



Planning for Success.

January 31, 2023

Jocelyn Shoopman, Associate Planner
Town of Los Gatos
110 E Main Street
Los Gatos CA 95030

Re: 15600-15650 Los Gatos Boulevard Project
CEQA Compliance - Categorical Exemption Findings

Dear Jocelyn,

EMC Planning Group has been asked to prepare documentation to assist the Town of Los Gatos with CEQA compliance for the proposed 15600-15650 Los Gatos Boulevard Project.

Project Description

The approximately 2.8-acre project site is located at 15600-15650 Los Gatos Boulevard in the Town of Los Gatos (APN: 424-14-028 and -036). The project site is made up of two parcels and contains surface parking, one shed, and two existing structures from the previous car dealership that have been vacant for over a decade, according to the application materials and Town staff correspondence. Trees are located on the eastern, southern, and western boundaries of the site. Surrounding land uses include commercial to the north, Los Gatos Almaden Road and commercial uses to the south, commercial and residential uses to the east, and Los Gatos Boulevard and commercial uses to the west.

The proposed project includes development of a 40,170-square foot, single-story commercial/retail building with a 3,305 square foot truck loading area. The building is designed to accommodate a new grocery market. The project would also include the development of 164 surface parking spaces and 10 bicycle parking spaces. Hours of operation for the public are approximately 7:00 a.m. to 10:00 p.m., with employees working outside of those hours. Landscaping is proposed around the perimeter of the project site.

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EXHIBIT 15

The project plans are included as [Attachment A](#).

Categorical Exemption (CEQA Guidelines Section 15332)

Section 21084 of the California Public Resources Code requires the CEQA Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In response to that mandate, the California Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

The CEQA Guidelines identifies 33 classes of project types that are categorically exempt. The proposed project clearly qualifies for the Class 32 exemption, In-fill Development Projects, which is defined in the CEQA Guidelines section 15332, as follows:

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

(c) The project site has no value as habitat for endangered, rare or threatened species.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

(e) The site can be adequately served by all required utilities and public services.

Exceptions (CEQA Guidelines Section 15300.2)

CEQA Guidelines section 15300.2 identifies the following situations where a project otherwise exempt, would not be due to unusual circumstances.

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are

considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified Environmental Impact Report (EIR).

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Findings and Evidence

We have evaluated the proposed project to determine if it qualifies for the Class 32 exemption, and if so, whether any of the exceptions presented above would apply. The following findings with evidence are presented.

Class 32 Categorical Exemption

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

Evidence. Due to an October 2022 referendum, the Land Use and Community Design Elements of the *Town of Los Gatos California 2040 General Plan* were suspended. On October 4, 2022, the Town Council adopted a resolution to provide that the 2020 General Plan Land Use and Community Design Elements will govern during the period of suspension. Therefore, when the term “General Plan” is used in this document, it is the General Plan in effect that is being referenced (i.e., the *Town of Los Gatos California 2040 General Plan* with the *Town of Los Gatos 2020 General Plan’s* Land Use and Community Design Elements).

The project site has a General Plan land use designation of Mixed-Use Commercial and is zoned CH Restricted Commercial Highway. Pursuant to the General Plan, the Mixed-Use Commercial designation permits a mixture of retail, office, and residential in a mixed-use setting, along with lodging, service, auto-related businesses, non-manufacturing industrial uses, recreational uses, and restaurants. According to the Town’s Municipal Code, the CH zone is intended for vehicular-oriented uses and sales along highway frontages, intermingled with compatible retail, service, and administrative activities. The project as a proposed grocery market is consistent with the applicable General Plan designation and is consistent with all applicable General Plan policies, as well as with applicable zoning designation and regulations.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

Evidence. The approximately 2.8-acre project site is located within the Town limits and is surrounded by urban uses. Surrounding land uses include commercial to the north, Los Gatos-Almaden Road and commercial uses to the south, commercial and residential uses to the east, and Los Gatos Boulevard and commercial uses to the west.

(c) The project site has no value as habitat for endangered, rare or threatened species.

Evidence. The project site is within a densely urban area of the Town and has been previously developed with the rest of the project site

covered with an old parking lot. Therefore, the project site has no value as habitat for endangered, rare or threatened species.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

Evidence – Traffic. Hexagon Transportation Consultants prepared the 15600-15650 Los Gatos Boulevard Grocery Development Transportation Analysis (“transportation analysis”) on December 23, 2022. The following is a summary of the transportation analysis’ conclusions.

The Governor’s Office of Planning and Research recommends that local-serving retail developments (considered to be less than 50,000 square feet in size) may be assumed to cause a less-than-significant impact on VMT. The proposed project would comprise of a building that is less than 50,000 square feet and, therefore, would be considered local-serving retail and a VMT analysis is not required.

Evidence – Noise. Residences (i.e., sensitive receptors) are located northeast of the project site and could be affected by buildout and operational noise occurring onsite as a result of the proposed project. The noise generated by onsite activities would be subject to the Town’s maximum allowable exterior noise levels contained in Chapter 16 of the Town’s Municipal Code as well as the goals and policies within the General Plan that reduce excess noise generated by new development. Compliance with these regulations and policies would ensure potential onsite noise impacts would be less than significant.

Development of the proposed project may also result in an increase in offsite traffic noise on Los Gatos Boulevard and Los Gatos Almaden Road. According to the transportation analysis prepared for the General Plan EIR, 25,400 daily trips occur on Los Gatos Boulevard under existing conditions (Appendix C of the General Plan EIR, p. 67). According to the transportation analysis prepared for the proposed project, the proposed project would generate a total of 2,866 new daily trips. Under the assumption that 100 percent of the trips would be distributed on Los Gatos Boulevard, the project’s trip

generation would represent an approximately 11 percent increase to existing trips on Los Gatos Boulevard.

According to the transportation analysis prepared for the General Plan EIR, 10,000 daily trips occur on Los Gatos Almaden Road under existing conditions (Appendix C of the General Plan EIR, p. 67). Under the assumption that 100 percent of the trips would be distributed on Los Gatos Almaden Road, the proposed project's 2,866 new daily trips would represent an approximately 29 percent increase to existing trips on Los Gatos Almaden Road.

The threshold of perception in change for the human ear is three decibels (3 dB), which would be achieved if the vehicle trips on Los Gatos Boulevard or Los Gatos Almaden Road were doubled as a result of the trips generated by the proposed project. Under the assumptions presented above, trips generated by the proposed project would result in an 11 percent or 29 percent increase on Los Gatos Boulevard and Los Gatos-Almaden Road, respectively. Therefore, the proposed project would not result in a perceptible increase in offsite operational noise levels from the additional vehicle trips on Los Gatos Boulevard and Los Gatos Almaden Road.

Additionally, noise associated with build-out of the General Plan was evaluated in the General Plan EIR. Development at the project site would be required to comply with applicable General Plan policies such as Policy MOB-1.1, which requires that all development or redevelopment with more than ten housing units or over 5,000 square feet of non-residential square footage (such as the proposed project) to include a detailed, sustainable, and measurable Transportation Demand Management program with accountability requirements to ensure that the program's measures are achieved; Policy MOB-1.2, which encourages that employers create incentives that reduce employee vehicle trips; and Policy MOB-1.3, which states that development near transit stops (such as the proposed project, which includes a bus stop at the project frontage on Los Gatos Boulevard) shall provide Transportation Demand Management programs or facilities that encourage transit use for all types of trips.

The proposed project is consistent with the Town's General Plan designation for the site and, therefore, the operational noise impacts of commercial uses have been evaluated by the General Plan EIR and anticipated by the Town's General Plan. Therefore, implementation of the applicable General Plan policies would help reduce vehicle trips and, therefore, ensure impacts related to traffic noise levels as a result of development of the proposed project are less than significant.

The Town's Municipal Code Section 16.20.035 identifies timing requirements for when construction noise is permitted during the weekdays and weekends, and lists the noise level requirements for construction equipment. This section states that construction noise is allowed between the hours of 8:00 a.m. and 6:00 p.m. on weekdays and between 9:00 a.m. and 4:00 p.m. on Saturdays with a valid Town permit. The proposed project would be required to comply with Town Municipal Code Section 16.20.035, thereby ensuring that temporary construction noise levels would be less than significant.

Therefore, construction of the project would not result in any significant noise effects.

Evidence – Air Quality. The project is within the jurisdiction of the Bay Area Air Quality Management District ("air district"). The air district is responsible for monitoring air quality in the air basin, which is designated, under state and national criteria, as a nonattainment area for ozone and respirable (PM₁₀) and fine particulate matter (PM_{2.5}); under federal criteria, the air basin is unclassified for (PM₁₀).

The air district has developed thresholds of significance that are used to determine whether or not a proposed project would result in a cumulatively considerable net increase of criteria air pollutants during operations and/or construction. A significant environmental impact would occur if the proposed project would generate emissions that would exceed state thresholds for criteria air pollutants.

Table 3-1 within the air district's *CEQA Air Quality Guidelines* provides the operational-related criteria air pollutant and precursor screening level sizes to and is used to determine if a project would have a

significant operational air quality impact. Based on this table, a supermarket would have a significant operational air quality impact if the proposed building was 42,000 square feet or larger. The proposed project includes the construction of a 40,170-square foot building. Therefore, the proposed project's operational emissions would be less than significant.

Construction emissions would include mobile source exhaust emissions and emissions generated from fugitive dust associated with earthmoving equipment. However, Table 3-1 of the *CEQA Air Quality Guidelines* also contains screening criteria for construction impacts of new development projects. For a supermarket, construction emissions impacts are less than significant for projects whose buildings are 277,000 square feet or less. The proposed project includes construction of a 40,170-square foot building. Therefore, the proposed project would be below the construction-related air quality screening criteria and would result in a less-than-significant impact from construction emissions.

Construction of the project would not result in any significant effects relating to air quality.

Evidence – Water Quality. According to the project plans (Sheet C5.0), the proposed project would include impervious surfaces (building, parking and maneuvering, and walkways) on approximately 85 percent of the project site with the remainder of the site consisting of pervious surfaces such as landscaping.

According to the project plans (Sheet C5.0), the project is exempt from hydromodification requirements pursuant to the Santa Clara County C.3 Technical Guidance Document due to the project decreasing the amount of impervious surface compared to pre-project conditions. However, the proposed project would replace more than 50 percent of the existing impervious area and, therefore, must treat the stormwater for entire project site. The proposed project's Stormwater Management Plan proposes the following treatment measures to regulate the quality of storm water leaving the project site:

Self-treating area – runoff in this area originates in and flows through planting prior to existing the project site, no treatment is required.

Bio-retention area – runoff in this area is directed to a bio-retention planter/area for filtration, infiltration, and evapotranspiration prior to exiting the project site.

The proposed development would conform to the Town’s stormwater requirements, which are enforced through the Town Municipal Code (Chapter 22), the Town’s Storm Drain Master Plan, and adherence to the San Francisco Bay Regional Water Quality Control Board’s Basin Plan. Therefore, construction of the project would not result in any significant effects relating to water quality.

(e) The site can be adequately served by all required utilities and public services.

Evidence. The project is site almost entirely impervious features and, therefore, the property’s stormwater currently drains overland into the existing Town storm drain system within Los Gatos Almaden Road. The proposed project anticipates connecting into the Town’s storm drain, water, and sanitary sewer system within Los Gatos Almaden Road. The project also proposes to remove and replace an existing fire hydrant fronting Los Gatos Almaden Road, and install one domestic and one irrigation water meter. Electricity will be routed from an existing pole with a transformer and a gas meter installed on the site fronting Los Gatos Almaden Road. According to the project’s Fire Access Plan, all drive aisles and curb radii have been shown to accommodate onsite circulation of fire trucks vehicles pursuant to the requirements of the California Fire Code.

There is no evidence to suggest that the proposed project, located on an infill parcel in central Los Gatos, cannot be adequately served by all required utilities and public services.

Exceptions

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be

significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

Evidence. The project qualifies for a Class 32 exemption, which is not one of the specified classes of exemptions to which this exception applies. Therefore, the location exception does not apply to the project.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

Evidence. There are no plans for successive projects of the same type in the Town of Los Gatos. Therefore, there is no cumulative impact of successive projects of the same type in the same place. Additionally, cumulative development that would be proposed consistent with the general plan has been evaluated in the General Plan EIR.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

Evidence. Case law makes clear that application of this exception must proceed in two steps. The first is to determine whether a proposed project involves “unusual circumstances.” If the answer to that question is in the affirmative, the second step is to consider whether those unusual circumstances will give rise to potentially significant environmental effects. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1097-1105 (*Berkeley Hillside*.) As explained below, the proposed project does not involve any unusual circumstances with respect to its location, size, environmental setting, physical attributes, surrounding land uses, or planning context – factors considered relevant under case law. (See *Berkeley Hillside*, *supra*, 60 Cal.4th at pp. 1118–1119; *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1381; *McQueen v. Bd. of Directors* (1988) 202 Cal.App.3d 1136, 1149; *Lewis v. Seventeenth Dist. Agricultural Assn.* (1985) 165 Cal.App.3d 823, 828–829; *City of Pasadena v. State of California*

(1993) 14 Cal.App.4th 810, 826–827; *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307, 1315–1316; and *Voices for Rural Living v. El Dorado Irrigation Dist.* (2012) 209 Cal.App.4th 1096, 1109.)

The proposed project (grocery market) is consistent with the General Plan land use designation of Mixed-Use Commercial, and the Town’s zoning designation of CH Restricted Commercial Highway, as discussed above. The project site is located on a previously developed, highly-disturbed flat parcel surrounded by urban development within the core of the Town of Los Gatos. There is nothing unusual about the project site as a typical infill parcel and nothing unusual about the proposed project as a typical infill project. The project features (commercial/retail building, truck loading area, parking areas) are typical project features that do not differ from other projects in infill exemption class 32. The residential uses northeast of the project site would not suffer significant noise impacts due to the proposed project.

Therefore, there are no unusual circumstances regarding conditions of the project site or in the immediate vicinity.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

Evidence. The project site is located approximately 1.5 miles northeast of the nearest officially designated state scenic highway, State Route 9 (California Department of Transportation 2022). Therefore, development of the proposed project would not substantially damage scenic resources, rock outcroppings, and historic buildings within a state scenic highway.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

Evidence. The project site is listed on the List of Leaking Underground Storage Tank Sites from the State Water Board’s GeoTracker database

as a leaking underground storage tank cleanup site; however, its case has been completed and is closed (State Water Board 2022a). The project site is not included on the list of solid waste disposal sites identified by the State Water Board with waste constituents above hazardous waste levels outside the waste management unit (State Water Board 2022b); is not included on the State Water Board's list of active Cease and Desist Orders and Cleanup and Abatement Orders (State Water Board 2022c); and is not included on the list of hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code, identified by the Department of Toxic Substances Control (California Department of Toxic Substances 2022a).

Further, the project site is not included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 (California Department of Toxic Substances Control 2022b) and, as a result, would not create a significant hazard to the public or the environment.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Evidence. The existing structures onsite (associated with the previous car dealership use) were constructed between 1965 and 1970 (Town of Los Gatos 2013). According to the Town's Municipal Code Section 29.10.020, the Town defines a historic structure to be:

- Any structure that is located within a historic district; or
- Any structure that is historically designated; or
- Any primary structure constructed prior to 1941, unless the deciding body has determined the structure has no historic significance and should not be included in the Town Historic Resources Inventory.

Given that the project site is not within a historic district, is not historically designated, and the structures onsite were not constructed prior to 1941, the project would not cause a substantial adverse change in the significance of a historical resource.

15600-15650 Los Gatos Boulevard
Town of Los Gatos
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Please contact either of us if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Teri Wissler Adam".

Teri Wissler Adam
Senior Principal

A handwritten signature in black ink, appearing to read "Shoshana Lutz".

Shoshana Lutz
Associate Planner

REFERENCES

- Bay Area Air Quality Management District. May 2017. *CEQA Air Quality Guidelines*.
https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en
- California Department of Transportation (Caltrans). "California State Scenic Highway System Map." Accessed December 19, 2022.
<https://www.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aaca>
- California Department of Toxic Substances Control. "List of hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code, identified by DTSC." Accessed on December 20, 2022a.
<https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5a/>
- California Department of Toxic Substances Control. "EnviroStor Database." Accessed December 20, 2022b.
<https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=gonzales>
- Google Earth. 2022.
- Hexagon Transportation Consultants, Inc. December 23, 2022. *15600-15650 Los Gatos Boulevard Grocery Development Transportation Analysis*. Gilroy, CA.
- Kenneth Rodrigues and Partners, Inc. Submittal February 14, 2022, resubmittal November 18, 2022. *Development Review Application*.
- Shoopman, Jocelyn, Associate Planner, Town of Los Gatos. Email message to consultant, 14 March 2022.
- State Water Board. "List of Leaking Underground Storage Tank Sites from the State Water Board's GeoTracker database." Accessed on December 19, 2022a.
<https://calepa.ca.gov/sitecleanup/corteselist/>
- State Water Board. "List of solid waste disposal sites identified by Water Board with waste constituents above hazardous waste levels outside the waste management unit." Accessed on December 20, 2022b. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/<https://calepa.ca.gov/wp-content/uploads/sites/6/2016/10/SiteCleanup-CorteseList-CurrentList.pdf>
- State Water Board. "List of "active" CDO and CAO from Water Board." Accessed on December 20, 2022c. <https://calepa.ca.gov/sitecleanup/corteselist/>

Town of Los Gatos. January 2011. *Town of Los Gatos 2020 General Plan*. Los Gatos, CA.

Town of Los Gatos. August 2013. *Initial Study - CVS Pharmacy and Commercial Development 15600 & 15650 Los Gatos Boulevard, Los Gatos, California, Planned Development Application PD-11-005, Negative Declaration ND-11-007*. Los Gatos, CA.

Town of Los Gatos. November 2019. *Town of Los Gatos Zoning Map*. Los Gatos, CA.

Town of Los Gatos. July 2021. *2040 General Plan Draft Environmental Impact Report*. Los Gatos, CA.

Town of Los Gatos. June 2022a. *2040 General Plan Final Environmental Impact Report SCH#2020070175*. Los Gatos, CA.
https://losgatos2040.com/images/docs/5_LG_2040_GP_FEIR_RTC_June_2022.pdf

Town of Los Gatos. June 2022b. *Town of Los Gatos California 2040 General Plan*. Los Gatos, CA. <http://losgatos2040.com/documents.html>

Town of Los Gatos. Town Code. Last updated on June 15, 2022c.
https://library.municode.com/ca/los_gatos/codes/code_of_ordinances

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