

From: Rick Van Hoesen [REDACTED]
Sent: Tuesday, November 21, 2023 10:17 PM
To: Gabrielle Whelan <GWhelan@losgatosca.gov>
Cc: [REDACTED]; Laurel Prevetti <LPrevetti@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Wendy Wood <WWood@losgatosca.gov>; jose.jauregui@hcd.ca.gov; paul.mcdougall@hcd.ca.gov; Phil Koen <[REDACTED]>; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Rob Moore <RMoore@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>
Subject: Re: Town of Los Gatos Housing Element

Dear Ms. Whelan,

Yes, agreed. We do need to be talking about the same thing. If the "proposed revisions" you refer to are the documents that were filed with HCD on November 16, then we are talking about the same thing. However, your assertion that, "This was not the Town's submittal of a revised draft Housing Element," rings hollow. In fact the footer on every page of the submittal says, "HCD Draft Revised 2023-2031 Housing Element." Further, the HCD website is clear that there are only four types of submittals:

1. First draft submittals
2. Draft revised submittals
3. Draft adopted submittals
4. Adopted Housing Elements

These are set forth on HCD's website at: <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> under the Housing Element Submittal topic.

It seems clear that the Town's November 16 submittal was a Draft revised submittal. Accordingly, the documents submitted were subject to the public comment period, as made clear on the same web page, "any revisions received during the course of HCD's review are also subject to the seven-day posting requirement prior to submittal to HCD" (emphasis added).

The requirement to conduct the seven-day public comment period prior to submittal is essential to the public comment process. It is the only way for the public to comment on the document and, if appropriate, for the Town to incorporate such comments into the document prior to its submission to HCD. The intent of the public comment period is not (only) to provide the public's comments to HCD, but also for those comments to be provided to the Town for possible revisions to the document before it is submitted to HCD. The course of action adopted thus far by the Town to, "ask HCD to consider the date of submittal to be November 27th," makes a sham of the public comment process. In essence it presupposes that the document will not be changed as the result of any public comments because the already-submitted document would automatically be re-submitted on the same day the public comment period ends.

Accordingly, we again request that the Town notify HCD it is rescinding the November 16 submittal and (presumably) that the Town intends to make a submittal after the public comment period has lapsed and the Town has had an opportunity to receive and consider any public comments and, if appropriate, to incorporate public feedback into the draft HE. At a minimum, this will enable the Town to include any public comments along with the submittal at the time it is submitted.

We understand that the Town is behind where it wants to be with respect adopting its new Housing Element. That unfortunate result was set in motion many months ago when the Town Staff elected to focus their efforts on a new General Plan before a Housing Element was formulated, much less adopted. But shortcutting the process in pursuit of a quick result cannot trump the laws and regulations that govern the process.

Also, in our LGCA letter two days ago to Ms. Prevetti (the letter you responded to) we asked that a copy of the cover letter accompanying the November 16 submittal be provided. We still have not received that letter. I have since filed a public records request with the Town requesting that letter, but would appreciate it if you could provide it as soon as possible.

Finally, the claim that, "Staff had not drafted the revisions at the time of the 11/15 Planning Commission meeting," strains credulity – at least as formulated. The sheer number and bulk of redlines in the draft that was submitted to HCD the day after the Planning Commission meeting simply would not have been possible to draft in less than 24 hours. Might it be more accurate to say that Staff had not finalized the drafting of the revisions at the time of the Planning Commission meeting? Either way, the question remains as to why it was not disclosed to the PC – and the public – at that meeting that a submittal was to be made the very next day.

Thank you.

Rick Van Hoesen, for Los Gatos Community Alliance

On Tue, Nov 21, 2023, at 3:08 PM Gabrielle Whelan <GWhelan@losgatosca.gov> wrote:

Hello, Mr. Van Hoesen.

1. I want to make sure we are talking about the same thing. The Town gave proposed revisions to its HCD reviewer for his consideration in response to mid-review cycle comments he provided regarding the Town's 10/2 submittal. This was not the Town's submittal of a revised draft Housing Element. The proposed revisions were submitted to HCD to get HCD's feedback on whether HCD would be prepared to certify a revised draft Housing Element if it were adopted with those edits and then submitted to HCD for certification. Public comments will still be provided to HCD and taken at both the upcoming Planning Commission and Town Council meetings. The Planning Commission meeting is scheduled for 11/29 and the Town Council meeting has not yet been scheduled. Only after the Town Council has received a recommendation from the Planning Commission and held its public hearing will a revised draft Housing Element be adopted and submitted to HCD for certification.
2. Originally, HCD stated that they would not be able to provide the Town with mid-review cycle comments on the 10/2 submission. On October 31st (correction: not November 7th as indicated in my original email below), the Town's HCD reviewer told the Town that he would be able to meet with Town staff to provide mid-review cycle comments and scheduled a meeting for 11/7 (correction: not 11/14 indicated in my original email below). The 11/15 Planning Commission was noticed before the Town knew that HCD would in fact be able to meet with the Town to provide mid-review cycle comments. As a result, the 11/15 Planning Commission meeting was used to discuss the mid-review cycle comments from HCD and the Planning Commission continued its meeting to 11/29. Staff had not drafted the revisions at the time of the 11/15 Planning Commission meeting so the matrix that was provided stated that the revisions were in progress. The proposed revisions were completed and posted on 11/16 (correction: not 11/17 as indicated in my original email below).
3. The purpose of the proposed schedule is intended to obtain HCD certification of an amended Housing Element as soon as possible. State law requires that the Planning Commission make a recommendation to the Town Council on adoption. November 29th is the last date on which the Planning Commission can make a recommendation and staff can notice a Town Council meeting in 2023. If the Planning Commission makes its recommendation after December 1st, the Town Council will vote on the Housing Element mid-January. With the proposed schedule, the Town Council will have the benefit of HCD's 12/1 letter prior to adoption.

Please let me know if you have other questions or would like to meet. Thank you.

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Gabrielle Whelan • Town Attorney

Town Attorney's Office • 110 E Main Street, Los Gatos, CA 95030

Desk: 408.354.6818 • gwhelan@losgatosca.gov

www.losgatosca.gov • <https://www.facebook.com/losgatosca>

From: Rick Van Hoesen [REDACTED]
Sent: Monday, November 20, 2023 4:38 PM
To: Gabrielle Whelan <GWhelan@losgatosca.gov>
Cc: [REDACTED]; Laurel Prevetti <LPrevetti@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Wendy Wood <WWood@losgatosca.gov>; jose.jauregui@hcd.ca.gov; paul.mcdougall@hcd.ca.gov; Phil Koen [REDACTED]; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Rob Moore <RMoore@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>
Subject: Re: Town of Los Gatos Housing Element

Hello Ms. Whelan,

Thank you for your reply.

Yes, the Los Gatos Community Association (LGCA) does have several questions (more may follow).

1. As we know, an important purpose of the public comment period is to provide the public with advance notice of the proposed draft housing element and to give the public the ability to provide comments on the proposed filing. Equally importantly, the public comment process gives the Town the opportunity to consider and, when appropriate, to incorporate those comments into its Housing Element before the HE is filed with HCD. As a community organization planning to make comments on the draft Housing Element, LGCA is greatly concerned that there is no process for such comments to be considered by the Town and incorporated into the draft. It creates the impression that the public comment process is for appearances only, and is simply being given lip service by the Town in an attempt to technically satisfy the public comment period without actually considering or incorporating any resulting comments. Therefore would you please describe how the process you have outlined (changing the date of submittal for the already-submitted revised Housing Element draft to November 27) provides the ability for Town to receive and consider public comments and then, when appropriate, incorporate any changes resulting from those comments into the draft submittal?
2. While we did not actually ask the second question you posit (namely, why were the most recent HE revisions not taken to the HEAB), we nonetheless wonder how the sequence of events occurred on November 15 and 16. The Planning Commission met on November 15 with the agenda item, "Consider and Make a Recommendation to the Town Council on the Draft Revised 2023-2031 Housing Element." During that meeting it appears that there was discussion of the, "mid-review cycle recommendations from HCD that were received on November 14th." And yet to all outward appearances the Planning Commission was not aware of (and in any event did not publicly discuss) the draft Housing Element that the Town staff was to submit the very next day - at least in part in response to those same "mid-review cycle recommendations." Why was the Planning Commission (and the public) not made aware at that meeting that the very next day a draft Housing Element was to be filed by Town Staff in response to the HCD mid-cycle recommendations that were discussed at that meeting?
3. Of course it is known by the Town that HCD is to provide its comment letter on the September draft Housing Element on or before December 1. Knowing that, why would the Town propose to submit yet another draft HE on November 27, just 4 days before the latest date it is to receive HCD's comments? Further, why would the Planning Commission propose to make a

recommendation to the Town Council on November 29, just 2 days before that date? Why not wait to receive HCD's letter on or before December 1 and make all the recommendations and submittals with full knowledge of HCD's latest comments?

Thank you.

Rick Van Hoesen & Jak Van Nada

On Mon, Nov 20, 2023 at 3:13 PM Gabrielle Whelan <GWhelan@losgatosca.gov> wrote:

Dear Mr. Van Hoesen and Mr. Van Nada:

Thank you for your November 19th letter regarding the revised draft Housing Element. I have reviewed Government Code Section 65585(b) and it does provide that a seven-day public review period is required before a draft revision to the Housing Element is sent to HCD. Accordingly, Town staff will be contacting HCD to ask HCD to consider the date of submittal to be November 27th rather than November 17th. This will provide the public with an opportunity to provide written comment for a seven-day period plus a buffer for the Thanksgiving holiday. Town staff will also update the Town's Housing Element web page with this information. As you may know, the draft revised Housing Element will be coming to the Planning Commission for consideration on November 29th. At that meeting, staff will be asking the Planning Commission to make a recommendation regarding adoption of the revised draft Housing Element.

You also asked why the most recent revisions made in response to HCD's mid-review cycle comments were not taken to the Housing Element Advisory Board ("HEAB") for a recommendation to the Planning Commission. The HEAB did review previous drafts of the Housing Element. Most recently, the HEAB made a recommendation to the Planning Commission and Town Council before the Town's October 2nd submittal to HCD. The November proposed revisions were made in response to mid-review cycle recommendations from HCD that were received on November 14th. Given the interest in adopting, and obtaining certification of, the revised draft Housing Element in a timely manner, it is not practical to return to the HEAB every time revisions are proposed.

Please let me know if you have any follow-up questions.



Gabrielle Whelan • Town Attorney

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