

**From:** Laura Montonye Reese  
**Sent:** Friday, April 8, 2022 8:54 AM  
**To:** Jennifer Armer  
**Subject:** Council@LosGatosCA.gov

Hello Ms. Armer,

My name is Laura Reese and I live in Los Gatos near the University Avenue fire station.

I'm emailing you with a request: **please include a plant-based education program in the Environmental and Sustainability section of the General Plan (Section 8).**

Los Gatos residents need to understand the enormous environmental impact of their food choices. They need to know how choosing plant-based options three times a day can positively impact climate change, water quality, and air quality, not to mention improving the lives of farmed animals.

Here is an excellent resource for **exploring the environmental impacts** of our food choices: <https://www.plantbaseddata.org/>

I'll quickly add that education is only the beginning. The more we can make plant-based options the defaults at restaurants and civic gatherings, the more impact we can have. I refer you to the Default Veg website for ideas for nudging a **population toward making plant-based choices** <https://www.defaultveg.org>

Thank you,

Laura Reese

**From:** Phil Koen

**Sent:** Tuesday, April 12, 2022 6:33 AM

**To:** Jennifer Armer; Shelley Neis

**Cc:** jvannada; Rick Van Hoesen; David Weissman; Francois, Matthew

**Subject:** Agenda Item #3 - Planning Commission Meeting

Hello Shelley and Jennifer,

Would you please include the email below in the Planning Commission's package for the April 13 Planning Commission? Thank you.

Dear Planning Commissioners,

Attached please find a modified Table 3-1 "General Plan Residential Buildout" found in the draft 2040 General Plan. The only change to the table is the addition of the column labeled "Derived Draft GP Total units".

This column reflects the total new units (redeveloped) allowed by the proposed increases in allowable densities for all land uses. The units shown were derived using the redevelopment percentage and the redeveloped new units found in the table.

For example, given a 15% redevelopment percentage for high density residential and a total of 268 new redeveloped units, the derived total new units at 100% redevelopment would be 1,787 units (e.g.,  $268 \text{ units} \times 15\% = 40.2 \text{ units}$  at 100% redevelopment would be  $40.2 \times 44.5 = 1,787 \text{ units}$ ).

It is important to understand that the Planning Commission is being asked to approve increases in zoning densities for all land use categories Town wide which will allow 14,618 additional new housing units. This number is approximately equal to the total number of housing units currently available in Los Gatos today. **Stated another way, the changes in zoning densities made by the 2040 General Plan would allow for the doubling of the current size of Los Gatos.**

If the high end of the market demand for housing over the next 20 years as forecasted by ADE is 1,954, and the minimum number of units the Town is required to plan based on the 6<sup>th</sup> cycle RHNA is 1,993,

why is it appropriate to double and triple land use zoning densities to allow for the redevelopment of 14,618 new units?

The answer is obvious – it is not warranted.

Changes to the current land use densities should be made only to the extent necessary to meet the 20-year market demand for new housing in Los Gatos of 1,954 and to comply with the minimum housing required by the 6<sup>th</sup> cycle RHNA of 1,993 plus 15% buffer (2,292). With that in mind, all the changes outlined on page 6 of the Staff report make sense and should be adopted by the Planning Commission. Please make these changes.

Thank you.

The Los Gatos Community Alliance

Land Use Designation	Density Range (du/ac)		Typical Density		Redevelopment Assumptions		Draft General Plan	
	Existing General Plan	Draft General Plan	Existing General Plan	Draft General Plan	Derived Draft GP Total Units	Assumed Redevelp %	New Housing (redev)	New Housing (vacant)
Low Density Residential	0 to 5	1 to 12	4	12	1,680	5%	84	283
Medium Density Residential	5 to 12	14 to 24	10	20	3,430	10%	343	224
High Density Residential	12 to 20	30 to 40	18	36	1,787	15%	268	110
Neighborhood Commercial	10 to 20	10 to 20	16	18	910	10%	91	26
Community Commercial	0	20 to 30	0	26	1,040	15%	156	
Mixed-Use	10 to 20	30 to 40	16	36	3,025	20%	605	126
Central Business District	10 to 20	20 to 30	16	26	753	15%	113	21
Office Professional	0	30 to 40	0	36	1,700	15%	255	4
Service Commercial	0	20 to 30	0	26	293	15%	44	10
<b>Subtotal</b>					<b>14,618</b>		<b>1,959</b>	<b>804</b>
Housing Units, New and Redeveloped								2,763
Housing Units, ADUs								500
Subtotal								3,263
Housing Units, Existing Projects								475
<b>Total</b>								<b>3,738</b>

**From:** Mendoza, Clarissa

**Sent:** Tuesday, April 12, 2022 2:56 PM

**To:** Planning Comment

**Cc:** Francois, Matthew; Rob Rennie; Maria Ristow; Mary Badame; Matthew Hudes; Marico Sayoc; Laurel Prevetti; Joel Paulson; Robert Schultz

**Subject:** Comments Regarding Final EIR For Proposed 2040 General Plan; April 13, 2022 Planning Commission Hearing, Agenda Item No. 3.

Dear Chair Hanssen and Members of the Planning Commission:

Attached please find written correspondence from Mr. Francois on behalf of the Los Gatos Community Alliance, in regards to the above-referenced matter.

Best,

**Clarissa Mendoza**

Legal Secretary

455 Market Street, Suite 1870 | San Francisco, CA 94105

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April 12, 2022

**VIA E-MAIL [PlanningComment@losgatosca.gov]**

Honorable Melanie Hanssen, Chair  
and Members of the Planning Commission  
Town of Los Gatos  
110 E. Main St.  
Los Gatos, CA 95030

**Re: Comments Regarding Final EIR For Proposed 2040 General Plan; April 13, 2022 Planning Commission Hearing, Agenda Item No. 3.**

Dear Chair Hanssen and Members of the Planning Commission:

We write on behalf of the Los Gatos Community Alliance (“LGCA”), a group of concerned citizens, in regard to the Proposed Final Environmental Impact Report (“FEIR”) for the 2040 General Plan (the “Proposed Plan”).<sup>1</sup> In previous correspondence to the Town of Los Gatos (the “Town”), LGCA expressed its significant concerns with the Proposed Plan’s major upzoning of every residential and commercial land use district in the Town. We pointed out how such intensification was not studied in the Draft EIR (“DEIR”) as required by CEQA. We also explained that such intensification was entirely unnecessary to accommodate the 1,993 additional housing units needed per the Town’s Regional Housing Needs Allocation (“RHNA”), which itself was a 222 percent increase over the Town’s last RHNA allocation. We further pointed out that if the Proposed Plan’s upzoning were to be approved, the Town would generally be precluded from denying or reducing the density of any housing project that complied with those new density standards.

As detailed in our previously submitted comments and additional comments below, summarized below, the EIR remains significantly flawed and cannot legally be relied upon to adopt the Proposed Plan as currently proposed. Accordingly, we reiterate our request that the Town focus first on the Housing Element update. Once the Housing Element update has been finalized, the Proposed Plan should be revised to reflect it as well as the other recommended changes detailed in our March 22, 2022 letter, including restoring existing Low Density Residential densities and modifying other allowed densities so that build-out under the Proposed Plan would accommodate approximately 2,300 units, including units that would qualify as affordable. This would meet the Proposed Plan’s dual objectives of satisfying market demand and the Town’s new RHNA number.

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<sup>1</sup> Members and/or supporters of LGCA include: former Mayor Joanne Benjamin, former Mayor Sandy Decker, former Mayor Tom Ferrito, former Mayor Steve Rice, former Mayor Barbara Spector, former County Superintendent of Schools Colleen Wilcox, Tim Lundell, Phil Koen, Don Livinghouse, Sandra Livinghouse, Lee Fagot, Ann Ravel, Rob Stump, Rick Van Hoesen, and Jak Vannada.

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**1. The EIR Fails To Analyze The Reasonably Foreseeable Consequences Of The Proposed Plan.**

The reasonably foreseeable consequence of the Proposed Plan is that growth above and beyond that studied in the EIR will occur in accordance with the increased densities and intensities permitted by the Proposed Plan. The FEIR claims the changed densities and intensities will not result in much added growth because of “assumptions” about the percentages of already improved land that will be redeveloped. The FEIR cites to the small percentage of vacant land (which still totals nearly 700 acres) and assumed redevelopment rates ranging from 5-15 percent for existing developed land. The FEIR claims that these assumed redeveloped percentages are reasonable based on historic growth rates and the need to satisfy and comply with the mandated RHNA number. (FEIR, p. 117.) There are several flaws with this explanation.

First, it appears that the EIR simply studied the RHNA number plus a buffer as well as units in the pipeline and accessory dwelling units. As such, the EIR did not study the actual project—the Proposed Plan—that is up for consideration. There is no acknowledgment whatsoever of the potentially significant impacts associated with the greatly increased densities and intensities in nearly every residential and commercial land use district.

Second, the historic, old growth rates tied to existing allowed densities/intensities are irrelevant in light of the proposed new densities/intensities and the economic demand associated with them. While the Town may have experienced growth of 40 units per year under current densities, the EIR needs to study what growth the Town may experience in light of the significantly higher densities allowed by the Proposed Plan.<sup>2</sup> (FEIR, p. 150.) It is unreasonable and unjustified to assume that the existing growth rate is the anticipated growth rate.<sup>3</sup> (FEIR, pp. 144.) Even if the historic growth rates were relevant, there is no explanation at all how the redevelopment rates are correlated to the old growth rates. In other words, how does a 0.5 to 0.7 growth rate translate into an assumed redevelopment potential of 5-15 percent for residential lands and 10-15 percent for commercial lands?

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<sup>2</sup> While the table on page 4 of the Staff Report correctly shows existing and proposed densities for residentially-designated properties, it incorrectly portrays existing densities for commercial and office lands. No residential densities are specified for these lands in the current General Plan.

<sup>3</sup> Contrary to the FEIR, the court in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, did not sanction the approach used by the EIR consultants here. Instead, the court there found that a housing element which did **not** modify land uses or increase heights or densities properly “compare[d] the changes in the housing element to the existing environment, including existing height limits and densities.” (26 Cal.App.5th at 902, 910.) The difference here is that the Proposed Plan significantly increases densities and intensities in nearly every land use district and the EIR ignores the impact of those changes. The FEIR also cites another baseline case, *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, which is not relevant to the FEIR’s failure to consider the reasonably foreseeable impacts of the Proposed Plan.

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Third, there is no correlation between the assumed redevelopment percentages and the acres of land to be redeveloped. For instance, the DEIR acknowledges that 4,460.93 acres are designated and developed as Low Density Residential. (DEIR, Table 4.11-1.) If five percent of these lands are assumed to be redeveloped at densities of 12 units per acre, this would produce 2,676 units. Yet, the EIR assumes only 84 new units will be produced. (DEIR, p. 4.11-2.) How this number was derived and why it is reasonable to rely on is nowhere explained in the EIR. Additionally, why are only 804 units assumed to be developed on approximately 700 acres of vacant land.<sup>4</sup> (DEIR, p. 4.11-2.) This resulting density of 1.1 units per acre does not match the permitted densities ranging from 12-40 units per acre.

Fourth, the FEIR acknowledges that it did not assume any additional commercial development beyond that which is already approved and pending. (FEIR, p. 118.) This ignores the Proposed Plan's significant increase in allowed floor area ratios from 0.5 up to 3.0. It also ignores the potential for additional commercial development at these increased intensities on vacant lands.

Fifth, the deflated assumptions regarding redevelopment conflict with various goals and policies cited in the DEIR and FEIR. For instance, the DEIR states that the "Land Use Element promotes and emphasizes infill development and redevelopment of underutilized parcels." (DEIR, pp. 2-9; *accord*, DEIR, pp. 2-1, 4.4-12, 4.4-16, 4.17-9 and Proposed Plan, Goal CD-7 and Policies LU-5.1, CD-7.2, and MOB-7.1.) It states that development will occur primarily in already developed areas. (DEIR, p. 4.11-12 ["Unlike many communities where growth is primarily on vacant land, Los Gatos would see a higher percentage of change through redevelopment of lands that have development potential."]; *see also* DEIR, pp. 4.1-15, 4.4-13, 4.4-18, 4.4-20, 4.1 and FEIR, pp. 119, 122.)

Sixth, the arbitrary nature of the assumptions and complete lack of consideration of the economic pressures caused by upzoning is evident in the Alternatives section where the growth alternatives vary depending on the seemingly random percentages of redevelopment assumed to occur inside and outside Opportunity Areas. (DEIR, pp. 6-4, 6-9, 6-15.)

Finally, only in response to comments on the DEIR does the Town explain how the assumed redevelopment rates were derived. Even then, the explanations are flawed and unsupported. There is no explanation whatsoever of the assumptions in the DEIR. An agency cannot wait until a Final EIR to provide critical information so as to immunize itself from public scrutiny and comment.

In short, the EIR still fails to analyze the reasonably foreseeable consequences of the project. Although the Proposed Plan greatly increases densities and intensities in almost every land use designation, including Low Density Residential, the responses are that this growth will not

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<sup>4</sup> The assumed residential units on vacant land in Tables 4.11-2 (804) and Table 4.11-3 (504) do not match. Contrary to FEIR Response 9.49, Table 4.11-3 does not show acreage, it shows units.



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materialize based on the “percentages” of vacant land and “assumptions” about the amount of developed land that will be redeveloped. This response is not supported by substantial evidence, as required, and thus is legally inadequate.

## **2. The FEIR Acknowledges The Use Of Inconsistent And Conflicting Baselines.**

The FEIR states that the Town used future conditions as its baseline. “The Draft EIR . . . uses the potential growth the Town is likely to achieve *by the year 2040* as its baseline for analysis of potential impacts. This is not a hypothetical number but based on existing conditions and the potential for future development in this time period.” (FEIR, p. 117 [emphasis added].) The FEIR then contradicts itself by saying “[t]he projected 3,738 dwelling units is comprised of multiple parts and focuses on the total buildout for the Town, *not just a 20-year horizon.*” (*Id.* [emphasis added].)

In reality, the baseline is the existing conditions, normally represented by conditions at the time the notice of preparation was released. (CEQA Guidelines § 15125.) Here, that would represent the Town’s existing residential and commercial development as of 2020. Reliance on a future conditions baseline, at least without any substantial evidence to justify it, is yet another flaw in the EIR. (*Neighbors for Smart Rail v. Exposition Metro Line Construction Auth.* (2013) 57 Cal.4th 439.)

At minimum, it raises an issue of shifting and inconsistent baselines. For instance, while the FEIR says the baseline is future growth under 2040 conditions, the DEIR suggests it relied on an existing conditions baseline, at least as to vehicle miles traveled and certain other resource categories. (DEIR, pp. 2-4, fn. 1, 4.9-14, 4.10-9, 4.15-23.) Among other courts, the Sixth Appellate District has overturned an EIR that relied on conflicting baseline information. (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99.)

## **3. The FEIR Fails To Adequately Analyze And Address Significant Transportation Impacts.**

The RDEIR identifies a new significant unavoidable impact. Specifically, Impact T-1 now acknowledges a significant unavoidable impact to transit vehicle operations due to increased delays at intersections. The acknowledgment of this new significant impact requires consideration of feasible mitigation measures and alternatives to avoid or substantially lessen this impact. The RDEIR does neither.

As to Impact T-1, the RDEIR states that “[t]here are no feasible mitigation measures to reduce potentially significant effects related to transit operations and ridership.” (RDEIR, p. 4.15- 25.) An EIR cannot simply declare an impact significant and unavoidable without considering and imposing feasible mitigation measures.<sup>5</sup> The RDEIR acknowledges that transit

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<sup>5</sup> (Public Resources Code §§ 21002, 21002.1(a), 21081(a)(3); CEQA Guidelines § 15091(a)(3); *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 982; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 369.)

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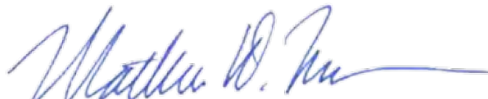
operational improvements, such as signal coordination and transit vehicle preemption, could potentially improve the overall reliability of transit in congested areas. (RDEIR, p. 4.15-25.) Because these measures are “not likely to fully address” the impact, the RDEIR does not impose them as mitigation. (*Id.*) The FEIR states the measures are not included because they are a separate project that would be implemented later. (FEIR, p. 198.) The EIR does not impose enforceable mitigation measures to avoid or substantially lessen a significant impact and defers mitigation to an unspecified future date. The EIR also fails to consider any alternatives to this newly identified significant impact. In all these aspects, the FEIR fails to comply with CEQA. (Public Resources Code §§ 21002, 21002.1(a), CEQA Guidelines §§ 15126.4, 15126.6; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 400-403.)

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In closing, the DEIR fails to analyze the environmental impacts of the Proposed Plan and thus fails to comply with CEQA. As such, the Town cannot legally rely on the EIR to adopt the Proposed Plan. LGCA reiterates its request that the Town focus first on the Housing Element update prior to considering the Proposed Plan or any other General Plan update. If the Town nonetheless continues to proceed with the Proposed Plan, it should be based on Alternative 1 (Low Growth Alternative) and associated modifications made to the designations and densities currently set forth in the Proposed Plan to achieve this lower housing capacity.<sup>6</sup>

Thank you for your consideration of LGCA’s views on these important matters. Representatives of LGCA, including the undersigned, will be in attendance at your April 13, 2022 meeting on the Final EIR and Proposed Plan. In the meantime, please do not hesitate to contact me with any questions regarding this correspondence.

Very truly yours,  
RUTAN & TUCKER, LLP

  
Matthew D. Francois

cc (via e-mail):

Honorable Rob Rennie, Mayor, and Members of the Town Council  
Laurel Prevetti, Town Manager  
Joel Paulson, Community Development Director  
Robert Schultz, Town Attorney

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<sup>6</sup> Combined with the 1,100 units of additional capacity remaining capacity under the current General Plan, Alternative 1 could produce an additional 1,156 units for a total of 2,256 units.

**From:** Kathy Anderson  
**Sent:** Tuesday, April 12, 2022 9:37 PM  
**To:** Planning  
**Subject:** Fwd: General Plan

Sent from my iPad

Begin forwarded message:

**From:** Kathy Anderson

**Date:** April 12, 2022 at 7:03:32 PM

**Subject:** Fwd: General Plan

Planning Commission

I am asking you to vote no on the General Plan.

The housing element with zoning changes, density and height increases will drastically change Los Gatos in a negative way.

Los Gatos will become another San Jose if the General Plan is approved.

Think about why you and others chose to move to Los Gatos.

I do not understand why Council would approve \$50,000. for a study on marijuana dispensaries but would not have a study on the financial impact of the General Plan.

I hope that the future of Los Gatos is not left in the hands of 5 Council members. Think the N40.

Any future dramatic changes to Los Gatos should be decided at the polls.

Once Los Gatos is gone - we can never get it back.

Kathy Anderson

Foster Rd. Los Gatos

On Apr 12, 2022, at 7:39 PM, Campbell Scott wrote:

Hello Marina,

Please pass this along to an appropriate person for consideration at the meeting on April 12<sup>th</sup>.

I find no mention of Reach Codes in the Los Gatos 2040 General Plan, draft of June 2021.

There is growing recognition in the public sector that local ordinances will play an important role in meeting state and federal goals to reduce emissions of greenhouse gases. Examples include the elimination of natural gas pipelines in new buildings, and encouraging the installation of electric vehicle charging stations in apartment buildings.

Such measures have been enacted in nearby cities from San Jose to Half Moon Bay. They are an important tool in the toolbox for limiting the worst effects of climate change, and given the urgency stated by the IPCC, they must be enacted and implemented well before 2040.

I hope that you consider this proposal for inclusion in the Los Gatos 2040 Plan.

Sincerely

Campbell Scott

**From:** Julie Groves

**Sent:** Tuesday, April 12, 2022 8:08 PM

**To:** GP2040

**Subject:** LG general plan

Thank you for your work

Aside from the other issues regarding housing and building, I am most concerned with keeping a view scape. The round tower on the south west corner Los Gatos Blvd and Blossom Hill (the old video store) still offends me every time I pass it.

Why block a view of the hills?

Julie Groves

From: Phil Grasser  
Sent: Wednesday, April 13, 2022 6:52 AM  
To: GP2040  
Cc: Matthew Hudes  
Subject: Town Housing

Hello Matthew and Town,

Thanks again for another email update regarding planning and thoughts about it. My two cents...

- 1) 3,904 housing units; we (and all of California) need more housing units. Both rents and purchases are out of reach for nearly all.
- 2) Affordable. We need younger people to be able to live here; they will be our future.
- 3) Spread around; we should not cluster in one area. That simply becomes a ghetto.
- 4) Walkability of new developments, bike lanes (already well along), small bus vehicles with in-town only routes (like in Dana Point), low impact landscaping, stay out of the mountains.
- 5) Do not tie-in to infrastructure improvement--that easily becomes the excuse to do nothing.
- 6) I agree with upzoning. The homes along LG Blvd that Robson built several years ago are beautiful, and I like the North 40 as well.
- 7) ADUs should be counted.

Phil Grasser

From: Anne Roley  
Sent: Wednesday, April 13, 2022 7:06 AM  
To: GP2040  
Subject: RE: Comments for Planning Commission - General Plan 2040

Please include these comments in the Planning Commission Packet - Thank you!

Dear Planning Commission

I am hearing around town the discussion of the 2040 General Plan and more specifically the housing elements. From what I have observed, two sides have developed. One side wants a lower number of homes allowed and the other side wants a higher number of homes allowed. How do we come together as a community and make a decision? I suggest putting all the needs on the table from both sides and having a discussion with an openness to listen to each other without a right/wrong mentality and without a desired outcome. From this type of connection and discussion, creative strategies can surface and an outcome attending to all needs can manifest. What are the needs of the citizens that want a lower number of houses approved for the General Plan? I am guessing they value - space, comfort, balance, beauty, ease, peace/tranquility, sustainability, and order. What are the needs of the citizens that want a higher number of houses approved for the General Plan? I am guessing they value - inclusion, diversity, affordability, and growth. These values are Universal. - I can say for myself - I want space, comfort, balance, beauty, ease, peace/tranquility, sustainability, order, inclusion, diversity, affordability, and growth.. How can our values be shared, respected, heard, and considered without jumping to judgement and criticism, which disconnects us, causes tension, resistance and leads to one side against another. I long for a community where people listen to what is important to each other with an open heart and mind and come to decisions that take into account all needs on the table. A win/win outcome. A shared mutual reality. If one wins at the expense of the other, it usually comes at a cost. Come together with an open mind and heart, sit down at the table with the needs and values, listen to each other with empathy, build understanding and connection, be creative and strategize, and allow a solution to surface. If people have a willingness and have the time, this type of compassionate communication called Non Violent Communication or NVC works.

Anne Roley

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