

DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
GRANTING AN APPEAL OF THE DECISION OF THE
COMMUNITY DEVELOPMENT DIRECTOR'S INCOMPLETENESS DETERMINATION
FOR A SENATE BILL 330 (SB 330) APPLICATION REQUESTING APPROVAL TO
CONSTRUCT A MIXED-USE DEVELOPMENT (120 UNITS) A TENTATIVE MAP, SITE
WORK REQUIRING A GRADING PERMIT, AND REMOVAL OF LARGE PROTECTED
TREES ON PROPERTY ZONED NORTH FORTY SPECIFIC PLAN:HOUSING ELEMENT
OVERLAY ZONE.**

**APN 424-07-064
ARCHITECTURE AND SITE APPLICATIONS: S-24-008
AND SUBDIVISION APPLICATION M-24-005
PROPERTY LOCATION: 14849 LOS GATOS BOULEVARD
APPELLANT/PROPERTY OWNER/APPLICANT: LOS GATOS BOULEVARD
PROPERTIES, LLC**

WHEREAS, Government Code Section 65941.1 authorizes housing development project applicants to submit a Senate Bill 330 (SB 330) “preliminary application;”

WHEREAS, under Government Code Section 65589.5(o), submittal of an SB 330 “preliminary application” containing all items required by Government Code Section 65941.1 vests an applicant to the Town regulations that were in effect on the date that the preliminary application was deemed submitted, with certain exceptions;

WHEREAS, Government Code Section 65941.1(e)(1) provides that within 180 calendar days after submitting a preliminary application with all of the required information, an applicant must submit a planning application that includes all of the information required by Government Code Sections 65940, 65941, and 65941.5 in order to retain vesting;

WHEREAS, Government Code Section 65941.1(e)(2) provides that, if the Town determines under Government Code Section 65943 that the planning application is incomplete, the applicant must submit the information required to complete the planning application within 90 days of receiving the Town's determination in order to retain vesting;

WHEREAS, Government Code Section 65941.1(e)(2) could be interpreted to mean that the applicant may have either a single 90-day period in which to render a planning application complete after the 180-day submittal period expires, or unlimited 90-day periods to complete the application;

WHEREAS, a preliminary application for the Luxe project was submitted on August 30, 2023, and a formal planning application for a mixed-use development (120 units), tentative map, site improvements requiring a grading permit, and removal of large protected trees

(Architecture and Site application S-24-008 and Subdivision Application M-24-005) was submitted on March 8, 2024;

WHEREAS, on November 19, 2024, the Town provided the Applicant with a letter indicating that the Town had completed its review of the resubmittal of the formal application pursuant to provisions of the Permit Streamlining Act (specifically, Government Code Section 65943), and that the application remained incomplete;

WHEREAS, the application incompleteness determination was provided to the Applicant's team on November 19, 2024, as part of the Staff Technical Review Committee comments, and discussed at the November 20, 2024, Staff Technical Review Committee meeting;

WHEREAS, the Luxe applicant received an incompleteness letter after both the 180-day submittal period and an additional 90-day period had elapsed;

WHEREAS, on January 30, 2025, the Town's Community Development Director provided the Applicant with a letter stating that the application remained incomplete and that, in accordance with Government Code Section 65943, the Applicant may appeal the incompleteness determination of the SB 330 application to the Town Council by paying the required appeal fee and submitting a written appeal to the Town Clerk on the appeal form within 10 days of the date of the letter;

WHEREAS, the Applicants' architect called a Town staff member to inquire regarding the import of the incompleteness letter, and the Town staff member indicated that the vesting afforded by the preliminary application may have expired;

WHEREAS, after speaking with a Town staff member, the Luxe applicant submitted an appeal of the Town staff member's statement that their preliminary application vesting may have expired;

WHEREAS, the Town sought declaratory relief to obtain a judicial determination on the question of whether, after the initial 180-day submittal period expires, there is a single 90-day period or unlimited 90-day periods in which to render a planning application complete;

WHEREAS, the Town continued to process in a normal fashion, without delays, all potentially affected planning applications, including the planning application of the appellant, pending judicial review of this question;

WHEREAS, the Luxe planning application was deemed complete on April 16, 2025, and is continuing to be processed, pending receipt of requested information from the applicant;

WHEREAS, on January 29, 2026, the Santa Clara County Superior Court ruled in *The Town of Los Gatos v. Arya Properties, LLC* (Case No. 25CV462276), that that Government Code

Section 65941.1(e)(2) "allows for multiple 90-day resubmission periods for a project proponent to respond to successive incompleteness determinations without losing the project vesting conferred by a preliminary application as provided at section 65941.1, subdivision (e)(1)."

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Los Gatos does hereby declare, determine, and order as follows:

1. Because the Superior Court has determined that multiple 90-day resubmission periods are allowed to respond to successive incompleteness determinations, the vesting afforded by the SB 330 preliminary application for the Luxe application has not expired.
2. The appeal submitted by the Luxe applicant is granted.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 21st of April, 2026, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

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