerous substantive
5 and procedural concerns with respect to the EIR's analysis, including the issues raised in the present
6 Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (the "Petition").

7 23. During the review of commentary and the preparation of the FEIR, the Town became
8 aware that the original Notice of Completion and Availability was procedurally flawed, and also
9 that Appendix C erroneously included a draft Transportation Analysis, rather than a final version.
10 Accordingly, the Town reissued the Notice of Completion and Availability of the DEIR and
11 formally recirculated Chapter 4.15, Transportation, and Appendix C, Transportation Analysis for
12 the DEIR, as well as the Executive Summary. The public review period on the RDEIR ran from
13 November 19, 2021 through January 7, 2022. A public hearing to receive comments on the RDEIR
14 was held on December 8, 2021.

15 24. During this time, additional written comments on the RDEIR were received.
16 Petitioner submitted written comments in correspondence dated January 5, 2022. Petitioner's
17 comment letter raised additional substantive and procedural concerns with respect to the EIR's
18 environmental analysis, including the issues raised in the present Petition.

19 25. On or about March 24, 2022, the Town published the FEIR for the Project. In written
20 correspondence dated April 12, 2022 and June 17, 2022, Petitioner summarized the deficiencies and
21 flaws remaining in the EIR. In it correspondence dated March 22, 2022 and June 17, 2022, LGCA
22 outlined certain specific changes the Town could make to rectify certain major fundamental flaws
23 with the EIR. Neither the Planning Commission nor the Town Council adopted these reasonable
24 and straight-forward changes.

25 **C. Public Hearings and Project Approval**

26 26. On April 13, April 25, April 27, and May 2, 2022, the Town's Planning Commission
27 held public hearings to consider and make recommendations to the Town Council as to the GPU
28 and EIR. At its final hearing, the Planning Commission recommended that the Town Council certify

1 the EIR and approve the Project.

2 27. On June ___, 2022, the Town Council voted to certify the EIR and approve the
3 Project.

4 28. Because the Town Council's actions certifying the EIR and approving the Project
5 violates CEQA in several fundamental and irreconcilable ways, Petitioner commenced this action.

6 **FIRST CAUSE OF ACTION**

7 **(Petition for Writ of Mandate for Violations of CEQA)**

8 29. Petitioner hereby incorporates the allegations of the foregoing paragraphs as though
9 set forth in full herein by this reference.

10 30. Pursuant to CEQA, before a public agency approves any discretionary project, the
11 agency must first identify, assess, and publicly disclose the project's significant environmental
12 effects. An agency may not approve a project that has the potential to have significant
13 environmental impacts if there are feasible alternatives or mitigation measures that would avoid or
14 substantially lessen the adverse environmental impacts.

15 31. In doing the things herein alleged, the Respondents failed to comply with their
16 mandatory duties under CEQA in several substantial and prejudicial respects, including without
17 limitation, the following:

18 32. The EIR fails to analyze the impacts of the "whole of the project" as required by
19 CEQA. The EIR analyzes only a small fraction of the tens of thousands of additional housing units
20 and tens of millions square feet of new commercial development allowed by the changes to the land
21 use densities under the General Plan Update. This error alone infects the EIR's analysis of every
22 single environmental resource. By greatly upzoning most residential and commercial land use
23 designations and then failing to consider the environmental impacts associated with the upzoning,
24 the EIR fails to analyze the full degree of impacts resulting from the Project.

25 33. Town Staff has contended that it is "standard" practice to assume only a fraction of
26 the growth enabled by changes to a general plan, but this is directly contrary to CEQA which
27 mandates that the FEIR analyze the "whole of an action" that may result in either a direct or
28 reasonably foreseeable indirect physical change in the environment. (*See, e.g.,* Public Resources

1 Code § 21065; CEQA Guidelines §§ 15146(b), 15378; *Laurel Heights Improvement Assn., supra*
2 [EIR found inadequate for studying only a portion of a proposed laboratory/office development
3 project]; *Las Virgenes Homeowners Federation, Inc., supra*, 177 Cal.App.3d at 307 [in upholding
4 the cumulative impact analysis of a project EIR that relied upon plan EIRs, the court reasoned that
5 the plan EIRs “necessarily addressed the cumulative impacts of buildout to the maximum possible
6 densities allowed by those plans” with mitigation measures proposed and any overriding benefits of
7 development noted]; *accord, Banning Ranch Conservancy, supra*, 211 Cal.App.4th at 1228-1229.)

8 34. Furthermore, Town Staff has indicated that the Town would monitor growth, and if
9 it reached the maximum amount studied, the Town would only then conduct additional
10 environmental review. However, this also violates CEQA, as courts have routinely rejected similar
11 claims to study environmental impacts after a project has been approved, because if post-approval
12 environmental review were condoned, EIRs would be reduced to nothing more than post hoc
13 rationalizations to support actions already taken. (*Laurel Heights Improvement Assn., supra*, 47
14 Cal.3d at 394 [“If postapproval environmental review were allowed, EIR’s would likely become
15 nothing more than *post hoc* rationalizations to support action already taken.”]; *accord, Save Tara v.*
16 *City of West Hollywood* (2008) 45 Cal.4th 116, 138; *see also City of Santa Ana v. City of Garden*
17 *Grove* (1979) 100 Cal.App.3d 521, 533 [EIR should be prepared as early in the planning process as
18 possible to enable environmental considerations to influence project, program, or design especially
19 since general plan EIRs are used as foundation documents for specific project EIRs].)

20 35. The Project Description is inaccurate, unstable, and inconsistent. It is well-settled
21 that an accurate and complete project description is necessary for an intelligent and informed
22 evaluation of the potentially significant environmental impacts of an agency’s action. (*Cf. Silveira*
23 *v. Las Gallinas Valley Sanitary Dist.* (1997) 54 Cal.App.4th 980, 990; *County of Inyo v. City of Los*
24 *Angeles* (1977) 71 Cal.App.3d 185, 192; and *City of Redlands v. County of San Bernardino* (2002)
25 96 Cal.App.4th 398, 407-408.) Here, the EIR’s project description is flawed in numerous ways:

26 a. The preferred Land Use Alternative approved by the Town Council is not the
27 project studied in the EIR. At its April 7, 2020 meeting, the Town Council embraced Land Use
28 Alternative C, calling for an additional 2,303 housing units. Yet the EIR assumes 3,738 new housing

1 units, which is more than a 60 percent increase from the land use scenario approved by the Town
2 Council. In reality, the General Plan Update allows for growth that far exceeds the Council's
3 preferred Land Use Alternative as well as what was studied in the EIR.

4 b. The EIR states that one of the "central objectives" of the 2040 General Plan
5 is to achieve the Regional Housing Needs Allocation ("RHNA") of 2,000 dwelling units for 2023-
6 2031 developed by the Association of Bay Area Governments ("ABAG"). (DEIR, pp. 2-7, 6-1.)
7 But the EIR then proceeds to analyze 3,738 dwelling units—nearly double the assumed 2023 RHNA
8 figure. The EIR further states that the 2040 General Plan "incorporates the adopted 2015 Housing
9 Element" and that the 2023 Housing Element "is not included in this General Plan Update and would
10 be updated consistent with state law." (DEIR, pp. 1-4, 2-14, 2-16, 4.13-4.) But if the Project's
11 objective truly is to embrace the 2023 RHNA allocation, then proceedings on the 2040 General Plan
12 should halt until the 2023 RHNA allocation is finalized.

13 c. Furthermore, the geographical scope of the Project is unclear. The EIR refers
14 to the eight Community Place Districts which are intended to be "[f]ocus areas for growth." (DEIR,
15 pp. ES-2, 2-1.) But the General Plan Update significantly increases densities throughout the Town,
16 not just in Community Place Districts. The EIR does not acknowledge or attempt to reconcile this
17 serious disconnect between the amount and location of growth allowed by the General Plan Update
18 and the amount and location of growth studied in the EIR.

19 d. An EIR is invalid if its project description does not describe the necessary
20 infrastructure improvements (e.g., water, sewer, storm drain, roadways, sidewalks, etc.) associated
21 with the project. (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27
22 Cal.App.4th 713, 729-734 [EIR for housing project invalid for failing to consider and analyze impact
23 of necessary sewer expansion].) The EIR's Project Description does not contain any discussion of
24 necessary infrastructure improvements associated with the Project. The EIR likewise defers analysis
25 of infrastructure improvements to a future time. This is plainly inadequate under CEQA.

26 e. Finally, Tables 2-2 and 4.11-2 of the FEIR shows a total of 3,738 units with
27 no units labeled "Hillside Residential." However, on September 20, 2021, Town Staff reported to
28 the Town Council and Planning Commission a table showing 166 units in the Hillside Residential

1 category, for a total of 3,904 units. The EIR does not analyze the impacts of 3,904 units, but only
2 the small (and even more grossly deflated) amount of 3,738 units.

3 f. In short, the Project Description has continued to change and evolve
4 throughout the process, thus robbing the EIR's analysis of its validity.

5 36. The EIR fails to adequately analyze and address significant impacts to Aesthetics by,
6 among other things:

7 a. Failing to provide visual simulations or related data regarding future buildout
8 conditions.

9 b. Omitting discussion of key policies pertaining to scenic resources, scenic
10 easements, undergrounding requirements, or view corridor protection.

11 c. Neglecting to study scenic resources within or adjacent to state scenic
12 highways.

13 d. Improperly deferring mitigation for significant visual impacts by the EIR's
14 admission that the development of formal design guidelines would occur at a later time.

15 37. The EIR also fails to adequately analyze and address significant impacts to Air
16 Quality by, among other things:

17 a. Evaluating consistency between the Project and the Bay Area Air Quality
18 Management District's 2017 Clean Air Plan ("CAP") using only six of the 85 control strategies
19 contained in the CAP.

20 b. Ignoring that Project growth is inconsistent with the growth projections
21 assumed in the CAP which are based on substantially lower ABAG population forecasts.

22 c. Using an indefensible methodology to assess impacts related to vehicle miles
23 traveled ("VMT") whereby the EIR only reaches a less than significant conclusion by comparing
24 VMT to population increase on a percentage basis.

25 d. Limiting the qualitative analysis of construction impacts only to dust control
26 measures and wholly ignoring other construction-related emissions. The EIR's conclusion that the
27 Project would result in less than significant construction impacts is not supported by substantial
28 evidence.

1 e. Failing to consider the health-related effects of all air quality emissions,
2 including criteria air pollutants associated with Project construction activities and operations.
3 (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502 [EIR overturned for failure to explain how air
4 pollutants generated by a project would impact public health]; *accord, Bakersfield Citizens for Local*
5 *Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.) Because the Town failed to conduct
6 such an analysis, the EIR fails as an informational document.

7 38. The EIR fails to adequately analyze and address significant impacts to Biological
8 Resources, including by:

9 a. Failing to address potential impacts on special-status animal and plant
10 species, including but not limited to, the California Tiger Salamander.

11 b. Concluding that impacts would be less than significant despite
12 acknowledging that infill development, or development attendant to the overall increase in density
13 for all areas within the Town, could result in significant impacts but failing to impose any mitigation
14 measures to address those impacts.

15 39. The EIR fails to adequately analyze and address significant impacts to Cultural and
16 Tribal Cultural Resources by, among other things:

17 a. Failing to acknowledge that the significant increase in densities throughout
18 the Town will lead to additional development in historic districts and thus impact important historic
19 resources within the Town.

20 b. Improperly deferring mitigation via Mitigation Measure CR-1 which requires
21 preparation of future cultural resource studies and implementation of the recommendations
22 contained in those studies. Moreover, because demolition of a historic resource generally results in
23 a significant unavoidable impact (*cf. League for Protection of Oakland's Architectural and Historic*
24 *Resources v. City of Oakland* (1997) 52 Cal.App.4th 896), the EIR's statement that Mitigation
25 Measure CR-1 would reduce impacts to less than a significant level is not supported by facts or law.

26 c. Reliance on policies that are inadequate per case law to avoid or mitigate
27 significant impacts to tribal cultural resources. (*See, e.g., Save Agoura Cornell Knoll v. City of*
28 *Agoura Hills* (2020) 46 Cal.App.5th 665.)

1 40. The EIR fails to adequately analyze and address significant impacts to Energy by,
2 among other things:

3 a. Ignoring the vast majority of physical impacts associated with increased
4 electricity generation or the burning of fossil fuels.

5 b. Failing to acknowledge significant impacts relating to transportation fuel
6 consumption associated with the Project's significant and unavoidable impacts to VMT.

7 c. Containing inconsistent information related to regulations concerning
8 renewable resource targets.

9 d. Relying on dated and superseded greenhouse gas ("GHG") reduction targets.

10 e. Failing to discuss or analyze the Project's consistency with the State's 2017
11 Scoping Plan.

12 41. The EIR defers mitigation for impacts relating to Geology and Soils via Mitigation
13 Measure GEO-1 by requiring that future paleontological resource studies be prepared and that
14 measures in those studies be implemented.

15 42. The EIR fails to adequately analyze and address significant impacts relating to
16 Greenhouse Gas Emissions by, among other things:

17 a. Not providing supporting data to justify the GHG reductions that would
18 purportedly result from Mitigation Measure GHG-1.

19 b. Omitting discussion of other feasible mitigation measures to avoid or
20 substantially reduce the Project's significant and unavoidable GHG impact. (*Communities for a*
21 *Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 91 ["Having recognized and
22 acknowledged that incremental increases in greenhouse gases would result in significant adverse
23 impacts to global warming, the EIR was now legally required to describe, evaluate and ultimately
24 adopt feasible mitigation measures that would mitigate or avoid those impacts."].) Failure to do so is
25 particularly egregious as the Project results in GHG emissions that are more than five times the Town's
26 stated standard.

27 c. Failing to reflect a good faith effort to analyze and disclose impacts as
28 required by CEQA in that the EIR does not consider the State's 2045 carbon neutrality goal merely

1 because it was enacted by executive order instead of by statute.

2 43. The EIR's reliance on 2016-2017 data regarding the Project's potential impacts on
3 groundwater supplies or interference with groundwater recharge does not constitute substantial
4 evidence supporting the conclusion that the Project results in less than significant hydrology
5 impacts. It is also misleading and fails to present an accurate picture of the environmental setting,
6 which includes extreme drought conditions.

7 44. The EIR fails to adequately analyze and address significant impacts relating to Land
8 Use and Planning by, among other things:

9 a. Failing to analyze the impacts of the General Plan Update, the "project" under
10 consideration.

11 b. Neglecting to reconcile the Project's significant and unavoidable impacts to
12 VMT and GHG with its conclusion that the Project is consistent with Plan Bay Area 2040.

13 c. Omitting disclosure of the significant conflicts between the growth projected
14 under the General Plan Update and that projected under Plan Bay Area 2040.

15 d. Not addressing the Project's conflicts with planning policies or regulations
16 adopted for the purpose of avoiding or mitigating an environmental effect.

17 45. The EIR fails to adequately analyze and address significant Noise impacts by, among
18 other things:

19 a. Ignoring the potential for increased development Town-wide under the
20 General Plan Update, and focusing instead on the Community Place Districts alone. Moreover,
21 even as to these limited areas of study, the EIR acknowledges that the impacts may exceed Town
22 noise thresholds, but the EIR nonetheless concludes that the impact is less than significant. This
23 conclusion conflicts with, and is not supported by, substantial evidence in the record.

24 b. Failing to analyze and address the Project's significant construction noise
25 impacts.

26 c. Failing to consider the significant impacts associated with the use of pile
27 drivers or vibratory rollers.

28 d. Relying improperly on a ratio theory to justify its conclusion that the Project

1 will result in a less than significant impact related to roadway noise. (*Kings County Farm Bureau*
2 *v. City of Hanford* (1990) 221 Cal.App.3d 692.)

3 e. Containing no analysis of increased noise levels, especially on roadways
4 where roadway noise already exceeds established noise levels.

5 f. Failing to discuss or analyze other operational noise impacts, as required.
6 For instance, the analysis does not discuss or address the requirement that new development be
7 located in areas where noise levels are appropriate for the proposed use. (General Plan Update, pp.
8 8-26 to 8-27.) There is also no cumulative discussion of operational noise impacts or roadway noise
9 levels, also as required. (CEQA Guidelines § 15130 [“An EIR shall discuss cumulative impacts of
10 a project when the project’s incremental effect is cumulatively considerable.”].)

11 46. The EIR fails to adequately analyze and address significant impacts related to
12 Population and Housing by, among other things:

13 a. Failing to acknowledge and address the Project’s potential to induce
14 substantial population growth (*e.g.*, growth exceeding ABAG population forecasts).

15 b. Ignoring the potential displacement impacts that could result from the
16 increased densities allowed by the General Plan Update.

17 47. The EIR improperly defers analysis relating to the construction of necessary fire and
18 police facilities.

19 48. The EIR fails to adequately analyze and address significant impacts related to
20 Transportation by, among other things:

21 a. Failing to consider and impose feasible mitigation measures and discuss
22 feasible alternatives to address a significant and unavoidable impact related to transit vehicle
23 operations.

24 b. Failing to consider and impose feasible mitigation measures and discuss
25 feasible alternatives to address a significant and unavoidable impact related to VMT. This is
26 especially problematic given that the Project results in VMT that is 19 percent greater than the
27 applicable VMT threshold.

28 c. Relying improperly on a ratio theory to justify its conclusion that cumulative

1 VMT impacts will be less than significant. (*Kings County Farm Bureau, supra.*)

2 49. The EIR fails to adequately analyze and address significant impacts related to
3 Utilities and Service Systems by, among other things:

4 a. Failing to consider the impacts of relocated utilities as specified in Section
5 XIX of Appendix G to the CEQA Guidelines.

6 b. Not preparing and circulating a Water Supply Assessment for public review
7 and comment along with the DEIR.

8 c. Relying on rescinded and superseded Urban Water Management Plans as
9 well as plans that did not account for Project growth.

10 d. Failing to examine potential impacts relating to alternative water supply
11 sources given the uncertainty associated with future water supplies.

12 e. Ignoring the Project's effect on the "near capacity" Guadalupe Landfill.

13 50. The EIR fails to adequately analyze and address significant impacts related to
14 Wildfire by, among other things:

15 a. Underreporting the number of buildings and persons in high and very high
16 hazard zones.

17 b. Failing to discuss or address pertinent planning policies related to the
18 provision of secondary emergency access and adequacy of water storage for fire protection.

19 c. Not considering whether the Project would expose people or structures to a
20 significant risk of loss, injury or death involving wildfires.

21 51. The EIR fails to analyze a reasonable range of alternatives to the Project. Indeed,
22 the FEIR analyzes only four alternatives to the Project, including the Low Growth Alternative, the
23 Medium Growth Alternative, the High Growth Alternative, and the required No Project Alternative.
24 The Findings acknowledges that none of these alternatives would avoid the Project's significant
25 unavoidable impacts to GHG and transportation.

26 52. All of the alternatives discuss and analyze the increased density inside and outside
27 "Opportunity Areas," which the DEIR states was eliminated due to its complex regulatory structure.
28 As such, there is no valid comparison between the alternatives and the proposed Project, as required,

1 but instead to a prior project that was admittedly eliminated from consideration.

2 53. Moreover, the FEIR narrowly confines and constrains the alternatives analysis
3 contrary to CEQA by focusing only on 2,000 housing units as its objective. As such, the EIR
4 narrowly confines and constrains the alternatives analysis contrary to CEQA. (*See, e.g., North Coast*
5 *Rivers Alliance v. A.G. Kawamura* (2016) 243 Cal.App.4th 647 [alternatives analysis predicated on
6 impermissibly narrow list of project objective is invalid].)

7 54. The EIR fails to properly analyze significant cumulative impacts by conflating the
8 analysis of project-level and cumulative impacts, which is contrary to CEQA requirements that an
9 EIR must separately consider project-level impacts and cumulative impacts. The EIR also conflates
10 the separate and distinct questions of whether a cumulative impact is significant with whether the
11 Project would make a cumulatively considerable contribution to such significant cumulative impact.
12 (CEQA Guidelines § 15130.) Further, the EIR appears to only consider the impacts of the General
13 Plan Update and no other reasonably foreseeable development, as required. (*San Franciscans for*
14 *Reasonable Growth v. City & County of San Francisco* (1984) 151 Cal.App.3d 61, 74.)

15 55. The FEIR fails to contain a good faith effort at full disclosure in response to the
16 comments on the DEIR. (CEQA Guidelines § 15204.) For instance, in response to 234 comments on
17 the DEIR and RDEIR, the FEIR includes a minimal number of edits and revisions to the DEIR and
18 RDEIR.

19 56. In response to comments on the DEIR and RDEIR, the FEIR acknowledges that it did
20 not study the actual Project that was approved. Instead, the EIR studied the Town's RHNA number
21 plus a buffer as well as units in the pipeline and accessory dwelling units. In terms of commercial
22 development, the FEIR acknowledges that it did not assume any additional commercial development
23 beyond that which is already approved and pending.

24 57. Even though the General Plan Update increases densities by 100 percent or more and
25 intensities by up to 500 percent, the EIR claims that the Project will not result in much new growth
26 based on the amount of vacant land (which still totals nearly 700 acres) and artificially deflated
27 "assumptions" about the percentage of already improved land that will be redeveloped. These
28 assumptions are not supported by any evidence, let alone substantial evidence, as required. The FEIR

1 claims that they rely on historic growth rates, but the assumptions are not correlated to such historic
2 growth patterns or even the amount of actual acreage. Even if they were, they would not be reasonable
3 or justified given the significant upzoning resulting from the Project and the legal and economic
4 ramifications associated with such upzoning.

5 58. The EIR did not analyze any additional commercial development beyond what is
6 already approved and pending. This ignores the General Plan Update's significant increase in allowed
7 floor area ratios from 0.5 up to 3.0. It also ignores the potential for additional commercial development
8 at these increased intensities on vacant lands.

9 59. The Findings are not supported by substantial evidence in the record. The Findings
10 contain no evidence to support the claim that specific economic, legal, social, technological, mobility,
11 or other considerations make infeasible other mitigation measures and alternatives to address the
12 Project's significant and unavoidable GHG and Transportation (transit and VMT) impacts.

13 60. The Findings claim that the Project would impede substantial progress towards
14 meeting the CARB 2017 Scoping Plan, SB 32, and EO B-55-18 targets, but that was not disclosed in
15 the DEIR and thus not subject to public review and comment. The Findings also first acknowledge
16 that the Project would exceed Plan Bay Area 2040 forecasts for household growth. As such, the Town
17 has acknowledged new significant environmental impacts after release of the DEIR, requiring that the
18 EIR be recirculated for public review and comment. (Public Resources Code § 21092.1; CEQA
19 Guidelines § 15088.5.) Further, only in response to comments on the DEIR does the Town purport
20 to explain how the redevelopment assumptions were derived. An agency cannot wait until the FEIR
21 to provide critical information so as to immunize itself from critical public scrutiny and comment.
22 (*Save Our Peninsula Committee, supra* [overturned EIR for, among others, providing new
23 information about riparian water rights after release of the draft EIR].)

24 61. The Findings state that the significant VMT impacts would require regional action
25 by multiple agencies in the South Bay, including the cities of Campbell and San Jose as well as the
26 counties of Santa Clara and Santa Cruz. Despite this acknowledgment, the Findings do not include
27 the relevant finding under CEQA Guidelines Section 15091 that: "Such changes or alterations are
28 within the responsibility and jurisdiction of another public agency and not the agency making the

1 finding. Such changes have been adopted by such other agency or can and should be adopted by
2 such other agency.”

3 62. It is well settled that alternatives must be considered for each significant impact,
4 whether it can be feasibly mitigated or not. (*Laurel Heights Improvement Assn.*, *supra*, 47 Cal.3d
5 at 400-403 [held that an EIR must include a description of both mitigation measures and alternatives
6 so that decision-makers will be provided with adequate information about the range of options
7 available to reduce or avoid significant environmental impacts.].) Yet the Findings wrongly state
8 that the EIR need only consider alternatives for significant unavoidable impacts.

9 63. The Statement of Overriding Considerations (“SOC”) is likewise not supported by
10 substantial evidence in the record. It claims that the Project “updates outdated policies in a manner
11 that meets current legal requirements for General Plans.” No specific citations to policies or
12 authorities are provided to support this claim.

13 64. The SOC states that the Project focuses on infill and reuse development “with a focus
14 on increasing opportunities for housing development in key areas of the Town through increased
15 density and mixed-use projects where appropriate.” It also states that it promotes higher-density
16 development and infill while preserving established residential neighborhoods. In reality, the
17 Project increases development potential throughout the entire Town with the EIR claiming that the
18 full development allowed will not occur based on unreasonable and unjustified deflated assumptions
19 about redevelopment potential tied to historic growth rates.

20 65. The SOC also claims that the Project will reinvigorate downtown Los Gatos as a
21 “special place for community gathering, commerce, and other activities for residents and visitors.”
22 This benefit is directly at odds with what the Project actually does. The General Plan Update
23 increases allowed intensities in Los Gatos’s unique and charming Downtown by over 200 percent.

24 66. Respondents’ actions in certifying the EIR and approving the Project were not in
25 compliance with procedures required by law, were not supported by substantial evidence in the
26 public record, were not reflected in legally adequate findings, and were arbitrary, capricious, and
27 reflected a prejudicial abuse of discretion.

28 67. Petitioner has no plain, adequate and speedy remedy at law to redress the wrongs

1 described in this Petition.

2 68. Petitioner has performed any and all conditions precedent to filing this action and
3 has exhausted any and all available administrative remedies to the extent required by law by, among
4 other things, submitting written and oral comments objecting to the EIR and the Project, and the
5 failure to comply with CEQA at each stage of the City's administrative process. To the extent any
6 matter raised in this Petition was not addressed in Petitioner's comments, Petitioner is informed and
7 believes that such matters were raised by other persons or entities who objected to the Project, or
8 that Petitioner had no effective opportunity to raise such comments before the complained of actions
9 were taken, or that Petitioner was otherwise excused from or not obligated to raise such issues before
10 pursuing them in this action.

11 69. Pursuant to PRC § 21167.5, Petitioner has provided written notice of the
12 commencement of this action to the Town.

13 70. Pursuant to PRC § 21167.7 and CCP § 388, Petitioner has or will provide written
14 notice of this action, including a copy of this Petition and Complaint, to the State Attorney General.

15 71. Petitioner brings this action pursuant to PRC §§ 21168 & 21168.5, and CCP §§ 1085,
16 1088.5 & 1094.5, which require that an agency's approval of a project be set aside if the agency has
17 prejudicially abused its discretion. Prejudicial abuse of discretion occurs where the Town has failed
18 to proceed in the manner required by law, the decisions are not supported by the findings, or the
19 findings are not supported by the evidence.

20 72. Pursuant to CCP § 1085 and/or 1094.5, a writ of mandate should issue directing
21 Respondents to rescind approval of the Project and prohibiting Respondents from taking any
22 subsequent action to approve the Project until they have complied with CEQA, including, but not
23 limited to, by preparing an environmental impact report that adequately analyzes and addresses all
24 of the impacts associated with the Project.

25 **SECOND CAUSE OF ACTION**

26 **(Declaratory and Injunctive Relief)**

27 73. Petitioner hereby incorporates the allegations of the foregoing paragraphs as though
28 set forth in full herein by this reference.

74. An actual controversy exists between Petitioner and Respondents involving substantial questions regarding Respondents' approval of the Project and certification of the EIR. Petitioner maintains that Respondents' approval of the Project violates CEQA, as described above. Petitioner is informed and believes, and thereon alleges, that Respondents maintain the contrary. Accordingly, declaratory relief is appropriate and necessary to determine Respondents' authority to certify the EIR and approve the Project.

75. Petitioner is informed and believes, and thereon alleges, that certification of the EIR and any implementation of the Project by Respondents will cause irreparable and permanent harm to Petitioner and be detrimental to the public at large as set forth above.

76. Petitioner has no adequate remedy at law to prevent or mitigate the imminent harm and actions described above, has exhausted all administrative remedies, and therefore issuance of preliminary and permanent injunctive relief is necessary to restrain and enjoin Respondents, and all others acting in concert with them from in any way seeking to implement the Project and other actions, pending final resolution of this action.

77. To remedy Respondents' violations of law, as described above, Petitioner seeks a judicial declaration that Respondents' approval of the Project was invalid and contrary to law, including, but not limited to, CEQA. Such a declaration is a necessary and proper exercise of the Court's power to prevent future actions by Respondents in violation of the law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays for judgment as follows:

1. For a Writ of Mandate:

a. Directing Respondents to rescind, vacate and set aside Respondents' certification of the EIR and approval of the Project;

b. Commanding Respondents to prepare a revised draft environmental impact report and circulate it for public review and comment, consistent with the requirements of CEQA, and to comply with all other requirements of CEQA, prior to taking any subsequent action to approve the Project;

2. For the declaratory relief requested above;

1 3. For a temporary restraining order and/or preliminary injunction ordering the
2 Respondents to refrain from proceeding with the Project (or any component thereof) while this
3 action is pending.

4 4. For a permanent injunction ordering the Respondents to refrain from proceeding with
5 the Project (or any component thereof) pending Respondents' full compliance with the procedural
6 and substantive mandates of CEQA;

7 5. For an award of attorney's fees, litigation expenses, and costs as permitted or
8 required by law, including but not limited to CCP § 1021.5, Government Code § 800, and other
9 statutory and common law; and

10 6. For such other relief as the Court deems just and proper.

11 Dated: July __, 2022

RUTAN & TUCKER, LLP

12
13 By: _____

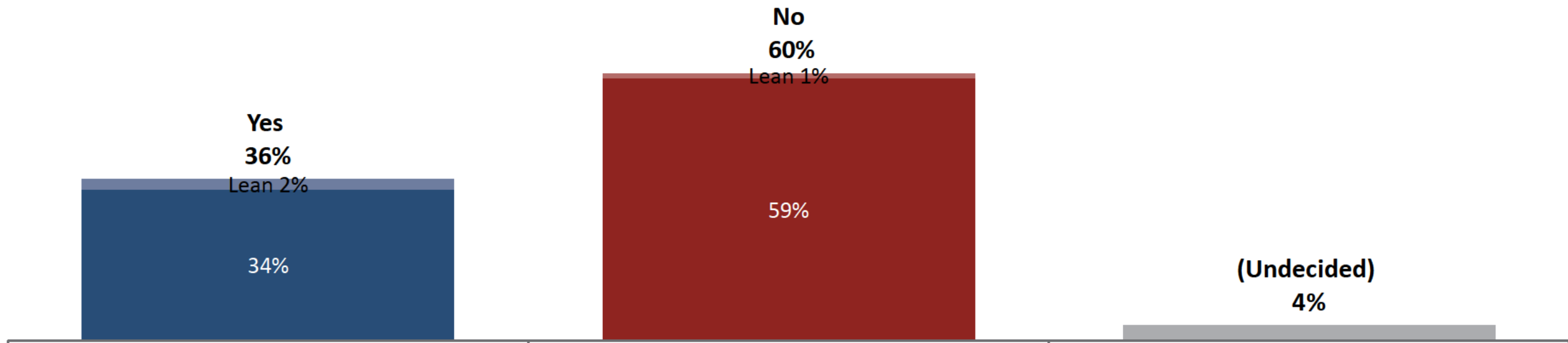
Matthew D. Francois
Attorneys for Petitioner and Plaintiff
Los Gatos Community Alliance

Informed Referendum Vote Preference

After learning more about the general plan and reasons to support and oppose it, 60% of Los Gatos voters indicate they would vote “no to reject” this plan, if it were put to a referendum on a future ballot.

If the Town Council adopts the 2040 General Plan, voters may have an opportunity on a future ballot to vote in a referendum to approve or reject the plan.

If the election were held today, would you vote yes to approve or no to reject the proposed 2040 General Plan?



From: Phil Koen [REDACTED]
Sent: Sunday, June 26, 2022 11:29:37 AM
To: Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>
Subject: explanation of redevelopment percentages

EXTERNAL SENDER

Hello Rob, Mary, Matthew, Maria, and Marico,

Please look at page 3 of the attached document I received under my Public Records request where Joel provides an explanation as to how the redevelopment percentages were determined. For over a year LGCA has asked for evidence which provides the basis for the redevelopment percentages which are used to determine the units shown in table 3.1 of the 2040 GP. The table clearly shows the redevelopment “assumptions” are the basis for determining the number of redeveloped net new units. Change the redevelopment assumption and the number of units redeveloped changes.

Also note that table 3-1 (attached) which shows 3,738 total units developed under the draft 2040 GP as the **“total residential buildout possible under the 2040 GP”**. Note the table description does not say “probable” - it says “possible”. How do we know this to be true? Does this mean that 4,000 units are “not possible”, or 5,000 unit are “not possible”? Why not?

The point here is that the percentage for each land use listed in table 3-1 represent just one assumption out of an infinite number of possible “reasonable” redevelopment assumptions. What if all the percentages were just 5 or 10 percentage points higher (e.g., 5% going to 10% or 15% going to 25%)? Why is this not a reasonable assumption? Developers will invest in the redevelopment of land based **on their view of redevelopment economics**. If they few the economics are favorable, redevelopment it will occur. This will drive more and more redevelopment. This higher level of investment means that the redevelopment percentage will increase. And the only control the Town has over redevelopment are the land use laws and zoning ordinances that “allow” this development. This is why the public needs to clearly understand the total residential development being “allowed” under the draft 2040 GP Land Use Element. This has not been disclosed.

Another key point is that the Final EIR claims on p126 (also attached) that “the DEIR assumes the General Plan is a planning and guidance document and **uses the potential growth the Town is likely to achieve by the year 2040** as it baseline for analysis of potential impacts”. It continues with “the projected 3,738 dwelling units is comprised of multiple parts and **focuses on the total buildout for the Town not just a 20-year horizon**”. This last statement seems to suggest that 3,738 units is the total buildout potential, not just what could be developed in a “20-year horizon”. How is this possible if the first statement discusses “likely to achieve by the year 2040” and the second sentence states “not just a 20-year horizon”. These statements regarding timelines appear to be in conflict and are confusing.

To add to the confusion on p 130 of the FEIR, it says “the use of the higher number (3,738 units) ensures a “worse-case scenario” has been used in assessing potential significant impacts”. Again the 2040 GP and the DEIR appear to be in conflict in so much as the 2040 GP is using 3,738 units as the development likely to be achieved by 2040 while the FEIR represents that 3,738 is a “worse-case scenario”. 3,738 units can not represent both a likely outcome and at the same time the “worst-case” scenario. Does this make sense to any of you?

Based on the above the TC should not adopt the land use element nor certify the FEIR since the “total residential buildout possible under the 2040 GP” has not been disclosed in the 2040 GP nor properly studied by the DEIR.

The public deserves to fully understand the total impact of the proposed zoning changes on our Town. The 2040 GP does not disclose this and in fact misleads and confuses the public as to the “total residential buildout possible under the 2040 GP”.

In an effort to frame the magnitude of the issue, using only the data provided by Staff in table 3-1, the LGCA has computed that the “total residential buildout possible” is 14,618 units. We have attached our analysis. Stated another way, if the 2040 GP allows 14,618 new units to be developed based on the proposed changes in land uses and zoning densities, the 2040 GP is projecting only 13% (1,959 divided by 14,618) of total land uses being redeveloped over 20 years. It is extremely reasonable to ask why is this the right answer as opposed to 25% or 30%? What substantial evidence was used to determine the numbers in table 3-1?

Thank you.

Phil Koen

From: Joe Paulson <jpaulson@osgatosca.gov>
Subject: RE:
To: Phil Koen [REDACTED] GC 6522(a)
Cc: jvannada [REDACTED] GC 6522(a); Rick Van Hoesen [REDACTED] GC 6522(a); Laure Prevetti <LPrevetti@osgatosca.gov>; Robert Schutz <RSchutz@osgatosca.gov>; Jennifer Armer <JArmer@osgatosca.gov>
Sent: December 22, 2021 8:30 PM (UTC+00:00)

Thanks for your email Phil. See responses below. I hope you have a happy holiday season.

1. Does the number of redeveloped units reported under the existing General plan (584) and the draft general plan (1,959) reflect “net new” or “gross new” units?

The units are “net new.”

2. How were the new units on vacant land computed under the draft general plan? For example if under the current general plan there can be only 75 units developed on LDR, how can 283 units be developed under the draft general plan on LDR? I would have thought it would have stayed the same at 75. The increase implies duplex or triplex have been built. Can you please provide the detail behind the increase from 75 units to 283 units.

The Draft 2040 General Plan assumed a higher density. The existing General Plan has a dwelling units per acre maximum of four assumption, while the Draft 2040 General Plan has a maximum of 12 dwelling units per acre assumption. This accounts for the difference between existing vacant land units in the 2010 General Plan compared to the Draft 2040 General Plan.

3. Any answer yet on the different numbers in the background report for development of vacant land (504) and the Staff memo of Sept 16 (429)?

We subsequently discovered errors in some of the base Assessor’s data used in the Background Report which reduced the number of units on vacant land.

Joel Paulson • Community Development Director

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

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www.losgatosca.gov • <https://www.facebook.com/losgatosca>



General Plan update, learn more at www.losgatos2040.com



Housing Element update, learn more at <https://engagelosgatoshousing.com>

All Community Development Department (CDD) operations will be closed on Thursday, December 23, 2021 through December 31, 2021 for a Town Hall Year-End Closure. Planning, Building, and Code Compliance services will not be available during this closure, including but not limited to, online permitting system account activation, receipt/processing of online applications, project reviews, building inspections, or external communications. We resume normal operations on Monday, January 3, 2022.

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From: Phil Koen [REDACTED] GC 6522(a)
Sent: Friday, December 17, 2021 8:56 AM
To: Joel Paulson <jpaulson@losgatosca.gov>
Cc: jvannada [REDACTED] GC 6522(a); Rick Van Hoesen [REDACTED] GC 6522(a); Laurel Prevetti <LPrevetti@losgatosca.gov>; Robert Schultz <RSchultz@losgatosca.gov>; Jennifer Armer <JArmer@losgatosca.gov>
Subject: Re:

EXTERNAL SENDER

Hi Joel,

Thank you for your reply. There were a couple of other questions that I think you were going to look into. They were:

1. Does the number of redeveloped units reported under the existing General plan (584) and the draft general plan (1,959) reflect "net new" or "gross new" units?
2. How were the new units on vacant land computed under the draft general plan ? For example if under the current general plan there can be only 75 units developed on LDR, how can 283 units be developed under the draft general plan on LDR ? I would have thought it would have stayed the same at 75. The increase implies duplex or triplex have been built. Can you please provide the detail behind the increase from 75 units to 283 units.
3. Any answer yet on the different numbers in the background report for development of vacant land (504) and the Staff memo of Sept 16 (429)?

Thank you.

Phil Koen

On Dec 7, 2021, at 4:24 PM, Joel Paulson <jpaulson@losgatosca.gov> wrote:

Phil Below are responses to your questions from our meeting last week.

Are the 1,988 units from the table in the September 16, 2021 staff report the assumed buildout?

1,988 units is the assumed, existing General Plan, buildout based on the assumptions in the table.

Why are the vacant land units in the Background Report (504) different from the table in the September 16, 2021 staff report (429)?

We are working with our Consultant to get information regarding the difference in the number of vacant land units.

How were the vacant land units in the Background Report (504) calculated?

See the footnotes for Table 3.8-2 for information on the calculations.

What do the acres represent in Table 3.3-1 of the Background Report?

The total acres for each of the included General Plan Land Use designations in the Town's jurisdiction.

Is there a study for the redevelopment assumptions that are included in the General Plan Buildout Table (Table 3-1)?

There is not a study. The assumed redevelopment potential was coordinated in conjunction with the consultant teams' economist, Applied Development Economics. The overall analysis stems from a two-fold process, first looking at the overall market demand projection that included a 0.7% growth rate, and secondly the need to satisfy and comply with the mandated RHNA numbers.

Thanks.



Joel Paulson • Community Development Director

Community Development Department • 110 E. Main Street, Los Gatos CA 95030

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General Plan update, learn more at www.losgatos2040.com

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Public Records Exemptions

Enclosed please find a copy of the response documents for your public records request. The following information is provided to explain the process employed to review and produce the response documents.

| Reason | Description | Pages |
|---------------|---|-------|
| GC 6522(a) | 6522(a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. | 1-2 |

Sensitive Land Uses. Relative to issues of land use compatibility and adjacency, sensitive land uses typically include residences; schools; nursing homes; historic sites; open space areas; hospitals and care facilities; places of worship; and libraries.

Single-Family Residential. Single-family residential includes fully detached, semidetached (semi-attached, side-by-side), row houses, and townhouses. In the case of attached units, each must be separated from the adjacent unit by a ground-to-roof wall in order to be classified as a single-family structure. Also, these units must not share heating/air-conditioning systems or utilities.

Sphere of Influence. The Sphere of Influence is the area determined by the Local Agency Formation Commission (LAFCO) of Santa Clara County to represent the probable future physical boundary of the Town. The adoption of Spheres of Influence is required by Government Code Section 56425.

Urban Service Area. The Los Gatos Urban Service Area (USA) is established by Santa Clara County LAFCO. The USA delineates areas outside Town limits that are currently provided with urban services, facilities, and utilities; or areas proposed to be annexed into a Town within the next five years.

Vacant/Underutilized Sites. Vacant/underutilized sites includes undeveloped and underdeveloped parcels. A majority of a parcel must be undeveloped for a parcel to be considered underutilized.

3.1 General Plan Residential Buildout

Table 3-1 provides a description of the **total residential buildout possible** under the 2040 General Plan. The Land Use Diagram (Figure 3-6) and **associated land use designations and standards** are presented in Section 3.4. **Together**, these provide for **development potential** adequate to cover the Town's projected housing needs based on the Town's 2023-2031 Regional Housing Needs Allocation (RHNA).

Table 3-1 General Plan Residential Buildout

| Land Use Designation | | Density Range (du/ac) | Typical Density (du/ac) | Assumed Redevelopment | New Housing (Vacant Land) | New Housing (Redevelopment) |
|---|----------------------------|-----------------------|-------------------------|-----------------------|---------------------------|-----------------------------|
| LDR | Low Density Residential | 1 to 12 | 12 | 5% | 283 | 84 |
| MDR | Medium Density Residential | 14 to 24 | 20 | 10% | 224 | 343 |
| HDR | High Density Residential | 30 - 40 | 36 | 15% | 110 | 268 |
| NC | Neighborhood Commercial | 10 to 20 | 18 | 10% | 26 | 91 |
| CC | Community Commercial | 20 to 30 | 26 | 15% | - | 156 |
| MU | Mixed-Use | 30 - 40 | 36 | 20% | 126 | 605 |
| CBD | Central Business District | 20 to 30 | 26 | 15% | 21 | 113 |
| OP | Office Professional | 30 to 40 | 36 | 15% | 4 | 255 |
| SC | Service Commercial | 20 to 30 | 26 | 15% | 10 | 44 |
| Subtotal | | | | | 804 | 1,959 |
| Housing Units, New and Redeveloped | | | | | | 2,763 |
| Housing Units, ADUs | | | | | | 500 |
| Housing Units, Existing Projects | | | | | | 475 |
| TOTAL NEW | | | | | | 3,738 |

Based on current (2020) persons per household in Los Gatos of 2.4 persons/household, this increase in units will increase the community's population by 8,971 persons.

Maximum Buildout Potential Under 2040 General Plan

| Land Use | Acres¹ | Density | FAR² |
|--------------------------------|--------------------------|---------------------------------------|---|
| Low-Density Residential | 4,460.93 | 1-12 du/acre 4,460.93-53,531.16 du | --- |
| Medium-Density Residential | 200.32 | 14-24 du/acre 2,804.48-4,807.68 du | --- |
| High-Density Residential | 77.10 | 30-40 du/acre 2,313-3,084 du | --- |
| Mixed-Use | 100.11 ³ | 30-40 du/acre 3,003.3-4,004.4 du | Up to 3.0 13,082,374.8 ft ² |
| Neighborhood Commercial | 133.40 | 10-20 du/acre 1,334-2,668 du | Up to 1.0 5,810,904 ft ² |
| Community Commercial | Unknown | 20-30 du/acre Unknown du | Up to 3.0 Unknown ft ² |
| Central Business District | 4.18 | 20-30 du/acre 83.6-125.4 du | Up to 2.0 364,161.6 ft ² |
| Office Professional | 136.38 | 30-40 du/acre 4,091.4-5,455.2 du | Up to 1.0 5,940,712.8 ft ² |
| Service Commercial | 10.55 | 20-30 du/acre 211-316.5 du | Up to 1.0 459,558 ft ² |
| Light Industrial | 42.39 | --- | Up to 1.0 1,846,508.4 ft ² |
| Public/Quasi Public | 415.74 | --- | Up to 1.0 18,109,634.4 ft ² |
| Parks/Open Space | 4,075.90 | --- | --- |
| Agriculture | 311.88 ⁴ | 1 du/ 20 acre 15.594 du | --- |
| Streets/Right-of-Way/Utilities | 1,294.85 | --- | --- |
| Private Recreation | 144.87 | --- | --- |
| Vacant | 691.43 | --- | --- |
| TOTAL | 11,688.02 | 18,302-74,007.934 du | 45,613,854 ft² |

¹ Unless specifically noted, Acre figures used are from Table 4.11-1 (Existing Land Use within the Planning Area).

² Calculated by converting existing acres to square footage.

³ Using Acres figure from Table 4.2-1 (General Plan Land Use Designation Summary).

⁴ Using Acres figure from Table 4.2-1 (General Plan Land Use Designation Summary).

Letter 9

COMMENTER: Matthew Francois, Rutan & Tucker, LLP, Los Gatos Community Alliance

DATE: September 13, 2021

Response 9.1

Commenter, without including additional information, summarizes 5 main areas of concern with the Draft EIR, including: 1) failure to analyze the impacts of the “whole of the project”; 2) the project description is not consistent; 3) inadequate analysis in certain project impacts; 4) failure to properly analyze cumulative impacts, and 5) fails to analyze a reasonable range of alternatives.

The commentor elaborates in greater detail on each of these points subsequently in the comment letter, and each is addressed in turn in the following responses to comments. Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.2

The commenter states that the Draft EIR does not consider the whole of the project as required by CEQA because the analysis looks to the potential buildout of the General Plan by the year 2040 (the General Plan target year) rather than the total number of potential housing units and commercial square footage that could be achieved if the Town is built out to the fullest extent possible for each land use under the proposed zoning and density. In making this argument, the commenter sites to CEQA Guidelines sections 15126, 15378, 15146(b), Public Resources Code section 21065, and *Laurel heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376 [EIR found inadequate for describing projects as occupying only part of a building even though university had plans to occupy the entire building]. The commenter also includes a chart to support this assertion to demonstrate the total potential buildout in which they calculate the total acres for each zoning area of the Town by the development density potential. The commenter argues that instead of 3,738 new housing units and approximately 670,000 square feet of commercial development analyzed in the Draft EIR for the year 2040, 75,000 housing units and 45 million square feet of commercial development (the maximum potential buildout under the General Plan land use designations) should have been used. These calculations rely upon the total acreage within the Town for each land use designation and appear to assume existing structures will be removed and the Town rebuilt in its entirety under the increased density to completion.

The commenter’s assertions demonstrate a misunderstanding of the purpose of a General Plan. According to the State of California 2017 General Plan Guidelines published by the Governor’s Office of Planning and Research, “The purpose of a general plan is to guide land use planning decisions.” (General Plan Guidelines, page 14).

While a general plan must address a broad range of issues, the plan should focus on those issues that are relevant to the planning area (Gov. Code § 65301(c)). The plan must address the jurisdiction’s physical development,

such as general locations, appropriate mix, timing, and extent of land uses and supporting infrastructure. The broad scope of physical development issues may range from appropriate areas for building factories to open space for preserving endangered species. This may include regional issues in addition to the more localized issues described in the planning statutes. (*Id.* at page 21).

A General Plan is not a box that must be filled to the top before it is complete, but a tool that allows the Town to designate land use areas, organize growth, and provide for infrastructure.

A general plan is a "charter for future development" within a town, city, or county (*Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.). It embodies fundamental policy decisions to guide future growth and development. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 571 (*Goleta Valley II*)). As stated by the California Department of Housing and Community Development (HCD), "General plans serve as the local government's "blueprint" for how the city and/or county will grow and develop and include seven elements: land use, transportation, conservation, noise, open space, safety, and housing." (<https://www.hcd.ca.gov/community-development/housing-element/index.shtml#comments>). Thus, it states what type and how much development might occur in any area but does not mandate that it must occur and be approved.

The Draft EIR assumes the General Plan is a planning and guidance document and uses the potential growth the Town is likely to achieve by the year 2040 as its baseline for analysis of potential impacts. This is not a hypothetical number but based on existing conditions and the potential for future development in this time period. Use of projected growth is supported by CEQA and has been affirmed by the Courts. (*San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, 616, 622).

The projected 3,738 dwelling units is comprised of multiple parts and focuses on the total buildout for the Town not just a 20-year horizon. The first segment consists of existing vacant land for development and the redevelopment of sites within the Town. This first segment totals 2,763 dwelling units as noted on page 3-4 in the Land Use Element of the Draft 2040 General Plan. This portion of the units was meant to provide capacity for the bulk of the Regional Housing Needs Allocation (RHNA) for the 6th Cycle Housing Element (1,993 dwelling units), as well as a buffer of 20-30 percent which is highly recommended by HCD. The second segment consists of 500 dwellings that reflect ADU production.

This projection was calculated based on the average ADU production in the Town of 25 ADUs per year for the next 20 years, totaling 500. The third and final segment is the 475 dwelling units for existing projects. What is important to note about the 475 dwelling units is that these units are already pre-approved and are in the pipeline for construction and most, if not all, will not count toward the 6th Cycle RHNA and Housing Element based on cut-off dates for the application and entitlement process for these projects.

3,738
a

202

The assumed redevelopment potential as part of this process was coordinated in conjunction with the consultant teams' economist. The overall analysis stems from a twofold process, first looking at the overall market demand projection that included a 0.7 percent growth rate and secondly the need to satisfy and comply with the mandated RHNA numbers by HCD. The original project evaluated a housing demand ranging between 1,500 and 2,000 dwelling units (0.5 - 0.7 percent growth rate) based on local demographics and regional migrations rates.

1,529
to
1,954

The percent variation among the alternatives was a way to produce units within this range. The prescribed goal of the General Plan Update Advisory Committee (GPAC), along with the Town staff, the Planning Commission, and Town Council was to aim for the higher range, which would align with the upcoming 6th Cycle Housing Element RHNA. As part of this alignment, the Town sought to include a buffer of anticipated units, as recommended by HCD. Therefore, the empirical basis is the projection of demand based on age demographics (as described in the Alternatives Report) and the fact that if the Town can only grow through redevelopment, then these are the redevelopment rates one could reasonably see to satisfy demand. In other words, the percent redevelopment figures are not driving the growth, the growth is driving the percentages.

As with housing, the commenter alleges that the Draft EIR should have considered the total potential build-out of commercial and industrial land use designation. Again, this comment is speculative as it does not take into consideration that a majority of the Town is already built out, with less than 6 percent of all land within the Town vacant. Commercial and industrial uses make up only 2.8 percent of the total Town acreage, most of which is already developed. Any increases in the floor area ratio (FAR) for specific commercial and industrial areas would require redevelopment of already developed areas. Out of the total development capacity of non-residential square footage of 951,886 square feet, approximately 70 percent, or 679,797 square feet, is from pending and approved projects (page 4.11-11 of the Draft EIR). It is for this reason that the Draft EIR looked to pending and approved commercial and industrial projects to anticipate potential growth of commercial and industrial uses under the 2040 General Plan. Contrary to commenter's statement, 671,680 square feet does not represent maximum potential build-out under the proposed FAR for Commercial and Industrial land use designations, but rather the likely net changes in Commercial and Industrial by the year 2040 given the robust existing uses in those designated areas. CEQA analysis in an EIR must analyze potential environmental impacts using actual environmental conditions, rather than the hypothetical, maximum allowable conditions where, as here, those conditions are not a realist description of existing conditions. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322).

Therefore, for the reasons above, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.3

The commenter states that because the Draft EIR did not study the maximum build-out permitted under the land use designations in the 2040 General Plan, that the Draft EIR did not adequately analyze the potential significant and unavoidable impacts and is therefore fundamentally flawed.

As noted in Response 9.2, a General Plan Draft EIR is not required to analyze the maximum allowable conditions but should instead rely upon realistic growth and development rates. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322). In this case, the Draft EIR looks at anticipated population growth rates, housing demand and commercial development, and the existing build-out of the Town with only a 5.92 percent lot vacancy rate to determine what a realistic baseline would be for the year 2040. The Draft EIR then utilizes this growth potential in determining potential significant environmental impacts that may result. It is unrealistic, given that 95 percent of the Town is already developed, to assume that all areas of the Town will be torn down and redeveloped under the 2040 General Plan land use densities as is proposed by the commenter. Nor is it appropriate to simply compare the existing plan with the proposed 2040 General Plan and ignore existing conditions.

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.4

The commenter again states that the Draft EIR should have looked at the maximum potential buildout of the proposed 2040 General Plan land use densities, rather than the actual growth potential analyzed in the document. In supporting this statement, the commenter cites pages 4.13-2 and 2-15 of the Draft EIR which states: "In accordance with CEQA, a program-level EIR is obligated to analyze the maximum potential buildout allowed under the subject plan or program."

An EIR must evaluate a proposed general plan's revision effects on the existing physical environment. (*Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 354; *see also* CEQA Guidelines § 15125(e)). The General Plan EIR need not be as detailed as an EIR for the specific projects that will follow (CEQA Guidelines § 15146). Its level of detail should reflect the level contained in the plan or plan element being considered (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351). Here, the Draft EIR looks at the effects of the proposed 2040 General Plan on housing and land use based upon actual conditions and growth rates within the Town.

Based on the above, page 4.13-2 of the Draft EIR is revised as follows:

In accordance with CEQA, a program-level EIR for a general plan must look at the plan's impacts on the physical environment ~~is obligated to analyze the maximum potential buildout allowed~~ under the subject plan or program. It has been calculated that the Los Gatos 2040 General Plan accommodates a potential for 3,738 dwelling units by the year 2040, and the EIR has used this figure to calculate and project environmental impacts.

No additional revisions to the Draft EIR are necessary in response to this comment.

Response 9.5

The commenter states that development and redevelopment assumptions are not supported in the Draft EIR, and that such assumptions contradict the less than significant impact determination found on Draft EIR page 4.11-12, and again points out the difference between the project population growth versus the land use density in the 2040 General Plan.

As stated at page 4.11-11, the Town has limited land available for development. As shown in Table 4.11-1, only 5.92 percent of land in Los Gatos currently remains vacant (Draft EIR page 4.11-2). Out of the total development capacity of non-residential square footage of 951,886 square feet, approximately 70 percent, or 679,797 square feet, is from pending and approved projects (Draft EIR page 4.11-11). As shown in Table 4.11-3, of the total 926 acres available for residential development, 422 acres are subject to pending or approved projects. As explained in Response 9.2, anticipated rate of redevelopment is based upon the existing and anticipated growth rate and the vacant land available for development.

From commenter's statement, it is unclear how the vacancy and redevelopment rates contradict the Draft EIR's impact analysis. For example, page referenced by the commenter indicates a finding that the proposed General Plan will provide for orderly development and not physically divide an established community. The finding of less than significance is based upon the fact that the Town has very limited land available for new development and is comprised of many fully-developed neighborhoods (Draft EIR page 4.11-11). Therefore, change is more likely to occur through redevelopment than through new growth potential (Draft EIR page 4.11-12).

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.6

The commenter cites several cases as to the requirements of a project description in a CEQA document and alleges the Draft EIR's project description is flawed for multiple reasons. These alleged reasons are elucidated in subsequent comments.

CEQA Guidelines section 15124 provides the specific requirements that are necessary under CEQA. The cases cited by the commenter do address project descriptions for CEQA documents. Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.7

In this comment, the commenter states that the project description is flawed because the project studied is not the project approved by the Town Council, stating the Town Council approved an alternative that called for 2,303 additional housing units, not the 3,738 studied in the Draft EIR.

The project analyzed by the Draft EIR is the Draft 2040 General Plan, which was recommended by the GPAC based on the implementation of the Land Use Alternative Framework approved by Town

Council. The Town Council cannot consider or make a determination on the Draft 2040 General Plan until the environmental review is complete and available for their consideration. The information provided in the EIR is intended to assist the public, Planning Commission, and Town Council in their consideration of the Draft 2040 General Plan.

See Response 9.2, which provides the formulaic approach to determine the use of the 3,738 units for the analysis of potential environmental impacts in the Draft EIR based on the land use designations in the 2040 General Plan. This number is used consistently throughout the DEIR for analysis purposes. Although the commenter asserts that a lower number should have been used to assess potential environmental impacts, the use of the higher number ensures that a "worse-case-scenario" has been used in assessing potential significant impacts.

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

How do we know that?

Response 9.8

In this comment, the commenter states that the project description is flawed because the Draft EIR analyzes 3,728 housing units which the commenter states is inconsistent with the objective of accommodation of the 2,000 dwelling units for the 2023-2031 RHNA development by the Association of Bay Area Governments (ABAG). The commenter further states that the General Plan should wait until the 2023 Housing Element Update is complete and analyze both together.

See Response 9.2 and 9.7 for response to the use of the 3,728 housing units and RHNA development goals. The 2040 General Plan appropriately relies upon the 2015 Housing Element as the most up-to-date plan approved at the time the 2040 General Plan was drafted. While the California Office of Planning and Research recommends General Plan updates every 10-15 years, SB 375 requires the Housing Element of those plans to be updated much more frequently. Most Housing Elements are updated every 5-8 years per statutory requirements. Thus, General Plans and Housing Elements are often out of cycle with each other.

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.9

In this comment, the commenter refers to a letter sent by the California Department of Fish & Wildlife (CDFW) in response to the NOP for the Draft EIR to allege that the geographic scope of the project is unclear. With regard to the CDFW, this letter is specific to the project description in the NOP and does not refer to the Draft EIR project description and thus does not support any flaw in the Draft EIR project description. Nonetheless, the geographic scope of the project is described in Section 2, *Project Description*, of the Draft EIR. As described on page 2-4 of the Draft EIR, the Planning Area for the 2040 General Plan encompasses all land area within the Town's sphere of influence, and the Planning Area serves as the "General Plan Area" (planning area) for the purposes of this EIR. Figure 2-2 on page 2-6 of the Draft EIR shows the geographic boundary or extent of the Planning Area. Accordingly, no revisions to the Draft EIR are necessary in response to this comment.

| | Density Range (du/ac) | | Typical Density | | Redevelopment Assumptions | | Draft General Plan | |
|------------------------------------|-----------------------------|--------------------------|-----------------------------|--------------------------|------------------------------------|------------------------|---------------------------|----------------------------|
| Land Use Designation | Existing General Plan | Draft General Plan | Existing General Plan | Draft General Plan | Derived Draft GP Total Units | Assumed Redevelop % | New Housing (redev) | New Housing (vacant) |
| Low Density Residential | 0 to 5 | 1 to 12 | 4 | 12 | 1,680 | 5% | 84 | 283 |
| Medium Density Residential | 5 to 12 | 14 to 24 | 10 | 20 | 3,430 | 10% | 343 | 224 |
| High Density Residential | 12 to 20 | 30 to 40 | 18 | 36 | 1,787 | 15% | 268 | 110 |
| Neighborhood Commercial | 10 to 20 | 10 to 20 | 16 | 18 | 910 | 10% | 91 | 26 |
| Community Commercial | 0 | 20 to 30 | 0 | 26 | 1,040 | 15% | 156 | |
| Mixed-Use | 10 to 20 | 30 to 40 | 16 | 36 | 3,025 | 20% | 605 | 126 |
| Central Business District | 10 to 20 | 20 to 30 | 16 | 26 | 753 | 15% | 113 | 21 |
| Office Professional | 0 | 30 to 40 | 0 | 36 | 1,700 | 15% | 255 | 4 |
| Service Commercial | 0 | 20 to 30 | 0 | 26 | 293 | 15% | 44 | 10 |
| Subtotal | | | | | 14,618 | | 1,959 | 804 |
| Housing Units, New and Redeveloped | | | | | | | | 2,763 |
| Housing Units, ADUs | | | | | | | | 500 |
| Subtotal | | | | | | | | 3,263 |
| Housing Units, Existing Projects | | | | | | | | 475 |
| Total | | | | | | | | 3,738 |

On Jun 24, 2022, at 10:20 AM, Pat Sharp [REDACTED] wrote:

EXTERNAL SENDER

Dear Marico

When I voted for you, I thought you would look out for the best interests of the town. Now I am not so sure. I hope you stay close to the state mandated housing element and not vote for the multiple amounts from the planning Commission.

We have serious water restrictions which will only get worse. There are dangerous fire conditions. We have given up on traffic problems.

Please keep the housing element at a level the town can handle and look for ways the town can support affordable housing.

Pat Sharp
[REDACTED]

Sent from my iPhone

From: Phil Koen [REDACTED]
Sent: Monday, June 27, 2022 8:03 AM
To: Jennifer Armer <JArmer@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>
Cc: Town Manager <Manager@losgatosca.gov>; Gabrielle Whelan <GWhelan@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>; [REDACTED] Rick Van Hoesen [REDACTED]
[REDACTED]; Catherine Somers [REDACTED] 'Jim Foley'
[REDACTED]; b [REDACTED] Shelley Neis <sneis@losgatosca.gov>;
Lee Fagot [REDACTED]; [REDACTED] Joanne Rodgers
[REDACTED]; Francois, Matthew [REDACTED]
Subject: Discussion of 2040 General Plan and FEIR for upcoming June 30 Special Council Meeting

EXTERNAL SENDER

Hello Jennifer and Joel,

In reviewing FEIR, it appears there are conflicting descriptions as to the projected use of 3,738 units. I would appreciate your answer to the following questions:

1. In Response 9.2, the 3,738 units are described as “the potential growth the Town **is likely to achieve by the year 2040** as its (e.g., the General Plan) baseline for analysis of potential impacts”. Additionally, “the projected 3,738 dwelling units is comprised of multiple parts and **focuses on the total buildout** for the Town **not just a 20-year horizon**”.

If the 3,738 units do focus on the total buildout for the Town, not just a 20-year horizon, why are the three segments that comprise the 3,738 all tied to either existing production, an 8-year timeline, or a 20-year projection? The first segment of 2,763 is based on an 8-year timeline of the 6th Cycle Housing Element (1,993 units) as well as a 20-30 percent buffer highly recommended by HCD to address the “no net loss rules”. The second segment is 500 dwelling units that reflect 20- year ADU production projection. The Third segment is 475 dwelling units for existing projects in the pipeline for construction. Given these segments, it is not apparent how the 3,738 units does focus on the total buildout for the Town, and not just a 20-year horizon, since there are no units included in the projection for residential units constructed beyond the 6th Cycle Housing Element. Where are the units that would be constructed beyond this 8- year timeline and why is the statement “focuses on the total buildout” accurate?

2. In Response 9.7, the reader is referred back to Response 9.2 for the formulaic approach just described. Therefore Response 9.2 and 9.7 are tied together. In 9.7 response we are told the 3,738 units “**ensures a worse-case-scenario**” has been used in assessing potential significant impacts” for the analysis of potential environmental impacts.

If we were told that 3,738 units is the growth the Town is “**likely to achieve by the year 2040**” and is the General Plan’s baseline for analysis of potential impact, how can 3,738 units also

“ensure a worse-case-scenario” has been used in assessing potential significant impacts? The response in 9.2 and 9.7 conflict with one another. Could you please explain “likely to achieve” and “worse-case-scenario” in assessing potential significant impacts of 3,738 units?

3. Response 9.8 addresses a comment that the 2040 General Plan adoption should wait until the 2023 Housing Element Update is complete and analyze both. The response does not give a valid reason for not pursuing this path, especially since the completion of a draft Housing Element is only months away. We respectfully ask the question again. Why not first complete the 2023 Housing Element and then update the 2040 General Plan based on any required land use changes to meet the 6th Cycle RHNA allocation shortfalls?

The advantage of doing this is obvious and compelling. Once fully informed if there is a shortfall in sites to meet the 6th Cycle RHNA allocation, the Town can make targeted adjustments in the General Plan and thus avoid the massive up zoning that is currently in the draft 2040 General Plan. A Program would be added to the draft 2040 General Plan to rezone for any RHNA shortfall. Additionally, the Town could revise the flawed DEIR by reducing the scope to the limited changes proposed by the Housing Element. Based on the site analysis that Town Council just reviewed, there is only a shortage of 102 units in the above-moderate income category with an excess of units in every other income category. This 102-unit shortage can be addressed in the 2040 General Plan along with increasing the density for Mixed Use Commercial and any other specific land use density changes required.

This is the process which many local jurisdictions are taking, including Saratoga, Campbell, and Los Altos, all of whom have already issued draft 2023 Housing Elements for public review and comment. Given how far along the Town is in finalizing the 2023 Housing Element, and there is a hard deadline for submission of the 2023 Housing Element to HCD and no deadline for adopting the 2040 General Plan, what is the advantage to forcing the early and unnecessary adoption of the 2040 General Plan which relies on an outdated and irrelevant 2015 Housing Element. We can find no other local jurisdiction in ABAG who has taken the approach the Town is proposing.

Perhaps you can give the public a reason as to why the Town is pursuing the current course as opposed to first completing the 2023 Housing Element and then update the 2040 General Plan based on a certified 2023 Housing Element. We know of no legal reason preventing the Town from taking this approach and the benefits are substantial.

In advance, thank you for taking the time to respond to these questions.

Phil Koen

Los Gatos Community Alliance

| | | | | | | | | Draft 2040 General Plan Density | | | | |
|-----------------------------|-----------------------|----------|------------------------------|-------------------------------------|---|--------------------------------|-----------------------------|---------------------------------|------------------------|---------------------------------|---|-------|
| | Address | APN | Parcel Size (Gross Acres) | Draft 2040 General Plan du/ac | Draft 2040 General Plan Land Use Designation | Zoning | Use | Very Low- Income Capacity | Low-Income Capacity | Moderate- Income Capacity | Above Moderate Income Capacity | Total |
| D-9 | Los Gatos Blvd. | 52302005 | 0.53 | 40 | Mixed Use Commercial | C-1 | Nob Hill Shopping Center | 68 | 33 | 33 | | 134 |
| | 16535 Camellia Ter. | 52302006 | 2.81 | 40 | Mixed Use Commercial | C-1 | Nob Hill Shopping Center | | | | | |
| D-16 | 15795 Los Gatos Blvd. | 52915059 | 0.64 | 40 | Mixed Use Commercial | CH | Affordable Treasures | 14 | 6 | 6 | | 26 |
| D-26 | 16203 Los Gatos Blvd. | 52916069 | 0.79 | 40 | Mixed Use Commercial | CH | Multi-Tenant Building | 16 | 8 | 8 | | 32 |
| D-29 | 16492 Los Gatos Blvd. | 53207086 | 0.23 | 20 | Neighborhood Commercial | C-1 | LG Wines & Liquors | | | | 12 | 12 |
| | | 53207085 | 0.38 | 20 | Neighborhood Commercial | C-1 | Vacant | | | | | |
| E - North Forty Area | | | | | | | | | | | | |
| E-1 N40 Phase II | 14859 Los Gatos Blvd. | 42407094 | 2.90 | 13 | North Forty Specific Plan Area | North Forty Specific Plan Area | | 50 | 30 | 30 | 90 | 200 |
| | 16392 Los Gatos Blvd. | 42407095 | 0.78 | 13 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| | 16260 Burton Rd. | 42407053 | 0.44 | 13 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| | 16250 Burton Rd. | 42407009 | 0.44 | 13 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| | 14917 Los Gatos Blvd. | 42407081 | 3.74 | 13 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| | 14925 Los Gatos Blvd. | 42407115 | 6.07 | 13 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| | | 42407116 | 1.02 | 13 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| E-2 | | 42406115 | 1.17 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | 26 | 26 |
| | | 42406116 | 0.11 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| E-3 | | 42407010 | 0.26 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | 5 | 5 |
| E-4 | | 42407052 | 0.43 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | 9 | 9 |
| E-5 | | 42407054 | 0.26 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | 16 | 16 |
| | | 42407063 | 0.56 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | | |
| E-6 | | 42407064 | 0.93 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | 19 | 19 |
| E-7 | | 42407065 | 0.37 | 20 | North Forty Specific Plan Area | North Forty Specific Plan Area | | | | | 7 | 7 |
| F - Lark Avenue Area | | | | | | | | | | | | |
| F-1 | | 42408057 | 2.97 | 12 | Low Density Residential | R-1.8 | Vacant | 62 | 37 | 37 | 111 | 247 |
| | | 42408029 | 0.31 | 12 | Low Density Residential | R-1.8 | Vacant | | | | | |
| | | 42408059 | 1.01 | 12 | Low Density Residential | R-1.8 | Vacant | | | | | |
| | | 42408060 | 1.29 | 12 | Low Density Residential | R-1.8 | Vacant | | | | | |
| | | 42408058 | 1.41 | 12 | Low Density Residential | R-1.8 | Single-Family Home | | | | | |
| | | 42408017 | 2.48 | 24 | Medium Density Residential | R-M 5-12 | Single-Family Home | | | | | |
| | | 42408021 | 4.32 | 24 | Medium Density Residential | R-M 5-12 | Vacant | | | | | |
| F-2 | | 42408074 | 6.41 | 12 | Low Density Residential | R-1.8 | Vacant | 19 | 12 | 12 | 34 | 77 |
| F-3 | Cal Trans Parcel | N/A | 4.90 | 24 | Medium Density Residential | Re-zone to R-M 5-12 | Cal Trans ROW | 29 | 18 | 18 | 53 | 118 |

$$Σ = 257$$

| | | | | | | | | Draft 2040 General Plan Density | | | | |
|-------------------------------------|---------------------------|----------|------------------------------|-------------------------------------|---|---------|---------|---------------------------------|------------------------|---------------------------------|---|--------------|
| | Address | APN | Parcel Size (Gross Acres) | Draft 2040 General Plan du/ac | Draft 2040 General Plan Land Use Designation | Zoning | Use | Very Low- Income Capacity | Low-Income Capacity | Moderate- Income Capacity | Above Moderate Income Capacity | Total |
| G- Winchester Boulevard Area | | | | | | | | | | | | |
| G-1 | 110 Knowles Dr. | 42432077 | 7.34 | 40 | High Density Residential | CM AHOZ | Office | 59 | 59 | 88 | 88 | 294 |
| G-3 (New) | 206 Knowles Dr. | 42432076 | 2.41 | 40 | High Density Residential | CM | Office | 48 | 24 | 24 | | 96 |
| I - Union Avenue Area | | | | | | | | | | | | |
| I-1 | 440 Los Gatos Alameda Rd. | 52749048 | 0.52 | 20 | Neighborhood Commercial | C-1 | Chevron | | | | 16 | 16 |
| | 445 Leigh Ave. | 52749049 | 0.29 | 20 | Neighborhood Commercial | C-1 | Office | | | | | |
| J - Harwood Road Area | | | | | | | | | | | | |
| J-1 | 14000 Blossom Hill Rd. | 52732028 | 0.69 | 20 | Neighborhood Commercial | C-1 | Valero | | | | 14 | 14 |
| Subtotal | | | | | | | | 669 | 381 | 410 | 586 | 2,046 |
| ADUs | | | | | | | | 20 | 60 | 60 | 60 | 200 |
| Pipeline projects | | | | | | | | | | | 202 | 202 |
| TOTAL | | | | | | | | 689 | 441 | 470 | 848 | 2,448 |
| RHNA Requirements | | | | | | | | 537 | 310 | 320 | 826 | 1,993 |
| Buffer (15 percent) | | | | | | | | 81 | 46 | 48 | 124 | 299 |
| RHNA + Buffer Total | | | | | | | | 618 | 356 | 368 | 950 | 2,292 |
| Difference | | | | | | | | 71 | 85 | 102 | -102 | 156 |

1,130

Letter 9

COMMENTER: Matthew Francois, Rutan & Tucker, LLP, Los Gatos Community Alliance

DATE: September 13, 2021

Response 9.1

Commenter, without including additional information, summarizes 5 main areas of concern with the Draft EIR, including: 1) failure to analyze the impacts of the “whole of the project”; 2) the project description is not consistent; 3) inadequate analysis in certain project impacts; 4) failure to properly analyze cumulative impacts, and 5) fails to analyze a reasonable range of alternatives.

The commentor elaborates in greater detail on each of these points subsequently in the comment letter, and each is addressed in turn in the following responses to comments. Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.2

The commenter states that the Draft EIR does not consider the whole of the project as required by CEQA because the analysis looks to the potential buildout of the General Plan by the year 2040 (the General Plan target year) rather than the total number of potential housing units and commercial square footage that could be achieved if the Town is built out to the fullest extent possible for each land use under the proposed zoning and density. In making this argument, the commenter sites to CEQA Guidelines sections 15126, 15378, 15146(b), Public Resources Code section 21065, and *Laurel heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376 [EIR found inadequate for describing projects as occupying only part of a building even though university had plans to occupy the entire building]. The commenter also includes a chart to support this assertion to demonstrate the total potential buildout in which they calculate the total acres for each zoning area of the Town by the development density potential. The commenter argues that instead of 3,738 new housing units and approximately 670,000 square feet of commercial development analyzed in the Draft EIR for the year 2040, 75,000 housing units and 45 million square feet of commercial development (the maximum potential buildout under the General Plan land use designations) should have been used. These calculations rely upon the total acreage within the Town for each land use designation and appear to assume existing structures will be removed and the Town rebuilt in its entirety under the increased density to completion.

The commenter’s assertions demonstrate a misunderstanding of the purpose of a General Plan. According to the State of California 2017 General Plan Guidelines published by the Governor’s Office of Planning and Research, “The purpose of a general plan is to guide land use planning decisions.” (General Plan Guidelines, page 14).

While a general plan must address a broad range of issues, the plan should focus on those issues that are relevant to the planning area (Gov. Code § 65301(c)). The plan must address the jurisdiction’s physical development,

such as general locations, appropriate mix, timing, and extent of land uses and supporting infrastructure. The broad scope of physical development issues may range from appropriate areas for building factories to open space for preserving endangered species. This may include regional issues in addition to the more localized issues described in the planning statutes. (*Id.* at page 21).

A General Plan is not a box that must be filled to the top before it is complete, but a tool that allows the Town to designate land use areas, organize growth, and provide for infrastructure.

A general plan is a "charter for future development" within a town, city, or county (*Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.). It embodies fundamental policy decisions to guide future growth and development. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 571 (*Goleta Valley II*)). As stated by the California Department of Housing and Community Development (HCD), "General plans serve as the local government's "blueprint" for how the city and/or county will grow and develop and include seven elements: land use, transportation, conservation, noise, open space, safety, and housing." (<https://www.hcd.ca.gov/community-development/housing-element/index.shtml#comments>). Thus, it states what type and how much development might occur in any area but does not mandate that it must occur and be approved.

The Draft EIR assumes the General Plan is a planning and guidance document and uses the potential growth the Town is likely to achieve by the year 2040 as its baseline for analysis of potential impacts. This is not a hypothetical number but based on existing conditions and the potential for future development in this time period. Use of projected growth is supported by CEQA and has been affirmed by the Courts. (*San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, 616, 622).

The projected 3,738 dwelling units is comprised of multiple parts and focuses on the total buildout for the Town not just a 20-year horizon. The first segment consists of existing vacant land for development and the redevelopment of sites within the Town. This first segment totals 2,763 dwelling units as noted on page 3-4 in the Land Use Element of the Draft 2040 General Plan. This portion of the units was meant to provide capacity for the bulk of the Regional Housing Needs Allocation (RHNA) for the 6th Cycle Housing Element (1,993 dwelling units), as well as a buffer of 20-30 percent which is highly recommended by HCD. The second segment consists of 500 dwellings that reflect ADU production.

This projection was calculated based on the average ADU production in the Town of 25 ADUs per year for the next 20 years, totaling 500. The third and final segment is the 475 dwelling units for existing projects. What is important to note about the 475 dwelling units is that these units are already pre-approved and are in the pipeline for construction and most, if not all, will not count toward the 6th Cycle RHNA and Housing Element based on cut-off dates for the application and entitlement process for these projects.

3,738
(a)

RHNA
is not
demand

202

The assumed redevelopment potential as part of this process was coordinated in conjunction with the consultant teams' economist. The overall analysis stems from a twofold process, first at the overall market demand projection that included a 0.7 percent growth rate and secondly the need to satisfy and comply with the mandated RHNA numbers by HCD. The original project evaluated a housing demand ranging between 1,500 and 2,000 dwelling units (0.5 - 0.7 percent growth rate) based on local demographics and regional migrations rates.

1,529
to
1,954

The percent variation among the alternatives was a way to produce units within this range. The prescribed goal of the General Plan Update Advisory Committee (GPAC), along with the Town staff, the Planning Commission, and Town Council was to aim for the higher range, which would align with the upcoming 6th Cycle Housing Element RHNA. As part of this alignment, the Town sought to include a buffer of anticipated units, as recommended by HCD. Therefore, the empirical basis is the projection of demand based on age demographics (as described in the Alternatives Report) and the fact that if the Town can only grow through redevelopment, then these are the redevelopment rates one could reasonably see to satisfy demand. In other words, the percent redevelopment figures are not driving the growth, the growth is driving the percentages.

As with housing, the commenter alleges that the Draft EIR should have considered the total potential build-out of commercial and industrial land use designation. Again, this comment is speculative as it does not take into consideration that a majority of the Town is already built out, with less than 6 percent of all land within the Town vacant. Commercial and industrial uses make up only 2.8 percent of the total Town acreage, most of which is already developed. Any increases in the floor area ratio (FAR) for specific commercial and industrial areas would require redevelopment of already developed areas. Out of the total development capacity of non-residential square footage of 951,886 square feet, approximately 70 percent, or 679,797 square feet, is from pending and approved projects (page 4.11-11 of the Draft EIR). It is for this reason that the Draft EIR looked to pending and approved commercial and industrial projects to anticipate potential growth of commercial and industrial uses under the 2040 General Plan. Contrary to commenter's statement, 671,680 square feet does not represent maximum potential build-out under the proposed FAR for Commercial and Industrial land use designations, but rather the likely net changes in Commercial and Industrial by the year 2040 given the robust existing uses in those designated areas. CEQA analysis in an EIR must analyze potential environmental impacts using actual environmental conditions, rather than the hypothetical, maximum allowable conditions where, as here, those conditions are not a realist description of existing conditions. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322).

Therefore, for the reasons above, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.3

The commenter states that because the Draft EIR did not study the maximum build-out permitted under the land use designations in the 2040 General Plan, that the Draft EIR did not adequately analyze the potential significant and unavoidable impacts and is therefore fundamentally flawed.

As noted in Response 9.2, a General Plan Draft EIR is not required to analyze the maximum allowable conditions but should instead rely upon realistic growth and development rates. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322). In this case, the Draft EIR looks at anticipated population growth rates, housing demand and commercial development, and the existing build-out of the Town with only a 5.92 percent lot vacancy rate to determine what a realistic baseline would be for the year 2040. The Draft EIR then utilizes this growth potential in determining potential significant environmental impacts that may result. It is unrealistic, given that 95 percent of the Town is already developed, to assume that all areas of the Town will be torn down and redeveloped under the 2040 General Plan land use densities as is proposed by the commenter. Nor is it appropriate to simply compare the existing plan with the proposed 2040 General Plan and ignore existing conditions.

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.4

The commenter again states that the Draft EIR should have looked at the maximum potential buildout of the proposed 2040 General Plan land use densities, rather than the actual growth potential analyzed in the document. In supporting this statement, the commenter cites pages 4.13-2 and 2-15 of the Draft EIR which states: "In accordance with CEQA, a program-level EIR is obligated to analyze the maximum potential buildout allowed under the subject plan or program."

An EIR must evaluate a proposed general plan's revision effects on the existing physical environment. (*Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 354; *see also* CEQA Guidelines § 15125(e)). The General Plan EIR need not be as detailed as an EIR for the specific projects that will follow (CEQA Guidelines § 15146). Its level of detail should reflect the level contained in the plan or plan element being considered (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351). Here, the Draft EIR looks at the effects of the proposed 2040 General Plan on housing and land use based upon actual conditions and growth rates within the Town.

Based on the above, page 4.13-2 of the Draft EIR is revised as follows:

In accordance with CEQA, a program-level EIR for a general plan must look at the plan's impacts on the physical environment ~~is obligated to analyze the maximum potential buildout allowed~~ under the subject plan or program. It has been calculated that the Los Gatos 2040 General Plan accommodates a potential for 3,738 dwelling units by the year 2040, and the EIR has used this figure to calculate and project environmental impacts.

No additional revisions to the Draft EIR are necessary in response to this comment.

Response 9.5

The commenter states that development and redevelopment assumptions are not supported in the Draft EIR, and that such assumptions contradict the less than significant impact determination found on Draft EIR page 4.11-12, and again points out the difference between the project population growth versus the land use density in the 2040 General Plan.

As stated at page 4.11-11, the Town has limited land available for development. As shown in Table 4.11-1, only 5.92 percent of land in Los Gatos currently remains vacant (Draft EIR page 4.11-2). Out of the total development capacity of non-residential square footage of 951,886 square feet, approximately 70 percent, or 679,797 square feet, is from pending and approved projects (Draft EIR page 4.11-11). As shown in Table 4.11-3, of the total 926 acres available for residential development, 422 acres are subject to pending or approved projects. As explained in Response 9.2, anticipated rate of redevelopment is based upon the existing and anticipated growth rate and the vacant land available for development.

From commenter's statement, it is unclear how the vacancy and redevelopment rates contradict the Draft EIR's impact analysis. For example, page referenced by the commenter indicates a finding that the proposed General Plan will provide for orderly development and not physically divide an established community. The finding of less than significance is based upon the fact that the Town has very limited land available for new development and is comprised of many fully-developed neighborhoods (Draft EIR page 4.11-11). Therefore, change is more likely to occur through redevelopment than through new growth potential (Draft EIR page 4.11-12).

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.6

The commenter cites several cases as to the requirements of a project description in a CEQA document and alleges the Draft EIR's project description is flawed for multiple reasons. These alleged reasons are elucidated in subsequent comments.

CEQA Guidelines section 15124 provides the specific requirements that are necessary under CEQA. The cases cited by the commenter do address project descriptions for CEQA documents. Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.7

In this comment, the commenter states that the project description is flawed because the project studied is not the project approved by the Town Council, stating the Town Council approved an alternative that called for 2,303 additional housing units, not the 3,738 studied in the Draft EIR.

The project analyzed by the Draft EIR is the Draft 2040 General Plan, which was recommended by the GPAC based on the implementation of the Land Use Alternative Framework approved by Town

Council. The Town Council cannot consider or make a determination on the Draft 2040 General Plan until the environmental review is complete and available for their consideration. The information provided in the EIR is intended to assist the public, Planning Commission, and Town Council in their consideration of the Draft 2040 General Plan.

See Response 9.2, which provides the formulaic approach to determine the use of the 3,738 units for the analysis of potential environmental impacts in the Draft EIR based on the land use designations in the 2040 General Plan. This number is used consistently throughout the DEIR for analysis purposes. Although the commenter asserts that a lower number should have been used to assess potential environmental impacts, the use of the higher number ensures that a "worse-case-scenario" has been used in assessing potential significant impacts.

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.8

In this comment, the commenter states that the project description is flawed because the Draft EIR analyzes 3,728 housing units which the commenter states is inconsistent with the objective of accommodation of the 2,000 dwelling units for the 2023-2031 RHNA development by the Association of Bay Area Governments (ABAG). The commenter further states that the General Plan should wait until the 2023 Housing Element Update is complete and analyze both together.

See Response 9.2 and 9.7 for response to the use of the 3,728 housing units and RHNA development goals. The 2040 General Plan appropriately relies upon the 2015 Housing Element as the most up-to-date plan approved at the time the 2040 General Plan was drafted. While the California Office of Planning and Research recommends General Plan updates every 10-15 years, SB 375 requires the Housing Element of those plans to be updated much more frequently. Most Housing Elements are updated every 5-8 years per statutory requirements. Thus, General Plans and Housing Elements are often out of cycle with each other.

Therefore, no revisions to the Draft EIR are necessary in response to this comment.

Response 9.9

In this comment, the commenter refers to a letter sent by the California Department of Fish & Wildlife (CDFW) in response to the NOP for the Draft EIR to allege that the geographic scope of the project is unclear. With regard to the CDFW, this letter is specific to the project description in the NOP and does not refer to the Draft EIR project description and thus does not support any flaw in the Draft EIR project description. Nonetheless, the geographic scope of the project is described in Section 2, *Project Description*, of the Draft EIR. As described on page 2-4 of the Draft EIR, the Planning Area for the 2040 General Plan encompasses all land area within the Town's sphere of influence, and the Planning Area serves as the "General Plan Area" (planning area) for the purposes of this EIR. Figure 2-2 on page 2-6 of the Draft EIR shows the geographic boundary or extent of the Planning Area. Accordingly, no revisions to the Draft EIR are necessary in response to this comment.

From: Abbie Steinbacher [REDACTED]
Sent: Monday, June 27, 2022 10:36 AM
Subject: General Plan 2040 🗨️

EXTERNAL SENDER

Hi,

My family and I have lived in Los Gatos for the past 7 years and are hopping to make this our forever town. I am reaching out to voice my opinion of NOT supporting General Plan 2040. My husband and I will be voting for Town Council this fall based on your choices — and will be encouraging our friend group here to do the same.

Best,
Abbie Steinbacher

From: THOMAS J. FERRITO [REDACTED]
Sent: Monday, June 27, 2022 2:55 PM
To: Rob Rennie <RRennie@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>
Subject: The General Plan

EXTERNAL SENDER

Dear Town Council Members:

It was my privilege to have served on the Los Gatos Town Council for twelve years eight months between 1978 and 1990.

During that time I fought daily to maintain the quality of life of Los Gatos as well as it's the small town charm and character by adopting and maintaining restrictive land use policies. Among other things, I fought developments proposing increased density (except along transit routes to encourage ridership), inordinately large homes and secondary dwelling units which would have caused increased parking and traffic issues for which the town's infrastructure was, and still is, inadequate.

During subsequent decades various Town Councils failed to continue this fight while the State has took over some local land use policies and mandated others to the detriment of the small cities and towns in California. The State is continuing to do so, and unlike Los Gatos, some cities and towns have, and are, opposing the State.

Unfortunately, it appears that, instead of joining in opposition to the local land use policies and mandates of the State, the Los Gatos Town Council is poised to "appease" the State (as the press recently quoted Council Member Ristow) by doubling housing density.

San Jose can be as dense and high rise at it wishes, but Los Gatos need not be the same as San Jose.

I urge the Town Council to fight for the quality of life of the residents of Los Gatos by rejecting the staff General Plan proposal and by joining other small cities and towns opposing the land use policies and mandates of the State.

Tom Ferrito



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/30/2022

ITEM NO: 1

ADDENDUM

DATE: June 29, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Conduct a Public Hearing, Review the Planning Commission Recommendations, Determine Any Additional Modifications, Adopt the Draft 2040 General Plan, and Certify the Final Environmental Impact Report.

REMARKS:

The following information is provided in response to Council Member questions.

One progress motion by the Council was a request that staff and the consultant study the possibility of reverting Low Density Residential to 0 to 5 dwelling units per acre (du/ac), with the exception of those Low Density Residential properties within the Community Place Districts (now called Community Growth Districts) which could have a "Low-Medium" Density Residential designation of 0 to 10 du/ac. While this is feasible, and discussed further in the staff report, this proposal is not supported by staff. A similar option (with regards to density), that is significantly less complex to implement, would be to revert all of the Low Density Residential designated properties to 0 to 5 du/ac and not create a "Low-Medium" designation.

As discussed with Planning Commission, further reductions to the Low Density Residential and Medium Density Residential would further reduce the number of properties that are large enough to accommodate a fourplex. Those remaining properties would be primarily in the areas that contain larger parcels, rather than being distributed throughout the Low Density Residential designation.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

REMARKS (continued):

The following table is provided to detail the effects on the General Plan Residential Buildout Table from the additional options for residential density reductions described in the staff report. These changes include:

- Reverting Low Density Residential designation housing density back to the existing 2020 General Plan level: 0-5 du/ac;
- Reverting Medium Density Residential designation housing density back to the existing 2020 General Plan level: 5-12 du/ac;
- Reverting properties in the new Community Commercial designation back to Neighborhood Commercial, and reduce both to 10-20 du/ac; and
- Reverting properties in the Central Business District designation back to 10-20 du/ac.

| Land Use Designation | | Density Range (du/ac) | Typical Density (du/ac) | Assumed Redevelopment | New Housing (Vacant Land) | New Housing (Redevelopment) |
|--|----------------------------|-----------------------|-------------------------|-----------------------|---------------------------|-----------------------------|
| LDR | Low Density Residential | 0 to 5 | 4 | 5% | 75 | 13 |
| MDR | Medium Density Residential | 5 to 12 | 10 | 10% | 107 | 133 |
| HDR | High Density Residential | 30 to 40 | 36 | 15% | 110 | 268 |
| NC | Neighborhood Commercial* | 10 to 20 | 16 | 10% | 11 | 85 |
| MU | Mixed-Use | 30 to 40 | 36 | 20% | 126 | 605 |
| CBD | Central Business District | 10 to 20 | 16 | 15% | 12 | 46 |
| Subtotal | | | | | 441 | 1,150 |
| Housing Units, New and Redeveloped | | | | | | 1,591 |
| Housing Units, ADUs | | | | | | 500 |
| Housing Units, Existing Projects | | | | | | 475 |
| TOTAL NEW THROUGH 2040 | | | | | | 2,566 |
| TOTAL NEW THROUGH HOUSING ELEMENT CYCLE (2031), excluding 300 ADUs and 400 Pipeline Project Units | | | | | | 1,866 |

* Neighborhood Commercial now includes all parcels previously shown and either Neighborhood Commercial or Community Commercial.

REMARKS (continued):

The table has been further revised to show the effects of the following modifications:

- Reducing the Mixed-Use designation to a 30 to 35 du/ac range; and
- Reducing the High Density Residential designation to a 30 to 35 du/ac range.

| Land Use Designation | | Density Range (du/ac) | Typical Density (du/ac) | Assumed Redevelopment | New Housing (Vacant Land) | New Housing (Redevelopment) |
|--|----------------------------|-----------------------|-------------------------|-----------------------|---------------------------|-----------------------------|
| LDR | Low Density Residential | 0 to 5 | 4 | 5% | 75 | 13 |
| MDR | Medium Density Residential | 5 to 12 | 10 | 10% | 107 | 133 |
| HDR | High Density Residential | 30 to 35 | 32 | 15% | 96 | 234 |
| NC | Neighborhood Commercial* | 10 to 20 | 16 | 10% | 11 | 85 |
| MU | Mixed-Use | 30 to 35 | 32 | 20% | 113 | 534 |
| CBD | Central Business District | 10 to 20 | 16 | 15% | 12 | 46 |
| Subtotal | | | | | 414 | 1,045 |
| Housing Units, New and Redeveloped | | | | | | 1,459 |
| Housing Units, ADUs | | | | | | 500 |
| Housing Units, Existing Projects | | | | | | 475 |
| TOTAL NEW THROUGH 2040 | | | | | | 2,434 |
| TOTAL NEW THROUGH HOUSING ELEMENT CYCLE (2031), excluding 300 ADUs and 400 Pipeline Project Units | | | | | | 1,734 |

* Neighborhood Commercial now includes all parcels previously shown and either Neighborhood Commercial or Community Commercial.

As stated in the staff report, staff does not recommend all of these reductions.

PUBLIC COMMENT:

Attachment 29 includes additional public comments received between 11:01 a.m., Tuesday, June 28, 2022, and 11:00 a.m., Thursday, June 29, 2022.

ATTACHMENTS:

Attachments previously received under separate cover:

(available online here: <http://losgatos2040.com/documents.html>)

1. Draft 2040 General Plan
2. Draft EIR
3. Revised NOA and Transportation Section
4. Final EIR

Attachments previously received with June 20, 2022 Staff Report:

5. Draft Resolution Certifying the EIR for the 2040 General Plan, with Exhibit A Draft Findings of Fact and Statement of Overriding Considerations
6. Draft Resolution Approving the 2040 General Plan
7. Planning Commission Recommendation
8. April 13, 2022 Planning Commission Staff Report, with Exhibits 5-10
9. April 13, 2022 Planning Commission Addendum Report, with Exhibit 11
10. April 13, 2022 Planning Commission Desk Item Report, with Exhibits 12-13
11. April 13, 2022 Planning Commission Verbatim Minutes
12. April 25, 2022 Planning Commission Staff Report, with Exhibits 14-15
13. April 25, 2022 Planning Commission Desk Item Report, with Exhibits 16
14. April 25, 2022 Planning Commission Verbatim Minutes
15. April 27, 2022 Planning Commission Desk Item Report, with Exhibits 17
16. April 27, 2022 Planning Commission Verbatim Minutes
17. May 2, 2022 Planning Commission Staff Report
18. May 2, 2022 Planning Commission Desk Item Report, with Exhibits 18
19. May 2, 2022 Planning Commission Verbatim Minutes
20. Planning Commission Recommendation Informational Memo
21. Study Session Questions and Responses
22. Breaking it Down Series
23. Public Comment received between 11:01 a.m., Monday, May 2, 2022, and 11:00 a.m., Wednesday, June 15, 2022

Attachments previously received with June 20, 2022 Desk Item:

24. Council Member Comments
25. Public Comment received between 11:01 a.m., Wednesday, June 15, 2022, and 11:00 a.m., Monday, June 20, 2022

Attachments previously received with June 30, 2022 Staff Report:

26. Summary of Final EIR Edits
27. Map of non-hillside properties in the WUI
28. Public Comment received between 11:01 a.m., Monday, June 20, 2022, and 11:00 a.m., Tuesday, June 28, 2022

PAGE 5 OF 5

SUBJECT: Draft 2040 General Plan and Final EIR

DATE: June 29, 2022

Attachment received with this Addendum:

29. Public Comment received between 11:01 a.m., Tuesday, June 28, 2022, and 11:00 a.m., Wednesday, June 29, 2022

From: Sandra Livinghouse [REDACTED]
Sent: Tuesday, June 28, 2022 12:30 PM
To: Rob Rennie <RRennie@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Clerk <Clerk@losgatosca.gov>
Subject: Please do not approve 2040 Plan As-Is

EXTERNAL SENDER

June 28, 2022

Dear Town Council members,

In the June 30th Town Council meeting, **please do not:**

- Approve the recommendation for up-zoning our entire town, which would allow for almost double the residential units we have currently.
- Approve planning for almost 4,000 units, far in excess of the RHNA numbers required by the State of CA.

Please do:

--Reject this proposal and plan to adopt the recommendation/requirements from the state **ONLY**, which requires the town to zone enough residential land to enable the development of 1,993 units plus a 15% buffer over the next 8 years for the 6th RHNA cycle. Los Gatos can then evaluate appropriately for the next RHNA cycle later, a logical course that every other town is taking.

Thank you,

Sandra Livinghouse

From: Jeff Loughridge [REDACTED]
Sent: Tuesday, June 28, 2022 9:08:11 PM
To: Shelley Neis <sneis@losgatosca.gov>
Subject: June 30th Los Gatos Town Council meeting

EXTERNAL SENDER

Councilmembers,

The town council was and is elected to serve Los Gatos, elected by Los Gatos residents. California state officials are elected and or appointed by a completely different constituency. Again, Los Gatos town council are elected by town residents to serve Los Gatos. Not the state.

The above information should contain enough data for the members of our town council to be able to deal with the latest ABAG 1993 affordable housing number. But somehow you are struggling.

At this point in the lengthy process, one can only assume that you you are struggling because you temporarily forgot who you serve. You weren't elected to RESHAPE our town. You were elected to maintain and possibly improve on the charm that most, if not all, residents count on. You were elected to represent each and every resident of Los Gatos. Not necessarily with your own personal opinion but with actions that ensure what's best for town residents. You are even responsible for representing the percentage of residents who didn't vote for you.

I'm not going to start quoting some of the numbers being tossed around. Suffice it to say that adding one, just one, additional housing number to what the state requires would not serve the town residents who you represent.

Town growth has been a sensitive topic for residents for as long as I've lived here. Not once have I heard ANYONE express an opinion supporting significant growth. The proposed growth projected in the 2040 GP is beyond unrealistic. Even expert opinions suggest approximately only a third of what is proposed. In the past I have passionately fought side by side with each of you to do what we could do to control and reduce this growth. We did some great work together in the past which is why I'm doubly disappointed in having to write this.

In 2020 when Los Gatos put the Term Limits and Finance Commission initiatives on the ballot, the Council said they were opposed, citing, "no one really wanted the Term Limits and even fewer cared about the Finance Commission". Residents responded; 85% voting FOR Term Limits and 57% voting FOR the Finance Commission. These two votes show how out of touch the Council was then and unfortunately is now. Never more so than NOW, on the topic of growth.

Changing the zoning throughout town to allow this unprecedented growth in additional housing even though our normal growth doesn't support it is totally irresponsible. Future Los Gatos generations will have no LOS GATOS SMALL TOWN CHARM to even fight for. It will be gone. That would be your legacy and how you'd be remembered as Town Council members.

Please reconsider rezoning any more land than is ABSOLUTELY necessary for the state's requirement. It might seem difficult to back track your personal positions to a more sensible solution but the town residents are counting on that extra effort.

Please do the right thing.

I wholeheartedly oppose this 2040 GP.

Jeff Loughridge
44 year resident
Former Bicycle and Pedestrian Advisory Commission
Former Housing Element Advisory Commission

From: Cameron Tulee [REDACTED]
Sent: Wednesday, June 29, 2022 10:19 AM
To: Rob Rennie <RRennie@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>
Subject: General Plan housing target comments

EXTERNAL SENDER

To Los Gatos Town Manager and Honorable Council Members,

I'd like to comment on the proposed General Plan update and the extra affordable housing units proposed by the Planning Commission, beyond what the State mandates. I disagree with that approach for multiple reasons:

1. Looking at past history we've been unable to get to the targets as they were at the time, much less exceed them. So why then, should we set targets even higher than what's required? Even if we modify the target back down to the minimum the State requires, we can always over achieve and build more than the target (if we somehow find the places to do so). If that were the case, rather than being short of the plan we could actually be ahead of the plan, for a change.
2. The need to build, build, build, I understand it but disagree. Our Town has the character it has because we haven't (for the most part) done excessive building in the past. The proposal, if approved as is, could change us and the character - basically from a Town to a City. Why not change our name while we're at it to "The City of Los Gatos" ? OK, that may be taking it a little too far, but it's to make a point - let's not destroy our Town character.
3. Related to #2 is water - we are in a severe drought, but it very well could be the new normal as many models indicate. Given this, are we sure all this new housing targeted can be supported by our water supply? I am very doubtful. So again, why set a housing target beyond what is required?

Thanks for considering my thoughts, and thanks for all you do to serve us here in the Town of Los Gatos,

Cameron Tulee

College Terrace, Los Gatos

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/30/2022

ITEM NO: 1

DESK ITEM

DATE: June 30, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Conduct a Public Hearing, Review the Planning Commission Recommendations, Determine Any Additional Modifications, Adopt the Draft 2040 General Plan, and Certify the Final Environmental Impact Report.

REMARKS:

Attachment 30 includes additional public comments received between 11:01 a.m., Wednesday, June 29, 2022, and 11:00 a.m., Thursday, June 30, 2022.

ATTACHMENTS:

Attachments previously received under separate cover:
(available online here: <http://losgatos2040.com/documents.html>)

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2. Draft EIR
3. Revised NOA and Transportation Section
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8. April 13, 2022 Planning Commission Staff Report, with Exhibits 5-10
9. April 13, 2022 Planning Commission Addendum Report, with Exhibit 11
10. April 13, 2022 Planning Commission Desk Item Report, with Exhibits 12-13

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

ATTACHMENTS (continued):

11. April 13, 2022 Planning Commission Verbatim Minutes
12. April 25, 2022 Planning Commission Staff Report, with Exhibits 14-15
13. April 25, 2022 Planning Commission Desk Item Report, with Exhibits 16
14. April 25, 2022 Planning Commission Verbatim Minutes
15. April 27, 2022 Planning Commission Desk Item Report, with Exhibits 17
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Attachment previously received with June 30, 2022 Addendum:

29. Public Comment received between 11:01 a.m., Tuesday, June 28, 2022, and 11:00 a.m., Wednesday, June 29, 2022

Attachment received with this Desk Item:

30. Public Comment received between 11:01 a.m., Wednesday, June 29, 2022, and 11:00 a.m., Thursday, June 30, 2022

From: Michael Glow [REDACTED]
Sent: Wednesday, June 29, 2022 4:09 PM
To: Matthew Hudes <MHudes@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Laurel Prevetti <LPrevetti@losgatosca.gov>; LosGatos, Weekly Times [REDACTED]
Cc: Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Sandy Decker [REDACTED] Sheri Galvin [REDACTED]; Ed Clendaniel [REDACTED]; Robinson, James H. [REDACTED]
Subject: Town of Los Gatos General Plan

EXTERNAL SENDER

In the latest Town Council meeting discussion of the Town General Plan, Matthew Hudes and Rob Rennie were the voices of reason. Councilman Hudes got it exactly right when he made the clarifying statement, "The proposal I've made is to adopt the RHNA allocation of 1,993 plus a 15% for 20 years (plan)-- not for (the) 8 years (plan)." Even more appealing was Mayor Rennie's suggestion of staying with the current Town General Plan limit of 5 units per acre. But in the face of radical development voices (Lauren Prevetti), the Mayor's suggestion would at best lead to a reasonable compromise from the excessive 12 units per acre, or even 10 units per acre.

It should be logically apparent that Los Gatos has a unique problem due to its geographic location in the narrow neck of the funnel of Silicon Valley's route to Santa Cruz, which is the reason for the horrific traffic our little Town has to deal with. The uniqueness of this problem needs to be emphatically related to Sacramento so that the demand for forced growth is moderated when taken into consideration. At times there is traffic backed up on Route 17 all the way to Camden Ave and on Santa Cruz Avenue all the way to Winchester at Lark Ave.

In total, there are three major issues with encouraging town growth:

- TRAFFIC
- SCHOOLS The impending impact from the North 40 alone is going to result in much higher student/teacher ratios in our schools. Every property owner in Los Gatos is aware that our schools are the reason for the above average valuation of our homes.
- WATER With climate change causing the movement of rainfall to the north, Oregon is now being billed as "the NEW Wine Country". So it is already apparent that the drought and scarcity of water is NOT a temporary phenomena. Water is NOT an unlimited resource... Wake Up!

(To the newspapers; you have my permission to publish this email.

Michael Glow

[REDACTED]
Los Gatos, CA 95032
[REDACTED]

ATTACHMENT 30

From: [REDACTED]
Sent: Thursday, June 30, 2022 10:55 AM
To: Shelley Neis <sneis@losgatosca.gov>
Cc: Town Manager <Manager@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>; Phil Koen [REDACTED] Rick Van Hoesen [REDACTED] Lee Fagot [REDACTED] Peter Hertan [REDACTED] Ann Ravel [REDACTED]
Barbara Spector [REDACTED]; Colleen Wilcox [REDACTED]; Don Livinghouse [REDACTED] Joanne Benjamin [REDACTED]; Joanne Rogers [REDACTED]; Rob Stump [REDACTED] Sandra Livinghouse [REDACTED]; Sandy Decker [REDACTED] Steve Rice [REDACTED]; THOMAS J. FERRITO [REDACTED] Timothy Lundell [REDACTED]
Subject: 6-30-22 Council Meeting – Agenda Item 1 for tonight's meeting

EXTERNAL SENDER

6-30-22 Council Meeting – Agenda Item 1

Mayor Rennie, Councilmembers and Staff,

Thank you for this opportunity to address this Draft General Plan.

When this General Plan (GP) process began, the Council thought the 2020 plan just needed tweaking, and we agreed. We, and the majority of the Town citizens were shocked when the GPAC hijacked the GP process, increasing the prescribed 1993 homes by up zoning the entire town. Los Gatos was one of only two cities in the entire state of California that we could find that increased their RHNA allocation. Please recall that the state increased the 2020 RHNA allocation from 619 to 1933 for 2040 – a 312% increase over 8 years! For unknown reasons, the GPAC thought this was too small an increase, and raised the number by up zoning the entire Town to at least 14,000 more residences. That more than doubles the homes we have today.

The California Dept of Finance and the Town's own consultants said the growth would not exceed 1900 home over 20 years. The GPAC and Planning Commission need to explain how they could possibly justify doubling the Town's size. Please don't tell us that we've never grown at a high rate before. The Town has never thrown open the doors to developers like the GPAC and Planning Commission are proposing. Who can predict what will happen? We are hoping the Council understands that the state's Department of Finance, as well as the Town's own consultant are better equipped to make projections than a group of untrained residents.

Being paranoid of the GPAC'S direction, we began talking to the public to see if we were off-base. We weren't, so we paid for an independent company, EMC, to conduct a public opinion survey. Even in those early days, 62% of the town's population were adverse to the GP. Months thereafter, the Town conducted a survey using their firm, ETC, and found that the one issue most concerning, with the biggest impact, was the growth of the Town. A meager 24% of the Town were satisfied with how the Town was managing growth, and 44% were dissatisfied. 62% were concerned about how the Town was managing growth.

- In 2016, the Council **turned down** a sales tax opportunity supported by 64% of the residents that would have provided \$4.8 M in revenue annually. Today, our General Fund balance is 24% less than it was in 2016. But it gets worse.
- Based on the Town's forecast, if the salary and benefit increases given by the Council and recommended by staff, are included, the General Fund will be at least \$8.9 million in the hole within 4 years, and at least \$23 million in the hole in 5.
- In 2018 the Alliance had to press the Council to pay down at least \$10M of pension debt. Doing so saved the town \$14M in interest costs.
- In 2020, the Alliance sponsored and paid for two initiatives; the Finance Commission and Term Limits. The Council completely misread the Public's desire for these changes. One passed by 57%; the other by 85%
- Today we're hammering on an ill-conceived General Plan. We gain nothing personally with all of these changes noted above with the exception that we would live in a Town that could function much better financially.
- There will be no bridges over Hwy 17; there will be no Promenades nor Music in the Park if we don't have money. We predict that this GP, if approved above the 1993 will create more financial agony that can only be supported by more taxes that will drive us further into debt.
- Three members of this council refused to do a Financial Impact Analysis of this mega growth. One even told me that we didn't need such a study as we can't even afford to repair sidewalks. She said "We need money"!! This is the kind of thinking we have witnessed in the past 6 years.

The Community Alliance has been ringing the alarm bells since 2016, predicting these numbers would be coming. The numbers don't lie. We just interpolate the Town's published numbers and now we are weighing the impact of mega growth promoted by the GPAC and the PC. They are advocating more debt by ignoring the economics and worse, they have total disregard for the climate, traffic impacts, water, schools, etc. as well as the will of the citizens as expressed in two polls. And should you want more proof, go back and read the letters sent to you. See how few support the GPAC/PC positions.

Growing by 312% is more than enough. Please bring these numbers back to 1993 plus buffer.

Los Gatos Community Alliance

--

Jak Van Nada -

Los Gatos Community Alliance

Facts Matter; Transparency Matters; Honesty Matters

www.lgca.town



From: Jeffrey Suzuki [REDACTED]
Sent: Thursday, June 30, 2022 10:45 AM
To: PublicComment <PublicComment@losgatosca.gov>
Subject: Public Comment Item #1

EXTERNAL SENDER

To the Los Gatos Town Council,

The Los Gatos Anti-Racism Coalition supports the General Plan. We believe that the Racial, Social, and Environmental Justice Element has fairly robust and progressive language that moves the right direction for the Town of Los Gatos. Additionally, we agree with **staff recommendations on maintaining the current number of housing units for development**. Please do not downsize the number of units. If we care about socioeconomic and racial diversity in town, we have to make it economically possible for people from marginalized communities to live here. **We need affordable housing.**

As a final note, the town's "**small-town character**" is not something that should be included in the General Plan. As a former planning commissioner, I can see this specific line being used by future Planning Commissioners to justify not continuing and expanding Town participation in planning processes in neighboring jurisdictions, Santa Clara County, and regional agencies and organizations to develop innovative, effective, and coordinated land use, transportation, and hillside development plans and standards. The last thing we need is to codify our preservationist sentiment into a legal document lasting 20 years.

Regards,

Jeffrey Suzuki

President of the Los Gatos Anti-Racism Coalition