



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/29/2025

ITEM NO: 1

DESK ITEM

DATE: October 29, 2025

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider a Request to Construct a Mixed-Use Residential Development (450 Units), a Vesting Tentative Map, Site Improvements Requiring a Grading Permit, and Removal of Large Protected Trees Under Senate Bill 330 (SB 330) on Property Zoned North Forty Specific Plan: Housing Element Overlay Zone. **Located at 14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270 Burton Road; and Assessor Parcel Number 424-07-116.** APNs 424-07-009, -052, -053, -081, -094, -095, -115, and -116. Architecture and Site Application S-23-031 and Subdivision Application M-23-005. Additional Environmental Review is Necessary Pursuant to CEQA Guidelines Section 15183: Projects Consistent with a Community Plan, General Plan, or Zoning Since the Proposed Project's Environmental Impacts were Adequately Addressed in the 2040 General Plan EIR, as Applicable. Property Owner: Yuki Farms LLC. Applicant: Grosvenor Property Americas c/o Steve Buster. Project Planner: Jocelyn Shoopman.

REMARKS:

Exhibit 29 includes public comments received between 11:01 a.m., Tuesday, October 28, 2025, and 11:00 a.m., Wednesday, October 29, 2025.

Exhibit 30 includes additional correspondence from the applicant.

EXHIBITS:

Previously Received with the April 30, 2025, Staff Report:

1. Location Map
2. Letter of Justification with Proposed Density Bonus Concessions, Waivers, and Parking Reductions
3. Consulting Architect's Report

PREPARED BY: Jocelyn Shoopman
Senior Planner

Reviewed by: Planning Manager, Community Development Director, and Town Attorney

SUBJECT: 14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270
Burton Road; and Assessor Parcel Number 424-07-116/S-23-031 and M-23-005
DATE: October 29, 2025

4. Applicant's Response to Consulting Architect's Report
5. Final Arborist Report
6. Neighbor Outreach Summary
7. Visual Renderings
8. Objective Design Standards Checklist
9. Public Comments Received by 11:00 a.m., Friday, April 25, 2025
10. Transportation Analysis Report
11. Development Plans, Part 1
12. Development Plans, Part 2
13. Development Plans, Part 3
14. Development Plans, Parts 4 through 6
15. Development Plans, Parts 7 through 9
16. Development Plans, Parts 10 through 11

Previously Received with the April 30, 2025, Addendum Report:

17. Public Comments Received Between 11:01 a.m., Friday, April 25, 2025, and 11:00 a.m., Tuesday, April 29, 2025
18. Full Transportation Analysis Report

Previously Received with the April 30, 2025, Desk Item Report:

19. Public Comments Received Between 11:01 a.m., Tuesday, April 29, 2025, and 11:00 a.m., Wednesday, April 30, 2025
20. Additional Correspondence from the Applicant

Previously Received with the October 24, 2025, Staff Report:

21. Final Initial Study – September 2025
(available online at https://www.losgatosca.gov/N40II_FinalInitialStudy)
22. Required Findings and Considerations
23. Recommended Conditions of Approval
24. Revised Letter of Justification with Proposed Density Bonus Concessions, Waivers, and Parking Reductions
25. Revised Objective Design Standards Checklist
26. Public Comments Received Between 11:01 a.m., Wednesday, April 30, 2025, and 11:00 a.m., Friday, October 24, 2025

Previously Received with the October 27, 2025, Addendum Report:

27. Public Comments Received Between 11:01 a.m., Friday, October 24, 2025, and 11:00 a.m., Monday, October 27, 2025.

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SUBJECT: 14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270
Burton Road; and Assessor Parcel Number 424-07-116/S-23-031 and M-23-005

DATE: October 29, 2025

Previously Received with the October 28, 2025, Addendum Report:

28. Public Comments Received Between 11:01 a.m., Monday, October 27, 2025, and 11:00 a.m., Tuesday, October 28, 2025.

Received with this Desk Item Report:

29. Public Comments Received Between 11:01 a.m., Tuesday, October 28, 2025, and 11:00 a.m., Wednesday, October 29, 2025.

30. Additional Correspondence from the Applicant

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From: Sarah Verity [REDACTED]
Sent: Tuesday, October 28, 2025 11:38 AM
To: Planning <Planning@losgatosca.gov>
Subject: October 29,2025 Special Meeting Public Comment: North 40 Phase 2

[EXTERNAL SENDER]

Hello,

Please see the attached letter of support for tomorrow's Planning Commission Meeting.

Thank you,
Sarah Verity (she / her)
Vice President, Board Relations and Legislative Affairs
[REDACTED]

350 Twin Dolphin Drive, Suite 123
Redwood City, CA 94065
abilitypath.org



Via Services is now affiliated with AbilityPath, thriving together to provide a lifetime of opportunities for individuals with developmental disabilities. Learn more at abilitypath.org/affiliationFAQ.



October 27, 2025

Re: October 29, 2025, Special Meeting Public Comment: North 40 Phase 2

Dear Planning Commissioners,

I am writing on behalf of AbilityPath to express my strong support for the North 40 Phase II Development, to respectfully urge the Commission to approve this project so it can move forward without delay.

North 40 Phase II will provide much-needed affordable housing, with 25% of the units designated for individuals with intellectual and developmental disabilities who receive services from San Andreas Regional Center, the state funded Agency.

AbilityPath has one of the most comprehensive service portfolios spanning all ages from early intervention for infants to community access and job training for adults and seniors. All programs are designed to prepare children and adults to actively participate in their schools, communities, workplaces, and at home.

This proposal fulfills what was envisioned in the Housing Element and delivers exactly what was approved. The affordable housing component will be a pad-ready, environmentally safe, and well-prepared site for construction. Eden Housing is a trusted, mission-driven developer with a long history of success in creating inclusive affordable housing in partnership with nonprofits like Housing Choices and has already demonstrated its commitment to quality through the timely completion of Phase 1. Flexibility and timely approval will ensure that this second phase can begin quickly and efficiently.

The inclusion of at least 17 units (25%) for individuals with IDD is especially important and critical. Adults with IDD often face some of the steepest barriers to housing access, despite their strong ties to our community. This project offers them the chance to live independently with dignity, near their families and the services they rely on. These are residents who grew up here, attended our schools, and now deserve the opportunity to thrive in their hometown. Additionally, these individuals would receive onsite support from Housing Choices, a vendor of San Andreas Regional Center, to ensure they are stable in their unit. These services are different than their individual supportive services such as Independent Living Services and Supported Living Services.

The project also achieves very low affordability levels, meets the density requirement of 30 units per acre, and will bring residents into a walkable, mixed income, mixed-use neighborhood with access to transit, outdoor spaces, and community amenities.

Every delay adds unnecessary cost and puts families waiting for homes at greater risk of being priced out. Moving forward now keeps the project feasible and ensures Los Gatos continues to be a welcoming and inclusive town for people of all abilities.

The need is urgent. Many other local families are aging and worry about what will happen to their loved ones with disabilities in the future. I urge the Planning Commission to approve this development and allow it to move forward.

Thank you for your commitment to addressing the urgent need for affordable and inclusive housing in our community.

Sincerely,


Bryan Neider, CEO

CHIEF EXECUTIVE OFFICER
Bryan Neider

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Sibylle Whittam
Philanthropic Advisor

From: Katherine Mancuso [REDACTED]
Sent: Wednesday, October 29, 2025 6:03 AM
To: Planning <Planning@losgatosca.gov>
Cc: Gia Soto <giasoto03@yahoo.com>
Subject: Planning Commission Meeting Oct 29 2025

[EXTERNAL SENDER]

Dear Planning Commissioners,

I am writing to express my strong support for the North 40 Phase 2 Development, particularly the inclusion of affordable housing and designated units for adults with intellectual and developmental disabilities (IDD). My parents moved to Los Gatos/Saratoga in the early 50's and I was lucky to be able to grow up here and have a successful career that allowed me to buy a home here. Unfortunately this is no longer the case for our children. I don't have to explain to you the affordability issue that we have. I'm sure many of you have had your own children have to move out of the state in order to be a home owner. It saddens me that Los Gatos planning doesn't take into account our own next generation of children and grandchildren! As a long time resident I believe we have a dire responsibility to create housing equity and community inclusion, this is a must do for Los Gatos.

The inclusion of units for individuals with IDD is especially critical. I have a 29 year old son who has Intellectual disabilities, moving out of the state to find affordable housing is not an option for him. My son was able to move out a little over a year ago so I have seen first hand how important this step was for him and for our family. He has grown expedientially after getting his own place, the pride he has in telling everyone that he has his own apartment is immense. The fact that he will certainly out live us, weighs heavy on my heart. Everyday I work to insure that he can be independent and will thrive, even after we are gone. He has been fortunate to be able to move out, but the closest affordable housing we could get is in Santa Clara. This project offers him the chance to live closer to family members he relies on and live independently with dignity, near his doctors, dentists and friends that he grew up with.

This project plays a critical role in ensuring the Town of Los Gatos meets its legal obligations under state housing law, including compliance with its certified Housing Element and Senate Bill 330 (SB 330). Approval of the North 40 Phase 2 development provides a clear demonstration to the California Department of Housing and Community Development (HCD) that Los Gatos is taking thoughtful steps to fulfill its affordable housing obligations. The fewer restrictions placed on the project, the faster affordable housing can be built. The project is not in a flood zone and is on a separate sewer system and will not impact other home in the area.

The need is urgent. My son's story is not unique, we personally know of many young adults living in Los Gatos with these same needs. Many other local families are aging and worry about what will happen to their loved ones with disabilities in the future.

I urge the Planning Commission to approve this development and ensure that the IDD-designated units and affordable housing components are preserved and prioritized as the project moves forward.

Thank you for your thoughtful consideration and your service to the community.

Sincerely,
Katherine Mancuso
Los Gatos Resident

From: Ali Sapirman [REDACTED]
Sent: Wednesday, October 29, 2025 8:58 AM
To: Planning <Planning@losgatosca.gov>
Cc: Corey Smith [REDACTED]
Subject: Please support North 40 without delay!

[EXTERNAL SENDER]

Dear Planning Commissioners,

Please see the attached letter of support for the North 40 project on behalf of The Housing Action Coalition. Please move this project forward without further delay. Feel free to contact me if you have any questions or concerns.

In solidarity,

--

Ali Sapirman | Pronouns: They/Them
Advocacy & Policy Manager | Housing Action Coalition
555 Montgomery St, San Francisco, CA 94111
[REDACTED]



To opt out of all HAC emails, respond to this email with "unsubscribe all".

October 27, 2025

Los Gatos Town Council
110 E. Main St.
Los Gatos, CA 95030

To Whom It May Concern,

The Housing Action Coalition is pleased to support **Grosvenor - Property Americas' proposed North 40 Phase II project in Los Gatos**, which will transform **15.63 acres** of underutilized land into a vibrant mixed-use development providing **450 much-needed homes**, retail spaces, and publicly accessible open space. We are especially excited by the project's commitment to affordable housing, community engagement, and smart growth principles, all of which will enhance Los Gatos' housing supply and foster a more inclusive and connected community.

Land Use. The project represents a thoughtfully designed mixed-use master plan, complementing Los Gatos' vision for smart growth. It includes a **diverse mix of rental apartments, for-sale townhomes, and ground-floor commercial spaces**, arranged around a **large public open space known as "The Meadow"**. This pedestrian-friendly development prioritizes connectivity, linking housing, retail, and open space to surrounding neighborhoods. The project's design integrates well with the area, ensuring both new and existing residents benefit from an improved public realm.

Density. The project takes full advantage of the site's zoning and density allowances, proposing **31.1 dwelling units per acre** and maximizing housing supply in a desirable, high-opportunity location. By leveraging **State Density Bonus Law**, the development goes beyond local zoning requirements to deliver critically needed homes while maintaining a balanced and thoughtfully planned urban environment.

Affordability. The project **dedicates 77 of its 450 homes (17%) as affordable housing**, ensuring that lower-income families have access to high-quality housing in Los Gatos. The development team has also committed **1.25 acres of land to Eden Housing** for the construction of a 100% affordable building with **67 affordable units available to income levels of 60% AMI and below**, further reinforcing the project's commitment to inclusive housing opportunities.

Parking and Alternative Transportation. While Los Gatos is not considered a transit-rich location, the project team is making efforts to **reduce car dependency** by incorporating **bicycle parking, connecting to an existing bike trail, pedestrian pathways, and transportation demand management strategies**. The project also includes a balanced parking approach, aligning with both **State Density Bonus Law and local requirements**, while ensuring adequate visitor and resident parking to maintain accessibility.

Urban Design. The North 40 Phase II project integrates **high-quality urban design elements**, including **3.55 acres of green open space, a pedestrian-oriented layout, and architecture that respects the town's character**. **The Meadow** will serve as a dynamic public gathering space, providing outdoor amenities for both residents and the broader Los Gatos community. The inclusion of **barn-inspired commercial buildings and an interpretive display honoring the site's**

agricultural heritage further strengthens the project's connection to the town's history.

Environmental Features. Sustainability is a core principle of this project, with commitments to **all-electric residential units, on-site renewable energy, water-efficient systems, and stormwater management solutions**. The development is targeting **Green Point Rated Silver certification**, reinforcing its dedication to environmentally responsible building practices.

Community Benefits and Input. The project team has engaged in a multi-year community outreach process, incorporating feedback from local organizations, neighborhood groups, and town officials. This engagement has shaped the project's design, ensuring that key concerns—such as traffic, housing diversity, and open space—are meaningfully addressed. Through this, the project provides extensive **public realm improvements, small business support, and new retail opportunities**. The inclusion of **local-serving commercial spaces** and a **public pavilion for community events** will activate the site and contribute to a more vibrant and engaged neighborhood. Additionally, the project addresses local infrastructure needs by **dedicating easements for future transportation improvements** and continuing the town's **multi-use bike and pedestrian path** network.

We applaud the project team for their ambitious and thoughtful approach to expanding Los Gatos' housing supply while prioritizing affordability, sustainability, and community connectivity. We urge the Los Gatos Town Council to approve the North 40 Phase II project, which will play a crucial role in addressing the region's housing needs while enhancing the town's quality of life.

Sincerely,



Corey Smith, *Executive Director*

From: [REDACTED]

Sent: Wednesday, October 29, 2025 10:17 AM

To: Clerk <Clerk@losgatosca.gov>

Cc: Matthew Hudes <MHudes@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>;

Gabrielle Whelan <GWhelan@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>;

Barbara Kautz [REDACTED]; Katy Nomura <KNomura@losgatosca.gov>

Subject: Letter to the PC for tonight's meeting

[EXTERNAL SENDER]

To Town Clerk

Please forward this letter to the Planning Commission for their meeting this evening.

Thank you,

Jak Vannada

Los Gatos Community Alliance

Re: North 40 Project (S-23-031 / M-23-005) – Concurrent Construction with Proportional BMP Integration

Dear Commissioners,

The Los Gatos Community Alliance urges you to require concurrent construction of Building E1 and all 127 town homes, with 77 BMP units (17% of 450 total) distributed proportionally across both from the outset, consistent with LGMC §29.10.

Proposed Requirements:

- Building permits for E1 and townhomes issued within same 6-month window
 - No townhome COs until E1 reaches 50% completion; no further E1 COs until townhomes reach 50%
 - 77 BMP units dispersed initially: ~43 in E1, ~22 in townhomes, with identical unit types and finishes as market-rate
 - If Lot 19/G1 proceeds later, up to 67 BMP units may transfer via recorded release (minimum 10 remain in E1/townhomes)
 - Deny BMP dispersion waiver unless physical preclusion is documented

Why This Matters:

The current plan concentrates BMP units (10 in E1, 67 in G1) and permits 127 market-rate townhomes first. If Lot 19 stalls, the initial 382-unit phase could deliver zero affordable housing—violating §29.10's integration requirements and

undermining SDBL, the Housing Element, and community equity.

Key Benefits:

- Guarantees 65+ affordable units in Phase 1, independent of Lot 19
- Achieves true integration across all building types from day one
- Retains full SDBL incentives while allowing future LIHTC flexibility
- Creates enforceable accountability through CO restrictions

This revision ensures immediate affordability while maintaining project feasibility. We urge its adoption through an Affordable Housing Agreement (AHA) condition.

Sincerely,

Jak Vannada
Los Gatos Community Alliance

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From: Phillips, Eric S. [REDACTED]
Sent: Tuesday, October 28, 2025 4:23 PM
To: Planning <Planning@losgatosca.gov>
Cc: Joel Paulson <jpaulson@losgatosca.gov>; Gabrielle Whelan <GWhelan@losgatosca.gov>; Ying, David@HCD [REDACTED]
Subject: Los Gatos Planning Commission - North 40 Phase II Comment Letter

[EXTERNAL SENDER]
Good afternoon.

Attached is a letter to the Planning Commission in advance of its October 29, 2025 public hearing regarding the North 40 Phase II housing development project. Please distribute to Commissioners and include the material as a desk item for the hearing.

Thank you,
Eric

Eric S. Phillips | Partner
he, him, his
Burke, Williams & Sorensen, LLP
1 California Street - Suite 3050, San Francisco, CA 94111

[REDACTED] | vCard | Bio | bwslaw.com



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[REDACTED]

October 28, 2025

Town of Los Gatos Planning Commission
110 East Main Street
Los Gatos, CA 95030
planning@losgatosca.gov

Re: North 40 Housing Development Project – Phase II
14859 Los Gatos Boulevard and 16270 Burton Road
APNs 424-07-009, -053, -081, -094, -095, -115, -116, and -052
Architecture and Site Application S-23-031
Subdivision Application M-23-005

Dear Commissioners:

We represent Grosvenor Property Americas (“**Applicant**”), the applicant for a development project at 14859 Los Gatos Blvd and 16270 Burton Road (“**Project Site**”) in the Town of Los Gatos (“**Town**”) to develop 450 homes (77 of which would be affordable to lower income households), over 15,000 square feet of retail, over 3,000 square feet of commercial and civic space, and associated on- and off-site improvements (the “**Project**”). The Project will be considered at your October 29, 2025 hearing, and we look forward to the opportunity to present the Project to you for the second time.

We write to request that you **recommend the Project for approval** by the Town Council. We also support the conclusions in the Town’s North 40 Phase II Final Initial Study demonstrating that the Project’s environmental effects have been fully analyzed and disclosed, such that further CEQA review is not required.

Although the staff report for the October 29, 2025 public hearing includes findings for approval of the majority of the Project’s proposed elements, it recommends denial of the Applicant’s density bonus concession for alternative timing related to the delivery of the Project’s 77 affordable housing units. Contrary to what is presented in the staff report, denial of this request would violate state housing laws. Thus, we respectfully request that you recommend **approval of the Project’s State Density Bonus request** as the Applicant has proposed.

Town of Los Gatos Planning Commission
October 28, 2025
Page 2

As you prepare to take up the Project, please consider the following:

- **The Project is consistent with applicable plans and policies**, including the Housing Element and zoning land use and density designations for the Project Site;
- The Project delivers **450 units of housing on a designated Housing Element opportunity site**, helping the Town achieve its RHNA goals;
- The Project **exceeds the Town's affordability requirements**, providing more affordable units at deeper levels of affordability than the Town requires, along with dedicated units to support adults with intellectual or developmental disabilities;
- The Project is **entitled to concessions and waivers under the State Density Bonus Law**, which permit the Project and its supporting amenities as proposed and require approval of a concession for an alternative timing mechanism for delivery of the affordable housing units;
- The Project's initial study demonstrates that the Town fully analyzed project-specific and cumulative impacts related to the Project in its 2040 General Plan EIR, thus **no further environmental review is required to comply with CEQA**; and
- **The Housing Accountability Act protects the Project** from denial and prohibits any conditions of approval that would make the Project infeasible.

Each of these topics is discussed in more detail in the enclosed analysis. We look forward to the opportunity to present this Project to the Planning Commission at the upcoming public hearing, and we respectfully request that you recommend approval of the Project as proposed.

Sincerely,

BURKE, WILLIAMS & SORESENSEN, LLP



Eric S. Phillips

Town of Los Gatos Planning Commission

October 28, 2025

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Attachments:

Exhibit A, Project Analysis and Supporting Materials

Exhibit B, Supplemental VMT Analysis prepared by Hexagon Transportation Consultants, Inc.

cc: Joel Paulson, Los Gatos Community Development Director

Gabrielle Whelan, Los Gatos Town Attorney

David Ying, Housing Policy Specialist, HCD Housing Accountability Unit

EXHIBIT A

EXHIBIT A

Project Analysis and Supporting Materials

Based on the staff report and proposed findings published on October 24, 2025, in advance of the Planning Commission’s October 29, 2025 public hearing on the Project, the following discussion addresses (I) The Project’s State Density Bonus Law concession request; (II) clarifications in support of the staff report’s analysis; and (III) responses to public comments included in the staff report.

I. The Town Should Grant the State Density Bonus Law Concessions as Proposed.

A. The Project is Eligible for a Density Bonus, Including the Proposed Concessions and Waivers.

The Applicant seeks the Town’s approval to construct 450 total housing units, and it has agreed to dedicate 17% of the total units within the Project (77 out of 450) to lower-income households. Therefore, the State Density Bonus Law (“**SDBL**”) entitles the project to parking reductions, two concessions,¹ and unlimited waivers. (See Gov. Code § 65915(d)(2).) The Applicant has requested the following concessions and waivers:

- Concession to allow residential uses on the ground floor of buildings
- Concession for an alternative timing mechanism for delivery of the affordable housing units
- Waiver from the maximum permitted height requirement
- Waiver from the required street section dimensions
- Waiver to deviate from objective design standards
- Waiver from the BMP Program requirement to provide affordable units proportionately in the same unit type mix as the market rate units and to have the units be dispersed throughout the Property

The October 29, 2025 staff report correctly notes that “if an applicant for a housing development **seeks and agrees to construct** a housing development . . . that will contain” specified amounts of affordable housing, the Town is obligated to approve the SDBL requests unless specific findings can be made. (Gov. Code § 65915(b)(1).) However, the staff report incorrectly concludes that the Applicant’s concession request for an alternative timing mechanism for delivery of the affordable housing units means that the applicant is not “committing” to build affordable housing. None of the housing laws cited in the staff report use the word “committing” – this is an additional standard that goes beyond what state law requires. The applicable legal standard requires the Applicant to seek and agree to construct affordable housing, and this standard, not the framework included the staff report, should be used to evaluate the Project’s concession request. Regardless, as detailed below, the Applicant’s proposed concession includes adequate safeguards to protect the Town’s interest in seeing the

¹ For purposes of the State Density Bonus Law, the terms “incentives” and “concessions” are interchangeable, and this letter will use “concession” going forward.

Project built to completion and commits the Applicant to delivering affordable housing before it can complete the majority of the Project's market rate units.

Not only that, but the alternative condition of approval included in the staff report to require concurrent production of affordable housing throughout each phase of the Project would render the Project economically infeasible.² Thus, as explained below, the staff report's condition is barred by the Housing Accountability Act (Government Code section 65589.5, also known as the "HAA").

B. The Concession Request Complies with SDBL Requirements.

As an initial matter, neither the SDBL nor the Housing Crisis Act (the other state law the staff report proffers in support of its findings) require a set schedule for delivery of affordable housing. They simply require the Applicant to seek and agree to provide affordable housing. Here, the Applicant has included 77 units of affordable housing in its development application, and it is diligently seeking Town approval to develop the Project. The Applicant has agreed to conditions of approval that will require the Project Site to be subject to recorded restrictions requiring affordable housing development and prohibiting other uses within the portions of the Project that are committed for affordable housing development. This is sufficient to satisfy state law requirements for SDBL eligibility.

Moreover, the proposed concession includes robust security in favor of the Town to ensure that the Project will be developed as proposed. Under the proposed concession, the Applicant would be obligated to:

- Invest tens of millions of dollars in backbone infrastructure and utility costs to prepare the Project Site for development;
- Complete vertical-ready development pads for the 100% affordable building and the mixed-income multifamily building within the Project;
- Develop no more than 127 market rate units (i.e., less than 1/3 of the Project, or approximately 28% of the proposed units) before delivering affordable units in either the 100% affordable building or the mixed-income multifamily building.

Note that it is essential for Project feasibility that the Applicant be permitted to develop a portion of the market rate units in order to obtain financing for the initial infrastructure investment required to make the site developable. The 127 units proposed in the concession are the minimum number of units needed to feasibly underwrite the Applicant's land acquisition and backbone infrastructure investment, which must be made before any housing units can be developed on the Project Site.

Accordingly, the requested concession for an alternative timing mechanism for delivery of the affordable housing units is reasonable, because it helps secure the delivery of affordable housing, yet allows the Project to remain feasible. Under the SDBL, the Town must grant the

² For purposes of the HAA, "feasible" means "capable of being accomplished in a successful manner within a reasonable period of time, taking into account **economic** . . . **factors**." (Gov. Code § 65589.5(h)(1).)

concessions requested by the Applicant unless the Town makes a written finding, based upon substantial evidence, of any of the following:

- (1) The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, or for rents for the targeted units to be set at affordable rents; [*The staff report concedes that the concession would result in actual, identifiable cost reductions*]
- (2) The concession or incentive would have a specific, adverse impact (a) upon public health and safety or (b) on any real property that is listed in the California Register of Historical Resources, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households; or [*no health or safety impacts or impacts to historical resources have been identified or are associated with the Town's proposed denial of the concession request*]
- (3) The concession or incentive would be contrary to state or federal law. [*the Town has not correctly identified a state or federal requirement that the concession violates*] (Gov. Code § 65915(d)(1).)

Here, it is impossible for the Town to make any of the above findings with respect to any of the requested concessions. For projects with affordable housing, concession requests are presumed to reduce costs, and the Town has the burden of proof to come up with evidence that a requested concession does not reduce costs. (*Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549.) Because it cannot do so here, the Town should approve the concession as proposed.

In addition, recall that before the Town upzoned the Project Site to 30 du/ac in connection with its Housing Element Update, the Applicant suggested that the Town permit housing development on the Project Site at a maximum of 20 du/ac to achieve a feasible townhome-only development project. Despite the Applicant's suggestion, the Town elected to increase the Project Site's density to a minimum of 30 du/ac, which the current proposed Project accommodates. However, in no scenario would 127 townhomes alone be sufficient to support a feasible development project. For the Project to be feasible at the 450 total units now proposed, the Applicant ultimately will need to complete all 373 market rate units (450 less the 77 affordable units), including the townhomes and the multifamily building. Under the proposed concession, this could only occur after delivery of the affordable housing. Therefore, the proposed concession request would incentivize the Applicant to deliver the Project's affordable housing components as soon as possible so that it can continue developing market rate units and complete the Project.

C. The Applicant's Proposed Concession is Already More Restrictive than Requirements in Comparable Projects.

Finally, the proposed concession limiting development to 28% of the Project is much more restrictive than similar requirements the Town has imposed in the past and conditions of approval imposed by other peer jurisdictions. For example, in Phase I of the North 40

development, the Town approved 320 residential units, of which 50 units were affordable senior units. The Town required the affordable housing to be available and/or occupied prior to final occupancy issuance for the 187th market rate unit. (See Resolution 2017-045, Exhibit B, p. 9.) In other words, 58% of the total (186 units out of 320 units) Phase I project were allowed to be built before the Town required the affordable units.

The same is true for other jurisdictions' approach to affordable housing timing. In jurisdictions such as the City of Dublin, the City of Redwood City, and the City of San Ramon, members of the Applicant's development team have received recent project approvals where market rate units are permitted to develop at their own pace, and affordable housing is secured by pledging the property devoted for affordable housing to the jurisdiction. In such instances, if affordable housing is not produced within a set period of time – in some cases as long as 10 years after project approval – the jurisdiction can take ownership of the property to oversee development of affordable housing. The Applicant offered a similar structure to the Town, but we were informed the Town had no interest in the land or overseeing housing production. In lieu of a commitment to donate property, the Applicant proposed its concession request to develop the minimum amount of market rate housing needed to feasibly finance the Project's infrastructure. This self-imposed limitation is more restrictive than what the Town required in Phase I of the North 40 and is more restrictive than what peer jurisdictions require; therefore, we hope the Planning Commission agrees the proposed concession is adequately protective of the Town's interests.

D. The Town's Alternative Condition of Approval Would Render the Project Infeasible.

For the reasons discussed above, the Project's proposed affordable housing timing meets state housing law requirements and provides the Town with adequate security for affordable housing delivery. By contrast, the Town's proposed condition of approval would render the Project economically infeasible and therefore would violate the Housing Accountability Act. In place of the proposed concession, the staff report includes a condition of approval to develop 17% of the Project's affordable units concurrently with every market rate unit. This would mean that the Applicant would only have 105 market rate units (127 townhome less 17%) to use for financing land acquisition and tens of millions of dollars of infrastructure. This is too heavy of a burden on only 105 market rate units, and would render the Project infeasible. Thus, the Town's condition of approval would result in **no housing being built**.

Furthermore, even if the Project were feasible with the staff report's condition, it would impermissibly increase the Project's affordability requirements. Requiring 22 affordable units in addition to the 77 already proposed would result in an affordability contribution of 22%, far in excess of what the Town may legally require.

As discussed in more detail below, the HAA prevents the Town from conditioning a housing development project for very low, low-, or moderate-income households in a manner that renders the housing development project infeasible, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

- (1) The Town has adopted a compliant, revised housing element and has met or exceeded its share of the RHNA for the planning period for the income category proposed for the housing development project; *[the Town has not yet met or exceeded its share of the RHNA, so this finding is inapplicable]*
- (2) The housing development project would have a specific, adverse impact upon the public health or safety that cannot be satisfactorily mitigated or avoided without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible; *[no health or safety impacts have been identified or are associated with the Town's proposed condition of approval]*
- (3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible; *[the Town's proposed condition is not required to comply with any state or federal law; if the Town's conclusion that state law requires such a condition were correct, it still would not support imposition of a condition that would render the Project infeasible]*
- (4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project; *[the Project site is not zoned for agriculture or resource preservation, so this finding is inapplicable]*
- (5) On the date an application for the housing development project or emergency shelter was deemed complete, the Town had adopted a compliant, revised housing element, and the housing development project or emergency shelter is inconsistent with both the zoning ordinance and general plan land use designation; or *[the Town did not have a certified housing element as of the date the Project application was deemed complete, so this finding is inapplicable; moreover, the Project complies both with the Housing Element that was adopted and in effect at the time and the current certified Housing Element]*
- (6) On the date an application for the housing development project was deemed complete, the Town did not have an adopted, compliant, revised housing element and the housing development project is not a builder's remedy project. *[although the Applicant has not invoked all of the builder's remedy protections, the Project meets the definition of a builder's remedy project, so this finding is inapplicable]*

None of the findings for denial or in support of a condition of approval rendering the Project infeasible can be made here. Thus, the Town must grant the concessions, including the concession for an alternative timing mechanism for delivery of the affordable housing units or it will violate both the SDBL and the HAA.

II. Staff Report Clarifications

A. No Further Environmental Review is Required to Comply with CEQA.

In the “Subject” line on page 1 of the staff report and in the header of Exhibit 22, the staff report says, “Additional Environmental Review is Necessary Pursuant to CEQA Guidelines Section 15183.” We believe this is a typographical error, because the staff report’s analysis and the Initial Study prepared by the Town both demonstrate that **no** additional environmental review is required. We support this finding, and request that the Town correct the errant references that suggest additional CEQA review is required.

The record contains substantial evidence to support the conclusion that the Project is exempt from the California Environmental Quality Act (“**CEQA**”). The Town prepared and certified a complete EIR that analyzes the impacts of developing projects with the land uses and densities allowed under the 2040 General Plan. Although the land use element of the 2040 General Plan has been rescinded, its analysis is directly relevant and applicable to the Project. The 2040 General Plan EIR is fully certified, and its conclusions with respect to environmental impacts of future development remain valid. When the Town adopted its Housing Element, the Town’s Environmental Analysis relied on the certified 2040 General Plan EIR to conclude that development consistent with the Housing Element would not have environmental impacts beyond what were analyzed in the 2040 General Plan EIR. Likewise, the Town’s zoning ordinance amendments, including the HEOZ, rely on the 2040 General Plan EIR to comply with CEQA.

The Project includes the exact land uses and density that the Town planned for the Project Site via the Housing Element and the HEOZ, and what the Town analyzed in its EIR. Various technical studies (air quality, health risk, greenhouse gas, noise, and utilities, among others) have been prepared by technical experts to further demonstrate that the Project would not result in any new or more severe impacts than the Town already analyzed in its prior EIR. Because the Project is consistent with the Town’s land use and density designations, and because it would not result in any new or more severe environmental impacts than were analyzed in the Town’s certified EIR, it is exempt from further CEQA review under the “**Community Plan Exemption.**” (Pub. Resources Code § 21083.3; CEQA Guidelines [Cal. Code Regs., tit. 14] § 15183.)

The Community Plan Exemption expressly states that “[i]f a significant offsite or cumulative impact was adequately discussed in the prior EIR, then [Section 15183] may be used as a basis for excluding further analysis of that offsite or cumulative impact.” (CEQA Guidelines § 15183(j).) As discussed below, the Project is consistent with the adopted plans and certified environmental documents, including the 2040 General Plan EIR. The 2040 General Plan EIR analyzed the potential cumulative impacts of each CEQA topic area, and there is no evidence that the Project would result in new or more severe cumulative impacts. Thus, no further cumulative impacts analysis is required.

Attached as Exhibit B is a Supplemental VMT Analysis for the North 40 Phase II Master Plan prepared by technical expert Hexagon Transportation Consultants, Inc., dated September 11, 2025 (“**VMT Memo**”). The VMT Memo supplements and reinforces the Town’s conclusion

that the Project would have a less than significant effect on VMT, by demonstrating that even if the Project were analyzed separately and apart from the 2040 General Plan EIR, the Project would not result in a Project-specific or cumulative significant VMT effect according to the Town's VMT impact criteria. These conclusions support the Town's conclusions that the Project would not result in any new or more severe transportation impacts (including cumulative impacts) than the Town already analyzed in the 2040 General Plan EIR.

B. The Project is Protected by the HAA as amended by AB 1893.

On page 4 of the staff report, the analysis states that to be "a housing development affordable to lower- or moderate- income households" as defined by the HAA, the project must provide 20 percent of the total units to be sold or rented to lower income households and that the sales prices or rental units cannot exceed 30 percent of 60 percent of area median income. This reflects the version of the HAA that existed prior to January 1, 2025, but it does not correctly reflect the current standards applicable to the Project. On pages 6 and 7 of the staff report, the old version of the HAA findings for denial are presented, and the staff report states "the applicant for this project has not chosen to invoke the provisions of AB 1893. Therefore, the findings enumerated above are the ones that remain relevant to this project." This is also incorrect.

After AB 1893's amendments to the HAA took effect on January 1, 2025, the Applicant sent the Town an updated Project description, adjusting the Project to conform with the HAA's now-current requirements. As defined by the HAA, "a housing development affordable to lower- or moderate- income households" includes "a housing development project in which at least 13 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code." (Gov. Code § 65589.5(h)(3)(C)(i)(III).) Therefore, the Project only needs to provide 13% of its units as affordable to be eligible for HAA protections, and rents may exceed 30 percent of 60 percent of area median income as provided in the Health and Safety Code. In addition, the applicable HAA findings are as reflected in Section I.D of this letter rather than what is included the staff report.

We ask that these references be clarified for the record. Fortunately, none of these changes affect the staff report's ultimate conclusion: the Project is consistent with all applicable development standards. We agree with this conclusion, and offer the following supplemental analysis in support of the staff report's conclusions.

The Town adopted the North 40 Specific Plan in 2015, which designates the Project Site for commercial and office uses. In connection with its adoption of the North 40 Specific Plan, the Town prepared and certified the North 40 Specific Plan Environmental Impact Report ("**North 40 Specific Plan EIR**"), which includes site-specific environmental analysis. The North 40 Specific Plan remains in place and defines the Project Site's base zoning through the NF-SP zoning designation.

The Los Gatos Town Council adopted the Town of Los Gatos California 2040 General Plan ("**2040 General Plan**") and certified the 2040 General Plan Final Environmental Impact Report ("**2040 General Plan EIR**") on June 30, 2022. The 2040 General Plan redesignated the

Project Site to allow mixed-use multifamily development at 30 du/ac on the Project Site, and the impacts of this development potential were included in the 2040 General Plan EIR's environmental analysis.

After the Town adopted the 2040 General Plan, Town voters filed a referendum petition to prevent the land use and community design elements from taking effect. On April 2, 2024, the Town Council voted to rescind the land use element and community design elements of the 2040 General Plan. Therefore, the land use and community design element of the 2020 General Plan are currently in effect, along with the remaining elements of the 2040 General Plan. The 2040 General Plan EIR was never challenged, and its analysis of the environmental effects associated with developing with Project Site with residential uses at 30 du/ac remains both valid and relevant.

The Town adopted the first version of its Sixth Cycle Housing Element Update on January 31, 2023, which was adopted and in effect when the Applicant submitted its SB 330 preliminary application for the Project. The Town subsequently revised and re-adopted its Housing Element Update, with the final version certified by the California Department of Housing and Community Development (“**HCD**”) on July 10, 2024. Both the initial Housing Element that was adopted and in effect when the Applicant submitted its SB 330 preliminary application for the Project and the re-adopted Housing Element Update designate the Project Site for residential uses with a minimum density of 30 du/ac.³ In connection with the adoption of each version of its Housing Element, the Town relied on the certified 2040 General Plan EIR, releasing an Environmental Assessment that demonstrates that the land use designations and densities permitted by these regulations were fully analyzed in the 2040 General Plan EIR, and no further environmental review was required to comply with CEQA.

The Town adopted the Housing Element Overlay Zone (“**HEOZ**”) on March 5, 2024, which designates the Project Site for mixed-use residential development at a density range of 30 to 40 du/ac, with other development standards applicable as defined in the North 40 Specific Plan. As it did in connection with the adoption of the Housing Element, the Town relied on the certified 2040 General Plan EIR when it adopted the HEOZ, finding that development of the uses and densities allowed by the HEOZ would not result in any new or more severe environmental impacts than the 2040 General Plan EIR analyzed. The Project is consistent with the land use designation and density standards of the HEOZ, which were fully analyzed in the 2040 General Plan EIR.

Although the Project is consistent with the Housing Element and zoning land use and density designations for the Project Site, it is not consistent with the land use designation from the 2020 General Plan or the North 40 Specific Plan. However, the Applicant proposes to provide 77 of the Project's 450 dwelling units at rents affordable to lower income households as defined in Health and Safety Code section 50079.5. Therefore, the Project is “housing for very low, low, or moderate-income households” as defined in the HAA. (Gov. Code § 65589.5(h)(3).) In addition, the Project is consistent with the Housing Element [both the

³ By virtue of filing a complete preliminary application pursuant to Government Code section 65941.1, the Applicant has a vested right to proceed with the Project under the development standards, policies, and fees that were in place as of April 18, 2023.

version in place at the time of the Applicant's preliminary application and the version certified by HCD and currently in effect] and zoning land use and density designations for the Project Site. Because the Town identified the Project Site "as suitable or available for very low, low-, or moderate-income households" in its Housing Element, and the Project is consistent with the Housing Element's specified density, the Town may not "disapprove or conditionally approve" the Project, notwithstanding potential inconsistencies with the Town's "zoning ordinance [including the North 40 Specific Plan] and general plan land use designation." (Gov. Code § 65589.5(d)(5)(A).) This means that the Town's Housing Element overrides the 2020 General Plan and the North 40 Specific Plan's requirements as applied to the Project.

As a separate and independent basis to find the Project is consistent with all applicable development standards, note that the Housing Accountability Act says that "[a]ny project that complies with [paragraph 6 of subdivision (f) of Section 65589.5] shall be deemed consistent, compliant, and in conformity with an applicable plan . . . for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose."⁴ (Gov. Code § 65589.5(f)(6)(D)(iii).) Paragraph (6) of subdivision (f) applies to projects that meet the HAA's definition of a "builder's remedy project." The Project meets each definitional criterion specified in Government Code section 65589.5(h)(11) as follows:

- As detailed above, the Project is a housing development project that provides housing for very low, low-, or moderate-income households.
- On the date the Project submitted a complete preliminary application, the Town did not have a Housing Element that HCD certified as in substantial compliance with state housing element law.
- The Project's density of 31.1 du/ac does not exceed the density that is the greater of 45 du/ac, three times the density specified in the General Plan, or the density specified for the Project Site in the Town's Housing Element.
- The Project is not located within one-half mile of a commuter rail station and its density of 31.1 du/ac exceeds a minimum density of 15 du/ac.
- The Project Site does not abut a site where more than one-third of the square footage on the site has been used, within the past three years, by a heavy industrial use, or a Title V industrial use.

Therefore, the HAA deems the Project consistent with all applicable Town development standards for all purposes, including CEQA. (Gov. Code § 65589.5(f)(6)(D)(iii).)

⁴ HCD has opined that projects deemed consistent with standards under Gov. Code § 65589.5(f)(6)(D)(iii) are eligible for CEQA exemptions that require consistency with applicable plans and policies. See HCD's February 7, 2025, letter to the City of San José re: AB 1893 Builder's Remedy and CEQA Class 32 Infill Exemption available here: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/sanjose-hau-1359-ta-ab1893-02062025.pdf>.)

C. Replacement Housing Obligations

The Applicant agrees and acknowledges that the Housing Crisis Act requires it to replace “protected units” currently located on the Project Site in the Project and to provide relocation benefits to existing tenants. As has been discussed with Town staff previously, the Applicant has already retained an expert relocation consultant to begin the process of assessing tenant housing needs and analyzing necessary relocation benefits.

In the staff report, condition of approval 7.a would require the Applicant to fund a relocation consultant hired by the Town. We ask that the condition acknowledge that the Applicant’s consultant – Autotemp Services – is acceptable to the Town so that tenants will not have to work with a new set of consultants when discussing their housing needs and contributing data towards a relocation benefits plan.

III. **Public Comments Do Not Identify a Basis for Additional Delay or Denial.**

The staff report includes numerous public comments from the Los Gatos Community Alliance (“**LGCA**”) questioning the Town’s approach to CEQA compliance, the Project’s consistency with standards, the Town’s calculations related to Project density, and whether the Project is one housing development project or two separate projects. As discussed above, the Town has fully complied with CEQA, and its conclusions with respect to the Project’s environmental impacts are supported by substantial evidence. In addition, we agree with the Town’s conclusion that the Project is consistent with applicable standards. Other LGCA comments are addressed below.

A. LGCA Confuses Housing Element Certification with the Housing Element’s Effective Date.

Many of LGCA’s comments assert that the Project cannot be consistent with the Housing Element, because HCD had not yet certified the Housing Element as meeting all state law requirements as of the Project’s preliminary application date. However, this argument is based on the faulty premise that a local policy document, such as the Housing Element, cannot take effect until HCD certifies it. These are two separate concepts.

Because HCD had not certified the Town’s Housing Element that was adopted and in effect when the Applicant submitted its preliminary application, it is correct that the Housing Element is presumed not to comply with the State Housing Element Law’s requirements. (Gov. Code § 65589.3.) This means the Town was subject to the “builder’s remedy” at the time the Applicant submitted its preliminary application. (*Id.* at §65585.03.) However, HCD’s certification does not affect whether the Housing Element was adopted and in effect. Therefore, the Town’s adopted land use and density designations of 30 du/ac of multifamily housing were in effect when the Applicant submitted its preliminary application, notwithstanding the fact that the Town subsequently made other, unrelated changes to its Housing Element to obtain HCD certification.

However, even assuming for the sake of argument that the Housing Element were not valid or in effect when the Project was deemed complete, this would not change any of the Town’s conclusions. It simply means that the Project is protected by the builder’s remedy, and

that the Project is therefore deemed consistent with Town standards for all purposes. (Gov. Code § 65589.5(f)(6)(D)(iii).) Regardless of whether the Housing Element was in effect and the Project is consistent with its designation, or whether the builder's remedy simply deems the Project consistent with such standards, the result is the same: there is no legal basis to deny the Project as proposed.

B. The Town Has Correctly Calculated the Project's Density.

The Housing Element Site Inventory requires a minimum density of 30 dwelling units per acre (30 du/acre), and the Project proposes 450 units on 14.47 acres, resulting in a density of 31.1 du/ac.

LGCA alleges that the Town improperly calculated density based on net acreage, and that the Project's density is actually 28.7 du/ac when using gross acreage ($450 \text{ units} \div 15.65 \text{ acres}$) "as called for by the certified Housing Element." LGCA claims that because the Housing Element Site Inventory uses a gross acreage standard, the Project must also use a gross acreage standard for consistency.

The Housing Element provides the following regarding density calculations: "Residential developments are regulated by an allowed density range (minimum and maximum) measured in "dwelling units per acre." Residential development is calculated by dividing the number of housing units on the site (excluding accessory units) by the 'gross lot area.'"

Section 29.10.020 of the Los Gatos Municipal Code defines "lot area" as "[t]he total horizontal lot area included within lot lines, except as otherwise provided in the chapter, and excluding land required for public dedication and any land determined to be riparian habitat." As defined, "lot area" excludes land required for public dedication. According to the Town, "Gross lot area" means the total "lot area" and cannot be any greater than "lot area."⁵

Here, a portion of the land is being dedicated for public use, which means that this portion of land is excluded from the Project's "lot area" under the Town's definition. Accordingly, it is appropriate for the Town to divide the number of units by the lot area (excluding lands required for public dedication) to arrive at the du/ac standard. This is precisely the methodology the Town has employed to reach a gross density figure of 31.1 du/ac.⁶ Moreover, this approach is consistent with the Town's established patterns and practices, as this was the same methodology used to calculate the gross density for Phase I of the North 40.

LGCA also claims that because the Project vested during the Town's period of Housing Element non-compliance, the appropriate density baseline is 20 du/ac, "based on the North 40 Specific Plan's baseline zoning during non-compliance." This is not correct. As addressed above, because HCD had not certified the Town's Housing Element that was adopted and in effect when the Applicant submitted its preliminary application, that Housing Element is

⁵ See <https://www.losgatosca.gov/DocumentCenter/View/43002/North-40-FAQS#:~:text=The%20Town%20is%20using%201,with%20the%20Town's%20Housing%20Element>.

⁶ This figure includes the Meadow and all non-public internal streets and parking areas, which would be excluded from a net density calculation. The Project's net density would be significantly higher than the 31.1 du/ac gross density figure used.

presumed not to comply with the State Housing Element Law's requirements. (Gov. Code § 65589.3.) However, this does not mean that the Housing Element was not adopted, nor does it affect whether its policies were in effect at the time of the preliminary application. Therefore, reference to the adopted Housing Element is proper.

Regardless, even if LGCA's theory were correct, the North 40 Specific Plan would not be applicable. Because the Town had not yet received HCD certification of its Housing Element, the Town was subject to the builder's remedy at the time the Applicant submitted its preliminary application. (*Id.* at §65585.03.) Under the HAA, a builder's remedy project must have a minimum density of 15 du/ac and a maximum density of the greater of 45 du/ac, three times the density specified in the General Plan, or the density specified for the Project Site in the Town's Housing Element. (*Id.* at § 65589.5(h)(11)(C)-(D).) Here, the Project's 450 units satisfies the builder's remedy density definition, so the Project would be permitted as proposed even if LGCA's theory of how to calculate density were correct.

C. The Project Is One Development Project, Not Two Separate Projects.

LGCA asserts that the Applicant has proposed two separate projects: the market-rate portion of the Project, and the affordable housing portion of the Project. Per an email from LGCA dated September 20, 2025, one of LGCA's bases for this assertion is that the Project's requested concessions "appear to benefit 17 market-rate townhome buildings along the site's western and northern edges—structures not directly tied to the 67-unit affordable Building G1 being developed by Eden Housing or the 10 affordable units in mixed-use Building E1."

LGCA misunderstands the nature of the Project and of development in general. Here, the Project Site is under common ownership. All phases of the Project, including the townhomes, the mixed-income multifamily building, and the 100% affordable building, are the subject of one development application, and they share common access, infrastructure, and utilities. Although it is true that different entities may be responsible for constructing the Project's different phases over various phases, this does not transform the single, integrated Project into multiple development projects. Each component of the Project is a direct, reasonably foreseeable consequence of the other components, and no part of the Project can proceed independently from the others.

As is customary in the affordable housing space, the affordable housing portion of the Project will be constructed by a specialist in that sector of the market. The Applicant's affordable housing development partner is Eden Housing, a non-profit affordable housing developer with over 55 years of experience in building affordable housing, including the affordable housing component of Phase I of the North 40. Their participation helps the Project deliver the affordable housing component most efficiently, and the Project's investment of land and infrastructure valued in the tens of millions of dollars will enable Eden to leverage other funding sources to provide a greater number of affordable housing units at deeper affordability levels than the Town otherwise requires.

As to the Project's SDBL concessions and waivers, HCD has issued technical advice indicating that the affordable housing portion of a project may be phased or treated separately from the market rate portion of the project:

- “The SDBL can be used to modify or waive provisions of an inclusionary ordinance. For example, a mixed-income project that relies on tax credits may need to waive a requirement that affordable units be dispersed among the market-rate units. This is because tax credits and other affordable housing funding programs sometimes require the affordable units to be consolidated within a single building or on a separate parcel.” (West Hollywood Letter of Technical Assistance, September 2, 2022.)
- “[T]he SDBL does not contain an across-the-board requirement that the design quality or attributes of the affordable units match those of the market-rate units (i.e., a comparability requirement pertaining to floor area, bedroom count, interior finishes, etc.), nor does it require that the affordable units be physically dispersed among the market-rate units (i.e., a dispersal requirement) for new and existing units. In fact, the SDBL suggests the opposite – that “[t]he density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.” (Gov. Code, § 65915, subd. (i).)” (El Cajon Letter of Technical Assistance, February 16, 2023.)
- “[T]he SDBL does not contain requirements that the bedroom count or the attributes of the new affordable units match those of the new market-rate units (i.e., comparable design, appearance, materials, and finished quality), nor does the law require that affordable units be physically dispersed among the market-rate units. In fact, the SDBL suggests the opposite by explicitly permitting density bonus units (which can be market-rate units) in “geographic areas of the housing development other than the areas where the units for the lower income households are located.” (Santa Clara Letter of Technical Assistance, August 9, 2024.)

Therefore, the fact that the Project’s 100% affordable building will be tax-credit funded and constructed by an experienced affordable housing developer does not mean that this Project component is a separate project.

* * *

In sum, (1) the Project is consistent with applicable plans and policies; (2) the Project is exempt from CEQA pursuant to the Community Plan Exemption; (3) the Project is a single development project that will occur in multiple phases; and (4) the Project is eligible for a density bonus, including the requested concessions and waivers, under the State Density Bonus Law. We respectfully request that the Planning Commission recommend the Project to the Town Council for approval, with the modifications and clarifications identified above.

EXHIBIT B



HEXAGON TRANSPORTATION CONSULTANTS, INC.

Memorandum

Date: September 11, 2025

To: Whitney Christopoulos, Grosvenor

From: Michelle Hunt
Daniel Choi

Subject: Supplemental VMT Analysis for the North 40 Phase II Master Plan

Hexagon Transportation Consultants, Inc. has completed a supplemental Vehicle Miles Traveled (VMT) Analysis for the North 40 Phase II Master Plan in Los Gatos, California. The housing portion of the project is consistent with the Town's Housing Element, for which a townwide VMT-impact analysis was prepared. Similarly, the retail and community spaces are consistent with the previously approved North 40 Specific Plan, for which an Environmental Impact Report (EIR) was prepared. The project is not required to analyze VMT for environmental clearance, as each component of the project is consistent with previously approved studies. Nevertheless, this supplemental VMT analysis was completed for informational purposes in accordance with the Town of Los Gatos' Transportation Impact Policy related to VMT.

Background

The Town elected to conduct a complete VMT analysis of the General Plan future year VMT projections based on long-term expectations for air quality and GHG emissions as part of its General Plan EIR, so that it could make specific use of CEQA Statue & Guidelines Section 15183 to streamline project-specific CEQA analysis that is consistent with its General Plan and other Town documents. For the Town of Los Gatos, addressing transportation VMT impacts in the Town General Plan EIR is a useful way of understanding VMT impacts and how VMT reduction should be balanced against other community values related to the environment, social justice, and the community. By conducting a Town-wide VMT impact analysis, the Town is able to develop a program-based VMT mitigation approach. The concept of a 'program' approach to impact mitigation is commonly used in a variety of technical subjects, including transportation, air quality, GHG, and habitat. Absent a new program-level VMT mitigation approach, there are limited feasible mitigation options for project sites, and as a result limited ability to reduce VMT. Also, practically speaking, without feasible mitigation, significant VMT impacts would be significant and unavoidable (SAU). Under these circumstances, a project must prepare an EIR, thus adding time and cost to environmental review compared to an initial study/negative declaration (IS/ND) that relies on streamlining offered in the CEQA Statue & Guidelines.

The Phase II Master Plan project proposes a housing development with a density of 31.3 du/ac. This is consistent with the newly adopted Housing Element and the HEOZ zoning designation applicable to the project site, which assume residential uses at no less than 30 du/ac. The Town determined that development consistent with the Housing Element and zoning ordinance amendments would not have VMT impacts beyond what were analyzed in the certified 2040 General Plan Environmental Impact Report (EIR). Therefore, development of the project would not result in any new significant effects or increase the severity of previously identified transportation

effects related to transportation and circulation as compared with the 2040 General Plan EIR, and no subsequent VMT analysis is required. The 2040 GP EIR identified a significant and unavoidable impact (Impact T-2) related to the increase in VMT associated with the development and population growth facilitated by the 2040 General Plan. In accordance with the mitigation measure T-1 identified in the EIR, the project would be required to implement one or more VMT reduction strategies.

The retail and community spaces of the proposed Phase II Master Plan project are supportive of the proposed residential uses and are consistent with the approved North 40 Specific Plan, for which an EIR was previously prepared. Thus, further analysis of the transportation impacts under CEQA is not required.

The project is not required to analyze VMT for environmental clearance, as each component of the project is consistent with previously approved studies. Nevertheless, a VMT analysis was completed for informational purposes in accordance with the Town of Los Gatos' Transportation Impact Policy related to VMT.

Vehicle Miles Traveled

Methodology

Hexagon ran the latest VTA model for the 2020 base year. Year 2020 is the latest year the VTA model was updated and is typically used for baseline conditions. To isolate the project trips and VMT generated by the project, a separate Transportation Analysis Zone (TAZ) was added to the model's transportation network where the project is located. The project's 450 multi-family housing units, the job equivalent of 15,014 square feet of commercial space, and 3,000 square feet of community/civic space were added to the model's land use database. A complete model run for the project was performed, and the VMT per service population (the sum of the project's population and jobs) was calculated.

Thresholds of Significance

The Town Council adopted Resolution 2020-045, designating the use of VMT as the metric for conducting transportation analyses pursuant to the CEQA and establishing the thresholds of significance to comply with California Senate Bill 743. The thresholds balance the Town's priorities with respect to competing objectives, including Los Gatos's geographic and transportation context, greenhouse gas reduction goals, interest in achieving the state's greenhouse gas reduction goals, and the latest General Plan goals and policies related to land use mix, economic development, and housing provision. VMT analyses should evaluate a project's VMT impacts based on the thresholds established in the latest Council-adopted resolution. Consistent with State CEQA Guidelines Section 150643, the Town of Los Gatos has adopted the following two thresholds of significance to guide in determining when a land use project will have a significant transportation impact.

Project Generated VMT: A significant impact would occur if the total VMT per service population for the project would exceed a level of 11.3% below the total VMT per service population for the Town of Los Gatos baseline conditions.

Project Effect on VMT: A significant impact would occur if the project increases total (boundary) County-wide VMT by 6.5% compared to baseline conditions.

If either of the above thresholds are exceeded, the project would result in a significant impact.

VMT Assessment

The project, with a population of 1,177 residents and 33 jobs, would generate 28,653 daily VMT, resulting in 23.7 VMT per service population. The 2020 base year VMT was calculated from a complete model run by dividing the daily VMT generated by the Town's land uses (1,651,854) by the service population: $(36,948 \text{ population} + 19,324 \text{ jobs} = 56,272) = 29.4$.

Project Generated VMT: The threshold of significance is $100\% - 11.3\% = 88.7\%$ of the Town's Daily VMT per service population or $0.887 * 29.4 = 26.1$. Since the VMT / service population for the project is 23.7, which is less than 26.1, the project would not exceed this threshold.

Project Effect on VMT: The Countywide total boundary VMT is 37,244,566. The project would add 28,653 VMTs or an increase of **0.0769%**, which is less than 6.5% of baseline conditions. Therefore, the project would not exceed this threshold.

Since both the project generated VMT and project effect on VMT criteria are not met, it can be concluded that the project would have a *less than significant* effect on VMT, according to the Town's VMT impact criteria.

Cumulative Impacts

The above analysis of project generated VMT is based on VMT per service population, which is a metric framed in terms of efficiency. Such efficiency metrics from multiple developments cannot be summed due to the denominator. Because the project falls below the Town's efficiency-based impact threshold, is aligned with the Town's long-term environmental goals as expressed broadly in its General Plan, and is consistent with the residential density expressed in the Town's Housing Element, the project would have no cumulative impact distinct from the project impact. Accordingly, a finding of a less-than-significant project impact would imply a less than significant cumulative impact.

An analysis of the combined cumulative impact of past, current, and probable future projects may be appropriate for an absolute VMT metric, such as the Countywide total boundary VMT metric, which is the other metric used by the Town to evaluate transportation impacts. Such a CEQA evaluation of future year VMT impacts associated with the proposed Phase II Master Plan project and other cumulative developments was conducted as part of the 2040 General Plan EIR. As stated above, the 2040 General Plan EIR identified a significant and unavoidable impact related to the increase in VMT and adopted a program-based VMT mitigation approach. In accordance with the mitigation measure T-1 identified in the EIR, the project would be required to implement one or more VMT reduction strategies.