



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/02/2024

DATE: March 21, 2024
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Discuss Potential Next Steps with Regard to the Referendum of Land Use and Community Design Elements of 2040 General Plan and Provide Direction to Staff

RECOMMENDATION:

Discuss potential next steps with regard to the referendum of Land Use and Community Design Elements of 2040 General Plan and provide direction to staff.

EXECUTIVE SUMMARY:

Because sufficient signatures were gathered to place the referendum on the November 2024 ballot, the Town Council has the option of either placing the referendum on the ballot or rescinding the portions of the Town Council resolution that adopted the Land Use and Community Design Elements of the 2040 General Plan.

BACKGROUND:

Elections Code Section 9237 authorizes referendums of Town legislation. In 2022, the Town Council adopted Resolution No. 2022-047 adopting the 2040 General Plan, which included a Land Use Element and a Community Design Element. A petition was circulated to referend the Town Council's adoption of the Land Use and Community Design Elements and sufficient signatures were gathered to qualify the referendum for the November 2024 general election. The submission of the referendum petition had the legal effect of suspending the Council's prior adoption of Resolution No. 2022-047 approving the Land Use and Community Design Elements of the Town's 2040 General Plan. Thus, the prior versions of those Elements (all part of the Town's 2020 General Plan) have remained in place in the interim.

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

DISCUSSION:

Elections Code Section 9241 requires that the Town Council either 1) place the referendum on the ballot for the November 2024 general election or 2) rescind its adoption of the Land Use Element and the Community Design Element. At its October 2022 meeting, the Town Council deferred making a decision as to which of these actions to take pending consideration of the then-upcoming Housing Element adoption. The options are discussed in more detail below. Once this primary decision has been made, there are other possible steps for the Town Council to direct staff to take, which are included below.

Rescind or Place Referendum on Ballot

1) Place the Referendum on the Ballot for the November 2024 General Election

If the Town Council does not vote to repeal the prior Resolution adopting the Elements, it must now submit them to the voters for approval at the upcoming November 2024 election. If the voters vote “yes,” it would have the effect of upholding the Council’s approval of the Elements. If the voters vote “no,” then it would have the effect of rejecting the Resolution (and preventing the Council from re-adopting it or something similar for one year from the date of the election).

2) Rescind Adoption of 2040 Land Use and Community Design Elements

The Town Council could vote now to rescind its adoption of the 2040 Land Use and Community Design Elements, which would have the effect of avoiding the need for any ballot measure. If the Town Council takes this action, it will be unable to adopt the same or a similar resolution for one year. Given that the election is still many months away, this one year waiting period may not be a concern. But the main disadvantage of this approach is that there could be another referendum after the Council re-adopts the Elements later (with whatever modifications the Council directs). Any new version of the Land Use Element or Community Design Element would need to be materially different from the versions that were referended.

Additional Options

1) Prepare a Separate Ballot Measure

The Town Council could also prepare a separate ballot measure with proposed amendments to the Land Use Element and Community Design Element of the 2040 General Plan different from what it previously approved. It could take this option regardless of whether it fully repeals the prior resolution or puts it on the ballot for approval by the voters.

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DISCUSSION (continued):

While the deadline to provide the ballot measure to the County is Friday, August 9th, submitting the ballot measure in June will allow sufficient time for arguments in favor, arguments against, and rebuttals to be prepared and submitted to the County. The Town Council will also need to make sure it complies with CEQA before voting to put a different measure on the ballot, but it likely could rely upon (and tier from) the CEQA review the Town did before.

2) Meet with the Referendum Proponents

The Town Council could select 1) an ad hoc committee composed solely of members of the Town Council, 2) staff members, or 3) others to meet with the referendum proponents to discuss possible amendments to the adopted Land Use Element and Community Design Element of the 2040 General Plan and the potential for withdrawal of the referendum petition. The deadline to withdraw the ballot measure is August 9th.

3) Amend the Land Use Element and Community Design Element

The Town Council could direct staff to prepare amendments to the Land Use Element and Community Design Element of the 2040 General Plan. In past discussions of this option, the Town Council considered re-convening the General Plan Advisory Committee to participate in the preparation of amendments.

Regardless of the outreach process, the proposed amendments would be considered by the Planning Commission for a recommendation and the Town Council would make the final decision. Once adopted by the Town Council, the amendments would take effect within 30 days and would not be subject to the current referendum (so long as they are materially different from what the Council adopted before, or so long as the Council waits a full year from its prior rescission to adopt the new amendments).

CONCLUSION:

The Town Council is required to either rescind the prior Resolution or submit it to the voters. Staff looks forward to the Town Council's discussion and direction on next steps.

COORDINATION:

This report was coordinated with the Town Manager, the Community Development Director, and the Town Clerk.

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FISCAL IMPACT:

The cost of placing the referendum on the 2024 general election ballot will be approximately \$60,000. The cost of placing an alternative ballot measure on the 2024 general election ballot will be approximately \$60,000.

ENVIRONMENTAL ASSESSMENT:

CEQA analysis will need to be performed for any alternative ballot measure proposed by the Town Council.

Attachment:

1. Referendum Summary