



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2026

ITEM NO: 9

DATE: April 16, 2026
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: **Following a Court Order, Hear the Appeals Submitted by Applicants for (1) Luxe and (2) Arya Projects Regarding Government Code Section 65941.1's Deadline for Submittal of Complete Planning Applications for Proposed Projects at (1) 14849 Los Gatos Boulevard, and (2) 15300 and 15330 Los Gatos Boulevard**

RECOMMENDATION: Following a court order, hear the appeals regarding Government Code Section 65941.1's deadline for submittal of complete Planning Applications for proposed projects at (1) 14849 Los Gatos Boulevard (Architecture and Site Application S-24-008 and Subdivision Application M-24-005) and (2) 15300 and 15330 Los Gatos Boulevard (Architecture and Site Application S-24-018, Conditional Use Permit Application U-24-007, and Subdivision Application M-24-009) and adopt Resolutions applying the Superior Court determination that multiple 90-Day resubmission periods to respond to successive incompleteness determinations are allowed.

FISCAL IMPACT:

Applying the court's determination will not have a fiscal impact.

STRATEGIC PRIORITY:

This supports the Town's strategic priority of implementing its Housing Element in accordance with state law.

PREPARED BY: Gabrielle Whelan
Town Attorney

Reviewed by: Town Manager, Assistant Town Manager, Community Development Director, and Administrative Services Director

BACKGROUND:

This hearing has been scheduled for the limited purpose of considering two appeals concerning the proper interpretation of Government Code Section 65941.1. The merits of either planning application are not part of this hearing.

Government Code Section 65941.1 authorizes housing project applicants to submit a Senate Bill 330 (SB 330) "preliminary application." An SB 330 "preliminary application" vests an applicant to the Town regulations that were in effect at the time that the preliminary application was deemed submitted. [Government Code Section 65589.5(o)].

Government Code Section 65941.1(e)(1) provides: "Within 180 calendar days after submitting a preliminary application with all of the information required . . . to a city . . . , the development proponent shall apply for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5."

Government Code Section 65941.1(e)(2) further provides: "If the public agency determines that the application for a development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect."

The Town read Section 65941.1(e)(2) to provide for a single 90-day period following the initial 180-day period in which to render a planning application complete and retain vesting. However, the Town recognized that the statute was not clear. Therefore, the Town filed an action for declaratory relief on March 28, 2025, in order to obtain a court's determination on this question.

After receiving correspondence from the Town stating that two planning applications remained incomplete (Attachments 1 and 2), the architect for both projects called Town staff to inquire about the import of that incompleteness determination. Town staff stated that they believed it was possible that the project vesting had expired. After that conversation, on January 30, 2025, the Town received the appeals of that statement, which are attached to this report (Attachments 3 and 4). After receiving the appeals, the Town Attorney contacted counsel for the applicants to let them know that the Town would hear the appeals after obtaining the court's determination and that, in the meantime, the Town would continue to process the planning applications. A copy of that letter is attached as Attachment 5.

DISCUSSION:

Status of Projects

14849 Los Gatos Boulevard (Luxe)

A preliminary application for the Luxe project was submitted on August 30, 2023, and a formal planning application for a 120-unit mixed-use development (Architecture and Site Application S-24-008 and Subdivision Application M-24-005) was submitted on March 8, 2024, and deemed complete on April 16, 2025. The project has also continued to be processed. The applicant has paid the deposit for an Initial Study to be prepared by the Town's environmental consultant. On February 10, 2026, and March 23, 2026, staff informed the applicant that completion of the Initial Study is pending the applicant's providing the following items:

- 1) Re-submit the traffic report based on peer review comments provided by the Town's consultant, because the environmental consultant cannot complete the technical analyses for noise and air quality/greenhouse gas/energy until the traffic report, or at least the trip generation and intersection volumes are finalized; and
- 2) Provide the items requested by the visual simulation consultant in order to complete the renderings.

On March 25, 2026, the applicant provided the items requested by the visual simulations consultant. The renderings are currently being processed by the consultant.

On April 9, 2026, the applicant resubmitted the traffic report. Peer review by the Town's consultant is currently underway.

15300 and 15330 Los Gatos Boulevard (Arya)

A preliminary application for the Arya project was submitted on November 7, 2023, and a formal planning application for a 175-unit mixed-use development (Architecture and Site Application S-24-018, Conditional Use Permit Application U-24-007, and Subdivision Application M-24-009) was submitted on May 10, 2024, and deemed complete on April 16, 2025.

The project has continued to be processed. Environmental review for the project is currently underway through the preparation of an environmental impact report. Photo simulations for the project were completed on August 13, 2025. On August 26, 2025, staff provided peer review comments on the project's traffic analysis.

On January 19, 2026, the applicant's team notified staff that proposed modifications to the project are forthcoming, including potential changes to circulation, parking, floor plans, and building elevations. Staff is awaiting the applicant's resubmittal.

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On April 6, 2026, the applicant provided staff with a response to peer review comments. The revisions are currently being reviewed by the Town's traffic consultant to complete the technical reports required for the EIR.

Appeal of Town's Interpretation of Government Code Section 65941.1

The Superior Court issued its order on January 29, 2026, ruling 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)" (Attachment 6).

Having obtained the Court's determination, the Town has scheduled this public hearing to hear the applicants' appeals for these two projects. Draft resolutions are attached as Attachment 1.

Notice of this public hearing was published in a newspaper of general circulation in the Town on April 10, 2026, and posted on the Town's website.

CONCLUSION:

Based on the Court's determination, Town staff recommends that the Town Council adopt the resolutions (Attachments 7 and 8) granting the appeals and finding that multiple 90-day resubmission periods are allowed to respond to successive incompleteness determinations.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required, because applying a trial court determination will not have a significant impact upon the environment.

Attachments:

1. Incompleteness Letter for 14849 Los Gatos Boulevard
2. Incompleteness Letter for 15300 and 15330 Los Gatos Boulevard
3. Appeal Submitted for 14840 Los Gatos Boulevard
4. Appeal Submitted for 15300 and 15330 Los Gatos Boulevard
5. Correspondence from Town Attorney to Counsel for Applicants
6. Superior Court Order
7. Resolution Granting Appeal for 14849 Los Gatos Boulevard
8. Resolution Granting Appeal for 15300 and 15330 Los Gatos Boulevard