



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/29/2025

ITEM NO: 1

ADDENDUM

DATE: October 27, 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 27 includes public comments received between 11:01 a.m., Friday, October 24, 2025, and 11:00 a.m., Monday, October 27, 2025.

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
4. Applicant's Response to Consulting Architect's Report
5. Final Arborist 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 27, 2025

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

Received with this Addendum Report:

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

From: [REDACTED]
Sent: Monday, October 27, 2025 10:16 AM
To: Clerk <Clerk@losgatosca.gov>
Subject: Fwd: Emergency Request for Immediate Technical Assistance

[EXTERNAL SENDER]

Dear Ms Wood,

Please forward this email copy to the Planning Commission for their 10/29 meeting.

Thank You,

Jak Vannada

----- Forwarded message -----

From: [REDACTED]
Date: Mon, Oct 27, 2025 at 9:58 AM
Subject: Emergency Request for Immediate Technical Assistance
To: Ying, David@ [REDACTED]
Cc: Gustavo velasquez [REDACTED], Mayor Matthew Hudes Town Council <mhudes@losgatosca.gov>, Chris Constantin <manager@losgatosca.gov>, Gabrielle Whelan <GWhelan@losgatosca.gov>, Barbara Kautz [REDACTED]

Due to formatting issues I am having with email, I put this letter into .pdf format to make it easier to read. Please see attached.

Jak Van Nada -
Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters
www.lgca.town
[REDACTED]



October 26, 2025

David Ying [REDACTED]
Department of Housing and Community Development (HCD)
2020 West El Camino Avenue
Sacramento, CA 95833

CC: Mr. Gustavo Velasquez, Director HCD, Mayor Matthew Hudes, Town Manager Chris Constantin, Town Attorney Gabrielle Whelan; Barbara Kautz, Goldfarb Lipman

Re: Emergency Request for Immediate Technical Assistance – Town Attorney’s Directive to Apply Density Standards from a Rejected Housing Element

Dear Mr. Ying:

HCD’s immediate intervention is required. In my October 13, 2025 email to Town Attorney Gabrielle Whelan (see attached), she directed the Planning Commission to apply the 30 units/acre density standard from the January 30, 2023 Housing Element—which HCD found non-compliant on April 14, 2023—to the October 29 review of the North 40 applications.

This directive is contrary to controlling authority, including California Renters Legal Advocacy & Education Fund v. City of San Mateo (2021) 68 Cal.App.5th 820, 831–832, which holds that a noncompliant Housing Element has no legal effect for purposes of the Housing Accountability Act (HAA). See also Gov. Code §§ 65585(b), (h).

I. The Town Attorney’s Directive Is Legally Invalid

Attorney Whelan’s email (attached) asserts:

- The project “should be evaluated against the 30 units/acre standard, because it vested after the Town’s adoption of the January 30, 2023 Housing Element.”
- The Builder’s Remedy density is “125 units/acre ($3 \times 30 + 35$).”
- Grosvenor “elected to be reviewed under the density range allowed by the Housing Element.”
- Each assertion depends on the premise that the January 30, 2023, Housing Element remained legally operative despite HCD’s explicit finding of noncompliance on April 14, 2023. This directly conflicts with California Renters, which held that a noncompliant element lacks legal force for HAA purposes until certified by HCD.

II. Immediate HCD Action Is Required – Delay Will Entrench Legal Error

HCD previously indicated it could wait to provide assistance until after the Planning Commission meeting. That is untenable because:

1. Statutory Hearing Limits – Gov. Code § 65589.5(o) restricts continuances. Hearings held under erroneous legal assumptions cannot be undone.
2. Administrative Record Prejudice – Findings adopting the 30 du/ac standard or 125 du/ac Builder's Remedy calculation will become embedded in the record and later constrain judicial review.
3. Proactive Duty Under § 65585(g) – HCD must prevent violations, not merely comment after the Commission makes determinations based on invalid standards.

III. Legal Errors Embedded in the Town Attorney's Position

A. Misstated "Election" Between Housing Element and Baseline Zoning

The HAA allows applicants to elect between statutory versions of § 65589.5 (Gov. Code § 65589.5(f)(7)(A)), not between legally invalid Housing Element densities and baseline zoning. Baseline zoning for both North 40 projects is 20 du/ac under the North 40 Specific Plan/HEOZ zoning (Town Code § 9.80.510(6)(b)). Allowing Grosvenor to use a rejected element while holding others to baseline zoning creates inconsistent, unequal treatment in violation of Gov. Code § 65589.5(d)(1).

B. Builder's Remedy Density Is Miscalculated

The Town attorney's formula— $(3 \times 30) + 35 = 125$ du/ac—assumes a 30 du/ac baseline. Correct baseline zoning is 20 du/ac, resulting in: $(3 \times 20) + 35 = 95$ du/ac

Nothing in the HAA authorizes Builder's Remedy projects to use densities from a noncompliant Housing Element.

C. Invalid Reliance on Site Inventory for "Suitability"

The Town asserts the North 40 sites were "identified as suitable" under Gov. Code § 65589.5(d)(5)(A) because they appear in the rejected January 2023 inventory. This is legally unsound:

- Gov. Code § 65583.2 requires the inventory to be in a compliant Housing Element.
- *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2018) 26 Cal.App.5th 596, 657–658 confirms that Housing Element inventories lacking HCD certification are not legally operative.

IV. Concrete Harm if HCD Does Not Act Before October 29 Hearing

If HCD remains silent, the Planning Commission will:

- Make findings that the 2023 Housing Element “allowed 30 du/ac” despite having no legal effect
- Use 125 du/ac instead of 95 du/ac to calculate Builder’s Remedy density;
- Accept a false “election” theory available only to Grosvenor;
- Treat a rejected site inventory as establishing suitability.

V. Requested Immediate HCD Action

HCD must provide written technical assistance confirming:

1. The January 30, 2023 Housing Element had no legal effect from April 14, 2023 until certification in June 2024;
2. The 30 du/ac standard cannot be used for vesting, Builder’s Remedy calculations, site suitability, or applicant “elections”
3. Correct baseline density for North 40 is 20 du/ac
4. Builder’s Remedy density is 95 du/ac, not 125 du/ac
5. The rejected inventory cannot establish § 65589.5(d)(5)(A) site suitability
6. Attorney Whelan’s directive conflicts with California Renters and Gov. Code §§ 65585 and 65589.5.

Respectfully

*Jak Van Nada -
Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters
www.lgca.town*

