



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 4/13/2022

ITEM NO: 3

DATE: April 7, 2022
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Review and Make Recommendations on the Draft 2040 General Plan and Final Environmental Impact Report to the Town Council.

RECOMMENDATION:

Review and make recommendations on the Draft 2040 General Plan and Final Environmental Impact Report (EIR) to the Town Council.

BACKGROUND:

On February 6, 2018, Town Council began the process of updating the 2020 General Plan with a discussion of the scope and process for the General Plan update. At that meeting, the Town Council indicated that the General Plan is serving the community well, and an update provides the opportunity to refine the General Plan, address emerging trends and recent State laws, and consider new issues.

Over the following four years, the General Plan update process has included multiple community engagement opportunities, meetings with the Planning Commission and Town Council, and the following key milestones:

- On April 17, 2018, the Town Council established the General Plan Update Advisory Committee (GPAC) and identified initial guiding principles to support their work.
- On July 9, 2018, after approval by the Town Council, the Town Manager executed an agreement with Mintier Harnish Planning Consultants for preparation of the General Plan update and Draft EIR.
- On October 30, 2018, the GPAC held its first meeting.
- On March 15, 2019, the Background Report (available online here: <http://losgatos2040.com/documents.html>) was released.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Planning Manager and Community Development Director

BACKGROUND (continued):

- On June 20, 2019, the GPAC reviewed the Issues, Opportunities, and Constraints Report (available online here: <http://losgatos2040.com/documents.html>).
- On August 20, 2019, the Town Council adopted the General Plan Vision and Guiding Principles (available online here: <http://losgatos2040.com/documents.html>).
- In December 2019, the Land Use Alternatives Report (available online here: <http://losgatos2040.com/documents.html>) was released.
- On March 3, 2020, the GPAC started review and discussion of the initial drafts of individual elements of the General Plan.
- On April 7, 2020, the Town Council approved the Preferred Land Use Alternatives Framework (available online here: <http://losgatos2040.com/documents.html>).
- On November 17, 2020, the Town Council discussed and provided direction on the Draft Land Use and Community Design Elements.
- On May 6, 2021, the GPAC recommended approval of the Draft 2040 General Plan (available online here: <http://losgatos2040.com/documents.html>).
- On June 18, 2021, the Draft 2040 General Plan was released for public review.
- On July 31, 2021, the Draft EIR (available online here: <http://losgatos2040.com/documents.html>) was released for public review. The public comment period ended on September 13, 2021.
- On September 20, 2021, the Town Council and Planning Commission held a Joint Study Session for discussion of the Draft 2040 General Plan.
- On November 19, 2021, the revised Notice of Completion and Availability was reissued along with a revised Chapter 4.15, Transportation, and Executive Summary of the Draft EIR (available online here: <http://losgatos2040.com/documents.html>) for a reopened public review period which ended on January 8, 2022.
- On December 7, 2021, the Town Council held a Study Session for discussion of housing growth options and related analyses for Planning Commission and Town Council consideration of the Draft 2040 General Plan.
- On March 24, 2022, the Final EIR was published online (available here: <http://losgatos2040.com/documents.html>).

Over the course of two and a half years and 35 meetings, the GPAC worked with staff and the consultant to create an updated General Plan. The GPAC reviewed each General Plan Element to ensure a forward-looking document that is consistent and accessible. Each Element was considered over multiple meetings (between two and five GPAC meetings per Element) with the GPAC providing comments to staff and the consultant, and then further review and direction on the implementation of those comments in a revised draft of each Element. The Draft 2040 General Plan (previously provided and referenced here as Exhibit 1) is the result of this extensive work and outreach.

BACKGROUND (continued):

Additional outreach activities conducted throughout the process have included: the Town's website and weekly newsletter; social media posts; online engagement activities; newsletters; two in-person community workshops; numerous in-person and online community meetings; handouts and posters at the Library; information on the Town's webpage; information in the email signature of Planning Division staff; a Town-wide mailer; and informational booths at the farmers market, the Library, Spring into Green, and Music in the Park.

DISCUSSION:

Through the General Plan update process, the GPAC has refined the goals of the update based on direction from Town Council at the start and at key points throughout the process. The initial direction from Town Council was that the 2020 General Plan was serving the Town well, and this update provides the opportunity for the Town to refine the General Plan, address emerging trends and recent State laws, and consider new issues. These emerging trends, recent State laws, and new issues included:

- Inclusivity: The need for inclusivity came to the forefront in 2020 and led to updates within every Element of the General Plan.
- Regional Housing Needs Allocation (RHNA): The expected State requirement that the General Plan provide opportunities for the approximately 2,000 residential units for the next Housing Element update lead to discussions of where and how those units should be accommodated. The housing allocation for our region has now been approved by the Association of Bay Area Governments (ABAG), with an allocation for the Town of Los Gatos of 1,993 housing units.
- Objective Standards: The need for objective standards, particularly for those areas of Town that are most likely to redevelop with new housing, became clear with new State laws limiting certain development project reviews to objective standards.
- Safety Element and Fire Safety/Preparedness: A required review by the California Department of Forestry and Fire Protection (CalFire) for areas in the Very High Fire Hazard Severity Zones was required as part of this update.
- Vehicle Miles Traveled (VMT): A requirement for environmental review to consider VMT instead of Level of Service also led to a shift in the plan to emphasize a reduction of VMT and increase in mobility of all mode types.
- Sustainability: An ongoing interest in increasing sustainability efforts through Town actions, regulations, and coordination led to new and revised policies.

The most substantial changes in the Draft 2040 General Plan are:

- A new Racial, Social, and Environmental Justice Element;
- Increased housing opportunities for mixed-use developments in commercial areas and missing middle housing in existing neighborhoods with design requirements;

DISCUSSION (continued):

- New Community Commercial land use designation;
- New Community Place Districts to provide more objective design standards and focus on community form (urban design) for all development;
- Shift in focus of transportation policies to street design, connectivity, and mobility for all users (bicycles, pedestrians, vehicles, etc.) to reduce VMT;
- New goals in the Environment and Sustainability Element; and
- Expanded policies to prepare for wildfire, climate change, and community health threats.

The increased housing opportunities are provided through changes in the maximum allowed densities and heights. The increases to the maximum allowed residential density are seen in most areas, excluding the hillsides, with a focus on the commercial, mixed-use, and medium/high density residential designations. This coincides with the location of the Community Place Districts, where the Draft 2040 General Plan also includes new design policies. The following table depicts the changes in density and height for all land use designations:

Land Use Designations	Density Range (du/ac)		Maximum Height	
	Existing General Plan	Draft General Plan	Existing General Plan	Draft General Plan
Hillside Residential	0 to 1	0 to 1	30	25
Low Density Residential	0 to 5	1 to 12	30	30
Medium Density Residential	5 to 12	14 to 24	30	35
High Density Residential	12 to 20	30 to 40	30	45
Mixed-Use	20	30 to 40	35	45
Neighborhood Commercial	20	10 to 20	35	35
Community Commercial	NA	20 to 30	35	45
Central Business District	20	20 to 30	45	45
Office Professional	20	30 to 40	35	35
Service Commercial	NA	20 to 30	35	35
Light Industrial	NA	None	35	35
Public	NA	None	NA	35
Open Space	NA	None	NA	30
Agriculture	NA	0 to 1	NA	30
Albright Specific Plan	See Specific Plan	No Change	See Specific Plan	No Change
North Forty Specific Plan	See Specific Plan	No Change	See Specific Plan	No Change

The following sections step through additional suggested modifications, as well as topics where additional information has been requested.

DISCUSSION (continued):

A. GPAC Recommendation

After the thorough work described above, on May 6, 2021, the GPAC recommended approval of the Draft 2040 General Plan. The discussion at this meeting also included a recommendation for some modifications to the Vision and Guiding Principles to better reflect the direction developed over the previous years' work. These changes are shown in Exhibit 6 and summarized in Exhibit 7.

B. Housing Units

See information provided in the September 20, 2021 Joint Town Council and Planning Commission Study Session Staff Report, available online here:

<https://www.losgatosca.gov/13/Agendas-Minutes>.

When discussing the number of housing units that may be developed under this General Plan, it is important to understand the context for the different numbers under discussion. In the Draft 2040 General Plan, on page 3-4, the General Plan Residential Buildout Table (3-1) contains a calculation of how many units are projected to be developed over the 20-year timeframe of the Draft 2040 General Plan, if adopted without changes. The numbers in this table include:

New Housing on Vacant and Redeveloped Land	2,763 units
New Accessory Dwelling Units (ADUs) (25 per year)	500 units
Existing Projects	475 units
Total	3,738 units

These numbers are frequently referenced in the public comments received and compared to the RHNA allocation, now confirmed by ABAG to be 1,993 housing units for the Town of Los Gatos. This is the allocation that the Town will need to include in the update of the Housing Element for the next eight-year period (2023-2031).

Unfortunately, this direct comparison can lead to confusion because of the following factors:

- The General Plan Residential Buildout Table is an estimate based on a 20-year timeline;
- The General Plan Residential Buildout Table includes 475 residential units from existing projects, where most will have building permits issued prior to the start of the next

Housing Element cycle, and therefore won't be counted toward the 1,993 unit requirement;

DISCUSSION (continued):

- The General Plan Residential Buildout Table includes 25 ADUs per year, which resulted in 500 units for the 20-year timeline, but only 200 over the eight-year RHNA cycle; and
- The Housing Element will likely need to include capacity for at least a 15 percent buffer, above the 1,993 housing units, for a total of 2,292 housing units, in order to be certified by the California Department of Housing and Community Development (HCD).

When the Draft 2040 General Plan numbers above are modified to better account for the points listed above, the following is the result:

New Housing on Vacant & Redeveloped Land	2,763 units
New Accessory Dwelling Units (ADUs) (25 per year)	200 units
Existing Projects	75 units
Total	3,038 units

This adjustment shows that the projected development of 3,038 dwelling units can be compared to the required 1,993 housing units plus 15 percent buffer (2,292 units). The projected housing development under the 20-year General Plan is therefore 746 housing units greater than the expected need for the eight-year Housing Element need. As a result, the following information is provided for discussion and consideration for potential modifications that would reduce the development potential of the Draft 2040 General Plan, if desired.

Potential reductions in housing development capacity:

- Revert Low Density Housing designation housing density back to the existing 2020 General Plan level: 279 units;
- Revert Medium Density Housing designation housing density back to the existing 2020 General Plan level: 327 units;
- Remove housing from Office and Service Commercial designations: 313 units;
- Revert properties in the new Community Commercial designation back to Neighborhood Commercial: 58 units;
- Reduce the allowed density in the Mixed-Use designation from 40 dwelling units per acre to 30 dwelling units per acre: 255 units;
- Reduce the allowed density in the High Density Residential designation from 40 dwelling units per acre to 30 dwelling units per acre: 111 units.

C. Community Engagement

Much of the public meetings and engagement activities of this process are listed in the Background section of this report. In response to a request from a Council Member, staff DISCUSSION (continued):

has compiled some data to illustrate the efforts that the Town has employed to reach out to the community for input:

- 110 newspaper ads published about the General Plan update;
- 433 social media posts across five platforms;
- 17,320 notice cards sent to all residents in Town for 2021 Community Meeting;
- 26 pop-up tables at farmers market, library, or public events;
- 7 presentations at community group meetings;
- 369 sign-ups to receive email notifications about the General Plan update;
- 538 unique searches for "Los Gatos General Plan Update" or closely related in Google; and
- 29,343 unique visitors to the Los Gatos General Update website since June 2021. Of the unique visitors, 92 percent originated in the United States.

D. Missing Middle Housing

In the Draft 2040 General Plan the term Missing Middle Housing is defined as, “a term used to describe multiple units on a single parcel (whether attached or detached) that are compatible in scale and form with detached single-family homes. Common housing types include: duplexes; triplexes; fourplexes; courtyard apartments; cottage courts; townhomes; triplex stacked (vertical); and live-work spaces.”

In response to direction from Town Council, the following alternative definitions of Missing Middle Housing are provided for consideration:

- Missing Middle Housing is a range of house-scale buildings with multiple units - compatible in scale and form with detached single-family homes - located in a walkable neighborhood. (missingmiddlehousing.com)
- “Missing middle housing” refers to small-scale multi-family housing that can range from duplexes to townhouses to smaller apartment buildings that are compatible with walkable neighborhoods. Dan Parolek of Opticos Design coined the term “missing middle” in 2010 and created this website (missingmiddlehousing.com) to explain the term, provide basics about the market, describe its characteristics, and provide guidance for creating middle housing. (abag.ca.gov)
- Missing middle housing describes a range of multi-family or clustered housing types that are compatible in scale with single-family or transitional neighborhoods. Missing middle housing is intended to meet the demand for walkable neighborhoods, respond to changing demographics, and provide housing at different price points. The term

"missing middle" is meant to describe housing types that were common in the pre-WWII United States such as duplexes, rowhomes, and courtyard apartments, but are now less common and, therefore, "missing." Rather than focusing on the number of units in a DISCUSSION (continued):

structure, missing middle housing emphasizes scale and heights that are appropriate for single-family neighborhoods or transitional neighborhoods. After the introduction of the term in 2010, the concept has been applied in the United States, Canada, and Australia. ([wikipedia.org](https://www.wikipedia.org))

In addition to consideration of potential modifications to the definition of Missing Middle Housing, any discussion of reducing the housing density allowed in the Low Density Residential designations should include a discussion of the removal of this concept from the Draft 2040 General Plan, given that the density changes in these areas are the factor that would allow for potential Missing Middle Housing.

E. Senate Bill 9

California Senate Bill 9 (SB 9) requires ministerial (staff-level) approval of certain housing development projects and lot splits on a single-family zoned parcel. SB 9 was passed by the California Legislature on September 1, 2021, signed into law by Governor Newsom on September 16, 2021, and took effect January 1, 2022.

On December 21, 2021, Town Council adopted an Urgency Ordinance to implement SB 9 with local objective standards, and on February 1, 2022, Town Council adopted an extension of that Urgency Ordinance. A permanent ordinance will be adopted before the end of the year.

While there is potential that the new residential units that will be created as a result of SB 9 can be counted toward meeting the required housing units, at the time of the preparation of this report, only one application has been received under the SB 9 regulations, and so there are no data at this time to support specific housing production under this program.

F. Plan Timeframe

The development of the Draft 2040 General Plan was based on a 20-year timeframe as stated in the consultant contract, approved by Town Council in June, 2018. However, the Draft 2040 General Plan also includes Land Use Implementation Program J:

Ten-year General Plan Review

The Town shall conduct a thorough review of the General Plan every ten years from the date of final approval, and revise and update as necessary. This review can include the following:

- Modify, add, or delete goals, policies, or programs to reflect notable changes in the Town over the previous period;

DISCUSSION (continued):

- Remove or modify programs that have been completed or require additional time;
- Modify or add new goals, policies, or programs to reflect changing needs within the Town; and
- Modify to reflect applicable changes in State law.

Staff suggests an additional Implementation Program to review the Land Use Element every five years and include a fiscal analysis, as noted in Exhibit 7.

G. Declining California Population

In response to a request from a Council Member, staff has looked into recent news articles that state that California's population has estimated to have fallen over the last two years. Population estimates from the U.S. Census are in the following table:

California			Santa Clara County		
Year	Population estimate	Percent Change	Year	Population estimate	Percent Change
July 1, 2019	39,512,223		July 1, 2019	1,927,852	
July 1, 2020	39,499,738	-0.316	July 1, 2020	1,930,598	+0.142
July 1, 2021	39,237,836	-0.665	July 1, 2021	1,885,508	-2.33
2022	Not available		2022	Not available	

When looking at changes over these three years, especially with ongoing changes in the status of the COVID-19 Pandemic, it is difficult to determine if these are indications of new trends or if the changes are temporary.

H. Suggestions From Public Comments

Many of the verbal and written comments received on this Draft 2040 General Plan have been supportive of the proposed changes especially on the following topics:

- Environmental protection and sustainability, including plant-based eating;
- Diverse housing types, including increased density, affordable housing, and Missing Middle Housing, so that people who work here can live here;
- Racial equity and inclusivity;

- Non-auto related mobility and decreases in VMT; and
- Emergency preparedness, especially for wildfires.

However, the Planning Commission may consider including changes as part of their recommendation on the Draft 2040 General Plan to Town Council. The Planning DISCUSSION (continued):

Commission may consider changes recommended in this report, from public comments, and/or from its own review and deliberation.

To assist in this discussion, the written public comments on the Draft 2040 General Plan received between 11:01 a.m. on Thursday, May 6, 2021 (final GPAC meeting) and 11:00 a.m. on Monday, September 20, 2021, were provided with the September 20, 2021 Joint Town Council and Planning Commission Study Session Staff Report materials, and are provided again here as Exhibit 9. Written comments received on the Draft EIR are included, with responses to comments, in the Final EIR, as noted above. All written public comments on the Draft 2040 General Plan received between 11:01 a.m. on Monday, September 20, 2021, and 11:00 a.m. on Thursday, April 7, 2022, are included as Exhibit 10 to this staff report.

The comments generally fall into numerous categories, including:

- Policy on plant-based diets is not enough to ensure education on health and environmental benefits;
- Objections to the number of new housing units, and why it is over the RHNA requirement;
- Traffic, parking, and infrastructure impacts of additional housing;
- Adequacy of utilities (water and electricity) for additional housing;
- Impacts on schools from additional housing;
- People won't actually use alternative modes of transportation;
- Safety in the case of wildfires, including impacts on evacuations;
- Impacts on public safety from additional housing;
- Lack of citizen input in this plan and in future development;
- Air quality impacts from additional residents;
- Impacts on local businesses from traffic congestion;
- Impacts on quality of life of current residents;
- Increased density in Low Density Residential areas to allow duplexes, triplexes, and fourplexes;
- More housing will be built than is estimated in the buildout table;
- Not enough housing will actually get built;
- Plan is too vague and should be more detailed;
- Lack of mass transit in Town;

- Choice to not appeal RHNA number;
- Protection of views of the hills;
- Should Council make the decision, or should it be made by the voters; and
- Allow more density and height and less parking to encourage affordable housing and mixed-use developments.

DISCUSSION (continued):

The specific suggestions received were so numerous that they have been compiled in Exhibit 7 and numbered with staff comments and recommendations for each shown in *italics* for ease of discussion and reference.

I. Safety Element Review by Board of Forestry

State Law requires that any General Plan or Housing Element update conducted after January 1, 2014, include review and update of the Safety Element to address the risk of fire for land classified as very high fire hazard severity zones (VHFHSZ's) [Gov. Code, § 65302, subd. (g)(3)]. This review by CalFire must be conducted prior to adoption of those updated Elements. As a result, once the Draft 2040 General Plan was published for review in June 2021, CalFire staff reviewed the three Elements that contain applicable policies: the Community Design Element; the Public Facilities, Services, and Infrastructure Element; and the Hazards and Safety Element. As a result of this review, modifications were required by CalFire. The changes are summarized in Exhibit 7 and the affected pages of these three Elements are included as Exhibit 8, with changes shown in ~~strike through~~ and underlined.

California Board of Forestry reviewed the Draft 2040 General Plan with modifications recommended by CalFire staff and recommended approval on November 2, 2021.

J. Additional Staff Recommended Changes

In addition to the potential changes identified earlier in this report by the GPAC and staff, suggested by the public, and requested by CalFire, Town staff from the Parks and Public Works Department has several additional recommended changes for consideration before adoption of the 2040 General Plan. These are listed in Exhibit 7.

ENVIRONMENTAL REVIEW:

A Notice of Completion and Availability of the Draft EIR (previously provided and referenced here as Exhibit 2) for the project was circulated for 45 days commencing on July 30, 2021, and concluding on September 13, 2021 at 5:00 p.m. Written comments were received by the Community Development Department. A Planning Commission public hearing to receive oral comments was held during the review period on September 8, 2021.

During the review of commentary and the preparation of the Final EIR, the Town became aware of a procedural error in the original Notice of Completion and Availability and also noted that Appendix C erroneously included a draft rather than a final Transportation Analysis.

Additionally, Chapter 4.15, Transportation, of the EIR was revised to elaborate on transit impacts and cumulative VMT impacts. Even though the content changes were minor, the Town ENVIRONMENTAL REVIEW (continued):

believed to provide maximum clarity, it was important to recirculate the Transportation Analysis of the Draft EIR and its Appendix, as well as the Executive Summary which includes a summary of transportation impacts (previously provided and referenced here as Exhibit 3). Accordingly, the Town of Los Gatos reissued the Notice of Completion and Availability of the Draft EIR, and formally recirculated Chapter 4.15, Transportation and Appendix C, Transportation Analysis for the Draft EIR, as well as the Executive Summary.

The reopened public review period ran from Friday, November 19, 2021, to at 5:00 p.m. on Friday, January 7, 2022. A public hearing to receive comments on the revised Draft EIR was held on December 8, 2021. During this additional 45-day public review period, written comments were received and are included, along with response to all comments from the initial comment period, in the Final EIR (previously provided and referenced here as Exhibit 3).

The analysis of the Draft EIR identified significant and potentially significant impacts in the following environmental issue areas:

- Air Quality;
- Cultural Resources;
- Geology and Soils;
- Greenhouse Gas Emissions;
- Noise; and
- Transportation.

Mitigation measures are proposed in all of these subject areas. Not all of the potential impacts could be mitigated to a less than significant level and therefore, the following topic areas were found to have significant unavoidable impacts: Greenhouse Gas Emissions; and Transportation.

When the Lead Agency finds that there are impacts that are significant and unavoidable, CEQA requires preparation of Findings of Fact and a Statement of Overriding Considerations (Exhibit 5). The Planning Commission should make a recommendation on the Final EIR to the Town Council who is the deciding body on both the Final EIR and the Draft 2040 General Plan.

PUBLIC COMMENTS:

Written comments received between 11:01 a.m., Thursday, May 6, 2021, and 11:00 a.m., Monday, September 20, 2021, were provided with the written staff report materials for the September 20, 2021 Town Council and Planning Commission Joint Study Session, and are provided again here as Exhibit 9. Written comments received on the Draft EIR are included, with responses to comments, in the Final EIR, as noted above. Written comments received between 11:01 a.m., Monday, September 20, 2021, and 11:00 a.m., Thursday, April 7, 2022, are included as Exhibit 10.

CONCLUSION:

The 2040 Draft General Plan is a result of the Town Council's direction to update the existing 2020 General Plan to address emerging trends and recent State laws, and consider new issues relevant to the Town.

Over the course of two and a half years and 35 meetings, the GPAC worked with staff and the consultant to create an updated General Plan. The GPAC reviewed each General Plan Element to ensure a forward-looking document that is consistent and accessible. Each Element was considered over multiple meetings (between two and five GPAC meetings per Element) with the GPAC providing comments to staff and the consultant, and then further review and direction on the implementation of those comments in a revised draft of each Element. The Draft 2040 General Plan is the result of this extensive work and outreach.

All additional comments received on the Draft 2040 General Plan are included as Exhibits 8 and 9. The Final EIR, which includes all comments received on the Draft EIR as well as the responses to the comments and any changes to the EIR is referenced as Exhibit 4.

In conclusion, based on the GPAC's recommendation, staff recommends that the Planning Commission:

- Received and consider public comments;
- Complete the review of the Draft 2040 General Plan;
- Consider the Final EIR;
- Provide input on any additional recommended modifications to the Draft 2040 General Plan; and
- Forward the Draft 2040 General Plan and Final EIR to the Town Council with a recommendation to approve the Draft 2040 General Plan and certify the Final EIR.

NEXT STEPS:

The final step in the General Plan update process is consideration by Town Council of the Draft 2040 General Plan and Final EIR, including consideration of recommendations from the GPAC and Planning Commission, and additional comments from the public.

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SUBJECT: Draft 2040 General Plan and Final EIR

DATE: April 7, 2022

EXHIBITS:

Exhibits previously provided (available online here: <http://losgatos2040.com/documents.html>):

1. Draft 2040 General Plan
2. Draft EIR
3. Revised NOA and Transportation section
4. Final EIR

EXHIBITS (continued):

Exhibits received with this report:

5. Draft Findings of Fact and Statement of Overriding Considerations
6. GPAC Recommended Changes to the Vision and Guiding Principles
7. Modifications Proposed in Public Comment
8. Board of Forestry Recommended Changes
9. Public Comments received between 11:01 a.m., Thursday, May 6, 2021, and 11:00 a.m. Monday, September 20, 2021
10. Public Comments received between 11:01 a.m., Monday, September 20, 2021, and 11:00 a.m. on Thursday, April 7, 2022