



**TOWN OF LOS GATOS
STUDY SESSION AGENDA**

MEETING DATE: 12/07/2021

ITEM NO: 1

DATE: December 2, 2021
TO: Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss Housing Growth Options and Related Analyses for Planning Commission and Town Council Consideration of the Draft 2040 General Plan.

RECOMMENDATION:

Discuss housing growth options and related analyses for Planning Commission and Town Council consideration of the Draft 2040 General Plan.

BACKGROUND:

At the October 19, 2021 Town Council meeting, two Council Members requested an agenda item to discuss the following question:

Should staff prepare the following analysis for the Planning Commission hearing on the Draft 2040 General Plan:

- Analyze the impact of SB9 on assumptions about housing capacity. Identify how the Draft General Plan could be affected by SB9's stated right to subdivide and build ADUs, and how that might eliminate the need to rezone our existing low density residential areas, since the state has already effectively done that for us; and
- Analyze an alternative based on the RHNA allocation of 1,993 units. Identify what aspects of the current Draft 2040 General Plan would change and whether the Draft EIR would have to be modified if we were to just meet the RHNA allocation with a minimal buffer.

This Study Session provides an opportunity for the Council to discuss housing growth options and identify additional information for the Planning Commission's consideration. As a Study Session, no action on the General Plan is on the agenda in conformance with State law as discussed later in this report.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

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

DISCUSSION:

The following information has been prepared in response to the requested agenda item. The Town Council should discuss what information and analyses should be provided to the Planning Commission to assist with its recommendation regarding housing growth and other policy questions associated with the Draft 2040 General Plan and Final Environmental Impact Report (EIR).

A. Senate Bill 9

Senate Bill 9 (SB 9), signed into law by Governor Newsom on September 16, 2021, and effective starting on January 1, 2022, allows all properties within a "single-family residential zone" to develop two units on an existing lot and/or to be subdivided into two parcels with up to two units on each lot through ministerial review, irrespective of existing zoning, General Plan, or subdivision standards.

At this time, there has been no direction or guidance from the State Department of Housing and Community Development (HCD) on how new housing units produced as a result of these new regulations might be able to be counted in the Housing Element update towards meeting the Regional Housing Needs Allocation (RHNA) requirements. HCD is preparing a SB 9 guidance document, expected to be available in February 2022. Until HCD provides guidance, it would be premature for Town staff or the consultant to speculate as to the effects of SB 9 on the Draft 2040 General Plan. Given that we expect HCD guidance in early 2022, the Housing Element update will likely include SB 9 units based on HCD guidance.

Additional information about the implementation of SB 9 will be considered by the Town Council when an urgency ordinance is considered on December 21, 2021. Additionally, consideration of SB 9 programs will be part of future discussions by the Housing Element Advisory Board.

B. Housing Growth Options

The staff report materials for the Planning Commission's review of the Draft 2040 General Plan and Final EIR are expected to include information in response to public comments that have been received on the Draft 2040 General Plan via email, community meetings, Farmers Market conversations, other outreach meetings, and other mechanisms. In particular, the concerns about the housing capacity of 3,854 housing units in the Draft 2040 General Plan necessitate that the staff report include, at a minimum, information about the alternatives that have been previously considered by Town Council:

- Preferred Land Use Alternative Framework (2,939 units) adopted by Town Council on April 7, 2020;

DISCUSSION (continued):

- Draft Land Use Element (3,425 units) reviewed by Town Council on November 17, 2020; and
- Draft 2040 General Plan (3,854) recommended by the General Plan Update Advisory Committee on May 5, 2021.

In addition, per the Council agenda item request, staff can add a growth option for only 1,993 units which is the Town's Regional Housing Needs Allocation.

For each growth alternative, the staff report to the Planning Commission would identify the potential modifications to the Draft 2040 General Plan to achieve the target housing capacity.

For example, the Draft 2040 General Plan could be revised so as not to increase the residential densities of the Low Density and Medium Density Residential General Plan designations from the current 2020 General Plan. In other words, Low Density Residential would remain 0 to 5 units/acre compared to 1 to 12 units/acre in the proposed 2040 General Plan and Medium Density Residential would remain 5 to 12 units/acre instead of 14 to 24 units/acre. Retaining the 2020 designations would remove an estimated 606 units from the Draft 2040 General Plan capacity. Other changes to the Draft 2040 Plan would also be needed with respect to missing middle housing and the Community Design Element.

Another approach would be to modify the implementation of the Opportunity Areas contained in this early Land Use Alternative Framework by including an overlay zone for different housing densities and height limits for properties depending on whether they are inside or outside of that zone. Additional specificity of which properties are within the overlay zones would be required since the Preferred Land Use Alternative Framework showed these areas with a general circle that crosses through numerous properties.

To achieve the Draft Land Use Element option (3,425 units), the Draft 2040 General Plan could involve removal of housing densities from the Office Professional and Service Commercial designations (313 units) and other modifications such as removal/reduction of certain Community Place Districts.

Similarly, the report to the Planning Commission can include an option for 1,993 units (or 2,392 including a 20 percent buffer) with associated modifications needed to the Draft 2040 General Plan to achieve this lower housing capacity.

DISCUSSION (continued):

C. Housing Element Implications

The 6th Cycle RHNA is 1,993 units and the 6th Cycle RHNA plus a 20 percent buffer is 2,392 residential units. To ensure that the increases in housing capacity in the Draft 2040 General Plan Land Use Element are sufficient to allow the Housing Element update to meet State requirements and the HCD recommendation of a 20 to 30 percent buffer in the number of housing units. This aligns with the best practice of developing a General Plan with capacity for multiple different methods for meeting the Town’s RHNA in recognition of the fact that HCD may not certify a Housing Element if it disagrees with the assumptions, housing sites, and/or programs. A certified Housing Element is essential for the Town to receive State infrastructure dollars.

The following table lists the example housing growth options from above and provides both the number of units from the Draft 2040 General Plan 20-year residential capacity and the portion of the capacity that is potentially eligible for the current Housing Element update.

	Residential Capacity for 2040 General Plan (20-year plan)	Potentially Eligible Units for Housing Element Update (8-year cycle)*
Preferred Land Use Alternative Framework	2,939	2,239
Initial Draft Land Use Element	3,425	2,725
Draft 2040 General Plan	3,854	3,154

* Residential Capacity minus 700 units [400 existing project units (those likely be issued Building Permits before the start of the 6th RHNA cycle) and 300 new ADUs that would be built outside the 8-year 6th RHNA cycle].

CONCLUSION:

While the Draft 2040 General Plan contains a housing growth number, the Planning Commission, after conducting a public hearing, has the latitude to recommend to the Town Council a lower housing number with commensurate changes to the document as described above. The staff report to the Planning Commission will lay out those options and staff will be available at the public hearing to explore them in more detail with the Commission.

The Council has the same housing growth choices for its consideration when it conducts its public hearing on the Draft 2040 General Plan and evaluates the Planning Commission recommendation. The Town Council is the final decisionmaker for the adoption of the General Plan.

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CONCLUSION (continued):

The public is welcome to continue to submit comments on the Draft 2040 General Plan, including any preferences for growth options and related changes to the Draft 2040 General Plan to achieve the reduced numbers.

Staff looks forward to additional public input and the Town Council discussion at the Study Session regarding materials that should be provided to support the Planning Commission's review of the Draft 2040 General Plan.

Per State law, the Town Council cannot act on the draft General Plan until environmental review is completed and until the Town Council receives a recommendation from its Planning Commission.

NEXT STEPS:

The next steps in the General Plan update process include:

- Planning Commission meeting to receive verbal comments on the Revised Draft EIR via teleconference at 7:00 p.m. on Wednesday, December 8, 2021. No action will be taken at this meeting.
- Completion of the reopened public review period on the Revised Draft EIR at 5:00 p.m. on Friday, January 7, 2022.
- Preparation of Final EIR.
- Planning Commission review and recommendation to the Town Council on the Draft 2040 General Plan and Final EIR, tentatively expected in February 2022.
- Town Council consideration of the Draft 2040 General Plan and Final EIR.

PUBLIC COMMENT:

Public comments submitted for this Study Session are included as Attachment 1.

COORDINATION:

This report has been coordinated with the Town Manager's Office and Town Attorney's Office.

ENVIRONMENTAL ASSESSMENT:

A Draft EIR analyzed the Draft 2040 General Plan as required. Preparation of a Final EIR will be completed and provided for consideration by the Planning Commission and Town Council along with the Draft 2040 General Plan.

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Attachment:

1. Public Comments