



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/29/2025

ITEM NO: 1

DATE: October 24, 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.

RECOMMENDATION:

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 (HEOZ), located at 14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270 Burton Road; and Assessor Parcel Number 424-07-116.

PROJECT DATA:

General Plan Designation: North Forty Specific Plan (NF-SP)
Zoning Designation: NF-SP:HEOZ, Housing Element Overlay Zone
Applicable Plans & Standards: General Plan; Objective Design Standards for Qualifying

PREPARED BY: Jocelyn Shoopman
Senior Planner

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

Multi-Family and Mixed-Use Residential Development; and
NF-SP

Parcel Size: 682,017 square feet (15.65 acres)

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential and Commercial	NF-SP	NF-SP:HEOZ
South	Residential	NF-SP	NF-SP:HEOZ
East	Residential and Commercial	Mixed Use Commercial	R-1:10, C-1, CH:PD, and NF-SP
West	Highway 17	N/A	N/A and NF-SP

CEQA:

An Initial Study (Exhibit 21) was prepared for the project concluding that additional environmental review is not necessary pursuant to California Environmental Quality Act (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.

FINDINGS:

- As required, additional environmental review is not necessary pursuant to CEQA Guidelines Sections 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 required that the project is consistent with the General Plan with the incentives, concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law;
- As required by Section 66474 of the Subdivision Map Act;
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law;
- The project meets the objective standards of the North Forty Specific Plan with the incentives, concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law;
- The project meets the Town of Los Gatos Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development with the waivers requested pursuant to State Density Bonus Law;
- As required by State Density Bonus Law for granting concessions pursuant to California Government Code Section 65915 (d) and for granting waivers pursuant to California Government Code Section 65915 (a)(2); and

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- As required by California Government Code Section 65863 regarding state RHNA requirements, the Town's Housing Element Sites Inventory, and No Net Loss Law.

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application.

ACTION:

The Planning Commission will provide a recommendation to the Town Council who will render the final decision on the proposal.

BACKGROUND:

On April 30, 2025, the Planning Commission held a special meeting to consider the request, take public comment, and discuss the project. The Planning Commission continued the item to a date uncertain pending completion of the environmental analysis.

As discussed in the April 30, 2025, staff report, the Housing Crisis Act of 2019, or SB 330 statute, requires that a final decision on a project be made in no more than five public hearings, including appeals. The SB 330 preliminary application for this project achieved a vesting date of April 18, 2023. The Planning Commission meeting of October 29, 2025, is the second public hearing for this application.

A. Housing Accountability Act

The Housing Accountability Act (“HAA”) is codified at Government Code Section 65589.5. Per the HAA, a local agency may not deny, reduce the density of, or make infeasible housing development projects that are affordable to low- or moderate-income households and are consistent with local objective development standards.

In order for a development to qualify for the protections under the HAA it must meet the definition of a “housing development project.” Furthermore, for a project to qualify for the affordable housing protections, it must also meet the definition of “Housing for very low-, low-, or moderate-income households.”

1) What is an eligible housing development project?

Pursuant to Government Code Section 65589.5(h)(2), a “housing development project” is a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage

designated for residential use, or transitional or supportive housing. Because the term “units” is plural, a development must consist of more than one unit to qualify under the HAA. The development can consist of attached or detached units and may occupy more than one parcel, so long as the development is included in the same development application.

Pursuant to Government Code Section 65589.5(h)(3), “a housing development affordable to lower- or moderate- income households” means a project that provides either of the following:

- At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code, § 50079.5, which is 80 percent of area median income.
- 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those persons and families whose incomes are 80 percent to 120 percent of area median income (Health and Safety Code, § 50093.) Middle-income households are those persons and families whose income does not exceed 150 percent of area median income (Gov. Code, § 65008 subd. (c).)

In addition, the rent or sales prices of the affordable housing that is provided cannot exceed the following:

- For lower-income units, the monthly housing cost does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based.
- For moderate-income units, the monthly housing cost does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

2) What are Objective Development Standards?

Pursuant to Government Code Section 65589.5(f), local agencies are not prohibited from requiring a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies that were in effect at the time of project vesting. Those standards, conditions, and policies must meet the following criteria:

- Be appropriate to, and consistent with, meeting the local agency’s share of its Regional Housing Needs Allocation;

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- Be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development; and
- Meet the definition of “objective.” Objective standards are those that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and the public official.

3) HAA Provisions Addressing Disapproval of Housing Development Projects

Pursuant to Government Code Section 65589.5, the HAA limits, but does not prohibit a local agency from disapproving a housing development project. The HAA defines “disapproval” to include the following:

- A vote to disapprove a housing development project application.
- Failure to comply with statutory deadlines for a decision, including, but not limited to:
 - o 90 days after certification of an environmental impact report pursuant to the California Environmental Quality Act (“CEQA”);
 - o 60 days from the date of adoption of a negative declaration pursuant to CEQA;
 - o 60 days from a determination by the local agency that the project is exempt from CEQA.

The foregoing is a non-exhaustive list of the local agency actions that constitute “disapproval” of a housing development project under the HAA.

4) Ability to Impose Development Conditions

The HAA does not prohibit a local agency from imposing conditions of approval on housing development projects. However, the HAA limits the application of conditions that lower the residential density of the project and, for housing affordable to low- and moderate-income households, would render the project economically infeasible or would have a substantial adverse effect on the viability of the proposed housing -- unless specific findings are made and supported by a preponderance of evidence in the record. The “preponderance of the evidence” standard requires that local agencies weigh the evidence and conclude that the evidence on one side outweighs the evidence on the other side (i.e. 51 percent to 49 percent).

5) Determination of Consistency with Applicable Standards is Based on “Reasonable Person” Standard

In most cases, courts will uphold an agency’s determination if there is “substantial evidence” to support that determination. “Substantial evidence” means that there is

reasonable, adequate evidence in the administrative record to support of the agency's findings. However, when a project is subject to the HAA, a housing development project will be deemed consistent with local standards if there is substantial evidence that could allow a "reasonable person" to conclude that it is consistent.

6) Application of State Density Bonus Law

The use of a density bonus pursuant to state density bonus law does not constitute a valid basis on which to find a proposed housing development project is inconsistent with local standards. Here, with the use of incentives, concessions, and waivers that are available pursuant to state density bonus law, the project is consistent with Town standards. However, in order to be eligible for these incentives, concessions, and waivers, the applicant must "seek and agree" to build affordable housing.

7) Denial of a Housing Project that is Consistent with Local Standards

When a proposed housing development complies with applicable local standards, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall adopt written findings supported by a preponderance of the evidence that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.
- There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing project or the approval of the project upon the condition that it be developed at a lower density. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

8) Denial or Conditioning of Affordable Housing Affordable to Low- and Moderate-Income Households

The HAA specifies findings that local agencies must make if they wish to deny a housing development project that provides housing affordable to low- or moderate-income households, or condition such a project so as to render it infeasible or have a substantial adverse effect on the viability or affordability of the project. These findings are in addition to the findings described above. Under the version of the HAA that was in effect at the time that the preliminary application for this project was submitted, the local agency must make one of the following specific findings based upon a preponderance of the evidence:

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- The local government has an adopted Housing Element and has met its share of the RHNA in all income categories proposed in the housing development project.
- The housing development project would have a specific, adverse impact upon public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the project unaffordable or financially infeasible.
- Denial of the housing project or the imposition of conditions is required to comply with specific state or federal law, and there is no feasible method to comply without rendering the project unaffordable to low- and moderate-income households.
- The housing development project is proposed on land zoned for agriculture or resource preservation that is either 1) surrounded on two sides by land being used for agriculture or resource preservation; or 2) does not have adequate water or wastewater facilities to serve the housing development project.
- The housing development project meets both of the following conditions:
 - o Is inconsistent with both the zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete. This finding cannot be used when the project is inconsistent with one but is consistent with the other.
 - o The local government has an adopted Housing Element in substantial compliance with state housing element law.
 - o This finding cannot be used when:
 - The project is proposed for a site identified as suitable or available for very low, low, or moderate-income households within the Housing Element and the project is consistent with the specified density identified in the Housing Element.
 - The local agency has failed to identify sufficient adequate sites in its inventory to accommodate its RHNA, and the project is proposed on a site identified in any Element of its General Plan for residential use or in a commercial zone where residential uses are permitted or conditionally permitted.

In September 2024, the California State Legislature passed, and the Governor signed into law, Assembly Bill 1893, which went into effect on January 1, 2025. AB 1893 made revisions to the findings in subsection (d) of Government Code Section 65589.5. However, 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.

9) Violations of the HAA

If a plaintiff alleges an HAA violation and prevails, the court must issue an order compelling compliance with the HAA in 60 days. The court may also issue an order directing the local agency to approve the project. If the plaintiff prevails, the court

awards attorney fees and costs to the plaintiff. If the local agency fails to comply with the order, the court must impose a minimum fine of \$10,000 per housing unit.

B. Explanation of Concessions/Incentives and Waivers

The applicant is seeking to use state density bonus law, which is codified at Government Code Sections 65915 through 65918.

The intent of state density bonus law is to encourage builders and local governments to include low- and moderate-income housing units in proposed developments. Under the statutes, the local authority must grant a density bonus or other specified incentives or concessions to a developer who “seeks and agrees” to build affordable housing.

Concessions and Incentives

So long as the required percentage of affordable housing is provided, a developer may opt to request “concessions and incentives” without seeking the density bonus. A local agency may decline to grant the concessions or incentives only under certain limited circumstances set forth in Government Code Section 65915(d). Those circumstances are:

- 1) The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing;
- 2) The concession or incentive would result in a “specific adverse impact . . . upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources,” which cannot be feasibly mitigated without rendering the development unaffordable to low-income and moderate-income households; or
- 3) The concession or incentive would be contrary to state or federal law. (Gov. Code Section 65915(d)(1)(A)-(C).)

Concessions and incentives include the following:

- 1) Reduction in site development standards;
- 2) Modifications of zoning or architectural design requirements that exceed state standards;
- 3) Approval of mixed-use zoning in conjunction with the project if commercial, office, industrial, or other land uses will reduce the cost of, and are compatible with, the development; and
- 4) Any other regulatory incentive or concession proposed by either party that results in “identifiable and actual cost reductions to provide for affordable housing costs” or to provide for affordable rents. (Gov. Code Section 65915(k).)

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Under the statute, two incentives or concessions are granted for projects that include at least 17 percent of the total units for lower income households. This applicant is proposing a project with 17 percent of the residential units affordable for lower income households and is therefore entitled to two incentives or concessions.

This applicant is seeking two incentives or concessions.

The first request is to eliminate the requirement for commercial uses on the ground floor of the townhomes and affordable multi-family apartment building (Exhibit 24). The applicant states that this will result in a cost reduction in that although portions of the Project incorporate commercial elements, it is not financially feasible to develop commercial spaces on the ground floor of all the buildings on the Project site. Therefore, eliminating this development standard will result in cost savings to help provide the level of affordability proposed.

The second request is to deviate from the Town's Below Market Rate Program Guidelines. The Town's Below Market Rate Program Guidelines provide that affordable units are to be provided concurrently with market rate units:

"Phasing of the Construction of On- and Off-Site BMP Units: On- and off-site BMP units shall be constructed and Certificates of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to these phasing requirements during the Planned Development approval process."

The applicant is asking to build 127 market-rate townhomes before constructing any affordable units. The applicant states that this will provide for a "cost reduction" in that the applicant will receive cash for the sale of the townhome parcels, which can be used to fund the project infrastructure and will reduce the need for financing and the associated interest payments. In staff's view, this explanation satisfies the legal standard for establishing a cost reduction. If the Town disagrees, the burden is on the Town to produce evidence that there is no cost reduction associated with the requested incentive or concession.

However, state density bonus law only applies if an applicant is "seeking and agreeing" to build affordable housing. In this application, the applicant is proposing to build affordable housing, but is not committing to do so.

For that reason, staff recommends imposing the Town's standard Below Market Program condition of approval, which requires that the same ratio (here, 17%) of affordable units to market rate units be provided throughout construction.

The applicant has proposed an alternative condition of approval, which would provide that 127 market rate townhomes could be built first and that, if the 255-unit multi-family

apartment building is built before the 100% affordable housing project, the 67 affordable units will need to be included in the 255-unit multi-family building in addition to the ten proposed to be included already. The applicant's proposed condition of approval is included for the Planning Commission's consideration in Exhibit 24.

In discussions with the applicant, the following additional proposed conditions of approval were proposed, but the applicant declined to agree to them:

- 1) Include a deadline for development of either the 100% affordable housing building or the multi-family apartment building.
- 2) Limit the number of building permits issued for the townhomes until building permits are pulled for the affordable units.
- 3) Make a deposit to be used toward the development of affordable housing if the affordable housing units are not constructed within a specified period of time.
- 4) Pay a penalty for each affordable unit that has not been constructed within three years of pulling the first townhome building permit.

In Phase 1 of the project, the BMP condition of approval read as follows:

"BMP Units. BMP applicants shall be qualified by the Santa Clara Housing Authority. The affordable units shall be required to be maintained for the term required under state density bonus law or for the life of the buildings, whichever is longer. The developer shall enter into an Affordable Housing Agreement with the Town prior to issuance of building permits. The proposed BMP units must be available and/or occupied prior to final occupancy issuance for the 187th market rate unit."

Waivers of Development Standards

Applicants are eligible for unlimited waivers of development standards when they "seek and agree" to provide affordable housing. This applicant is also requesting waivers from the Town's development standards. A local agency may not apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria for density bonuses set forth in Government Code Section 65915(b) or with the concessions or incentives permitted by Government Code Section 65915.

One waiver that this applicant is seeking is a waiver of the Town's setback requirement in the North 40 Specific Plan. Section 2.5.7 of the North 40 Specific Plan, "Perimeter Overlay Zone," requires that "buildings or portions of buildings located within 50 feet of Los Gatos Boulevard shall be restricted to a maximum building height of 25 feet." The applicant is proposing a 100-foot building to be located 20 feet from Los Gatos Boulevard.

C. BMP Unit Phasing

The applicant has proposed that the 127 market rate townhomes be constructed first. The applicant's stated rationale is that the profits from the sale of the townhome parcel are needed in order to fund the required project infrastructure, which will reduce the cost of project financing.

The applicant anticipates that the 100% affordable housing project will be built by Eden Housing after construction of the townhomes. In the event that the 100% affordable housing project has not begun construction when the townhomes have been finished, the applicant will include all of the required affordable units in the multi-family apartment building with the ability to transfer the affordability restrictions to the 100% affordable housing project in the future. The applicant's proposal does not include a timeline by which the affordable housing units will be built.

Over many months, Town staff and the applicant have discussed a wide variety of options to guarantee that construction of the affordable units will start by a specified date. The options discussed included:

- 1) Requiring that affordable units be constructed along with market-rate units, such that 17% of the constructed units are affordable at all times during construction.
- 2) Requiring that construction on the affordable units begin after a specified number of townhomes, but not all 127 townhomes, have been built.¹
- 3) Imposing a monetary penalty if the affordable units have not been built by a specified date.
- 4) Requiring a deposit that will be forfeited if the affordable units have not been built by a specified date.

To date, the applicant has not been able to guarantee that construction of the affordable units will start by a specified date. Staff is recommending that the Planning Commission recommend option #1 above to the Town Council for consideration. Staff and the applicant will be prepared to discuss the other options at the public hearing.

D. No Net Loss Law

Pursuant to Government Code Section 65863 (No Net Loss Law), the Town must maintain adequate capacity in the Housing Element to accommodate its remaining unmet Regional Housing Needs Assessment (RHNA) by each income category at all times throughout the entire planning period. To comply with the No Net Loss Law, as the Town makes decisions

¹ Staff is currently gathering information regarding whether such a condition of approval would render the project "economically infeasible," which is prohibited by the state Housing Accountability Act.

regarding zoning and land use, or as development is approved, the Town must assess whether it has adequate site capacity in the Housing Element to accommodate its RHNA at all income levels. If the Town approves a development of a parcel identified in the Housing Element with fewer units than anticipated, or at different income levels than projected, the Town must either find that the remaining capacity of the sites identified in the Housing Element is sufficient to accommodate the remaining unmet RHNA by each income level or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category.

If a developer proposes fewer units than shown in the Housing Element, then the developer may be required to identify additional sites if the Town does not have adequate capacity for its total RHNA. However, If the approval of a housing development results in the remaining sites capacity becoming inadequate to accommodate the RHNA by income category, the Town may not disapprove the development but has up to 180 days from the approval to identify and rezone, "sufficient additional, adequate, and available sites" to accommodate the remaining RHNA for each income category. Sites identified and rezoned must meet the following criteria:

- Must be considered an adequate site pursuant to the requirements of Government Code section 65583.2; and
- If the capacity to be replaced was on a site that was zoned by-right pursuant to Government Code section 65863.2 (h) and (i), then the replacement site must also satisfy those requirements.

As described in the table below, the project provides fewer Very Low-, Low-, and Moderate-Income units than anticipated in the Sites Inventory of the Housing Element, but more Above Moderate-Income units.

No Net Loss Evaluation					
Proposed Project's Impact on the Anticipated Development in the Housing Element Sites Inventory					
	Units by Income Category				
	Very Low	Low	Moderate	Above Moderate	Net Total
Anticipated Development Included in the Housing Element Sites Inventory	184	89	92	87	464
Proposed Project	67	10	0	373	450
Net Site-Level Impact from the Proposed Project to the Housing Element Sites Inventory	-117	-79	-92	+286	-14

Table A, Table B, and Table C on the following pages show that after project approval, the remaining capacity of the Sites Inventory will become inadequate to accommodate the very

low and moderate-income RHNA categories. The evaluation procedure for the creation of the tables below were created using the HCD Technical Memorandum on No Net Loss.

Pursuant to No Net Loss law, 180 days from approval of a project, the Town must identify and rezone available sites to accommodate the remaining RHNA for each income category.

The following table shows that the cumulative impact of the project on the capacity of the Housing Element creates a negative surplus in the Very Low and Moderate income categories. Therefore, the remaining capacity of the Housing Element is not adequate to meet the Town's remaining RHNA requirements. The No Net Loss findings cannot be made, and the Town is required to identify additional site(s) to accommodate the remaining RHNA should this project be approved.

No Net Loss Evaluation					
Evaluation of the Proposed Project's Impact on the Cumulative Housing Element Sites Inventory Surplus					
	Units by Income Category				
	Very Low	Low	Moderate	Above Moderate	Net Total
Housing Element Sites Inventory Surplus	101	78	138	558	601
Net Site-Level Impact from the Proposed Project to Housing Element Assumed Development Potential	-117	-79	-92	286	-14
Remaining Housing Element Sites Inventory Surplus with Project Approval	-16	33	-6	122	898

E. CEQA Determination

The Town Council adopted the 2040 General Plan and certified the 2040 General Plan EIR on June 30, 2022. On April 2, 2024, the Town Council voted to rescind the Land Use Element and Community Design Element of the 2040 General Plan. Therefore, the Town's current General Plan consists of the Land Use Element and Community Design Element of the 2020 General Plan, and the remaining elements of the 2040 General Plan.

CEQA Guidelines Section 15183 provides that a programmatic EIR, in this case the 2040 General Plan EIR, may serve as the EIR for subsequent activities or implementing actions, provided that it contemplates and adequately analyzes the potential environmental impacts of those subsequent activities. If the Town, as the CEQA Lead Agency, determines, pursuant to Section 15183 of the CEQA Guidelines, no Subsequent EIR would be required, the agency can approve the activity as being within the scope of

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the project covered by the programmatic EIR, and new environmental documentation would not be required.

In accordance with Section 15183 of the CEQA Guidelines, an Initial Study Checklist (Exhibit 21) was prepared to provide project-level consideration of potential new or more severe significant impacts associated with the proposed project to determine whether the project: 1) is within the scope of activities evaluated in the 2040 General Plan EIR; and 2) would trigger any of the criteria in CEQA Guidelines Section 15183.

The Initial Study includes a number of project-level technical studies, including: an Air Quality, Health Risk, and Greenhouse Gas Assessment; Noise Assessment; Arborist Report; and Transportation Analysis (Exhibit 21). All technical reports were peer reviewed by the Town or the Town's consultants. The Initial Study determined that the project's environmental impacts have been considered in the 2040 General Plan EIR that was certified by the Town, which remains relevant, and the conditions set forth in Section 15183 are not triggered by the proposed project. In addition, the analysis determined that the proposed project is within the scope of activities evaluated in the 2040 General Plan EIR and the Environmental Analysis for the 6th Cycle Housing Element. As such, this Initial Study is the appropriate environmental document for the proposed project, pursuant to CEQA Guidelines Section 15183 and no additional environmental review is necessary.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 1,000 feet of the subject property and notice of public hearing signage was installed on the street frontages in anticipation of the October 29, 2025, Planning Commission meeting.

Staff conducted outreach through the following media and social media resources, for the notice of the public hearing:

- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

Public comments received by 11:00 a.m., Friday, October 24, 2025, are included as Exhibit X.

CONCLUSION:

A. Summary

The applicant is requesting approval of Architecture and Site and Subdivision applications 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 SB 330 on property zoned NF-SP:HEOZ, located at 14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270 Burton Road; and Assessor Parcel Number 424-07-116. As detailed above, a preliminary application was submitted under SB 330. The project qualifies for two concessions and unlimited waivers under SDBL. The application meets the definition of a builder's remedy project, but the applicant has requested that the project be reviewed under the January 2023 Housing Element and the NF-SP zoning and has not cited provisions of the HAA regarding the builder's remedy that became effective January 1, 2025. The deviations from the Town's standards included in the project are requested exclusively through SDBL for which the applicant has provided justification (Exhibit 24).

B. Recommendation

Staff recommends that the Planning Commission consider the request and, if merit is found with the proposed project, forward a recommendation that the Town Council approve the Architecture and Site and Subdivision applications by taking the following actions:

1. Make the finding that additional environmental review is not necessary pursuant to CEQA Guidelines Sections 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 (Exhibit 22);
2. Make the finding that the project is consistent with the General Plan with the incentives, concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law (Exhibit 22);
3. Make the finding that the proposed project complies with Section 66474 of the State Subdivision Map Act and make affirmative findings to approve the subdivision (Exhibit 22);
4. Make the finding that the project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law (Exhibit 22);
5. The project meets the objective standards of the North Forty Specific Plan with the incentives, concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law (Exhibit 22);
6. The project meets the Town of Los Gatos Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development with the waivers requested pursuant to State Density Bonus Law (Exhibit 22);

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7. Make the affirmative findings as required by State Density Bonus Law for granting concessions pursuant to California Government Code Section 65915 (d) and for granting waivers pursuant to California Government Code Section 65915 (a)(2) (Exhibit 22);
8. Make the findings that the proposed project complies with California Government Code Section 65863 regarding state RHNA requirements, the Town's Housing Element Sites Inventory, and No Net Loss Law (Exhibit 22); and
9. Make the considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 22);
10. Approve Architecture and Site Application S-23-031 and Subdivision Application M-23-005 with the recommended conditions contained in Exhibit 23 and the development plans in Exhibits 11 through 16.

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Recommend approval of the applications with additional and/or modified conditions; or
3. Recommend denial of the applications.

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
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

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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 24, 2025

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

Received with this 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

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PLANNING COMMISSION – October 29, 2025

REQUIRED FINDINGS AND CONSIDERATIONS FOR:

14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270 Burton Road; and Assessor Parcel Number 424-07-116

**Architecture and Site Application S-23-031
and Subdivision Application M-23-005**

Consider a Request for Approval 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. 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.

Property Owner: Yuki Farms LLC

Applicant: Grosvenor Property Americas c/o Steve Buster

Project Planner: Jocelyn Shoopman

FINDINGS

Required finding for CEQA:

- An Initial Study was prepared for the project concluding that additional environmental review is not necessary pursuant to California Environmental Quality Act (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.

Required finding for consistency with the Town's General Plan:

- That the project is consistent with the General Plan with the incentives, concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law.

Required findings to deny a Subdivision application:

- As required by Section 66474 of the State Subdivision Map Act, the map shall be denied if any of the following findings are made: **None of the findings could be made to deny the application.**

Instead, the Town Council makes the following affirmative findings:

- a. That the proposed map is consistent with all elements of the General Plan.
- b. That the design and improvement of the proposed subdivision is consistent with all elements of the General Plan.
- c. That the site is physically suitable for the type of development.
- d. That the site is physically suitable for the proposed density of development
- e. That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat
- f. That the design of the subdivision and type of improvements is not likely to cause serious public health problems.
- g. That the design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

Required compliance with the Zoning Regulations:

- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law.

Required compliance with the North Forty Specific Plan:

- The project meets the objective standards of the North 40 Specific Plan with the concessions, waivers, and parking reductions requested pursuant to State Density Bonus Law.

Required compliance with the Town of Los Gatos Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development:

- The project meets the Town of Los Gatos Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development with the waivers requested pursuant to State Density Bonus Law.

Required for granting concession and waivers pursuant through State Density Bonus Law:

Concession(s) or incentive(s)

- CA Government Code Section 65915:

- (d) The Town shall grant concession(s) or incentive(s) requested by the applicant unless the Town makes a written finding, based upon substantial evidence, of any of the following:
 - (A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs,

as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or 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.

(C) The concession or incentive would be contrary to state or federal law.

Waivers

- CA Government Code Section 65915 (a)(2):

The Town shall grant waivers to the Town's development standards requested by the applicant unless the Town makes a written finding, based upon substantial evidence, that the development standard for which the waiver is requested would not physically preclude the construction of the development at the densities and with the concession permitted through State Density Bonus Law.

Required finding pursuant to state density bonus law and the state Housing Accountability Act for imposition of the condition regarding construction of the affordable housing units:

1. In accordance with Government Code Section 65915(d)(1)(C), the Town finds that the applicant's requested incentive/concession to phase or delay development of the below market price units until after all of the market rate townhomes have been developed, with no schedule for developing the affordable units or evidence that financing can be obtained for the affordable units, is contrary to state law, as follows:
 - a. The Housing Crisis Act of 2019 (Government Code Sections 66300.5 and 66300.6) provides that the Town shall not approve a housing development project that proposes to demolish one or more protected units (as that term is defined in state law) unless the housing development project will replace each demolished protected unit with a comparable new unit in the new development and provide each lower-income household that is displaced with a right to return to a comparable unit in the new development at a rent and housing cost that is affordable to their household. There are currently eight residential dwelling units on the project site, which will be demolished in order to develop the project. Four of these units qualify as a "protected unit" because they have or have been occupied by a lower-income household in the past five years. As proposed with the requested incentive/concession, the project is contrary to state law because the protected units will be demolished with no assurance that they will ever be

replaced with comparable and affordable units in the new development and that the lower-income households residing in those protected units will be provided with a right to return.

b. State density bonus law requires that the applicant agree to construct housing development containing specified percentages of affordable units to be eligible for incentives, concessions, and waivers. As proposed, the requested incentive/concession is contrary to state law, because the applicant has not agreed to construct the required affordable units needed to entitle the project to two concessions and numerous waivers of development standards.

2. Because the requested concession is contrary to state law, the Town denies the concession.

3. To ensure that the project complies with state law and to maintain the project's eligibility for the requested concessions and waivers, the Town is adopting a condition of approval to require that the affordable units be constructed concurrently with the rest of the project.

4. In accordance with Government Code Section 65589.5, the Town finds that the condition of approval related to the provision of affordable units is necessary for the project to comply with state law and the Town's standards and policies, which are consistent with meeting the Town's share of the regional housing need pursuant to Section 65584, because:

- Government Code Section 65915 (b)(1) and (d)(2) required that the applicant provide 17% of the total units in the project as affordable to lower-income households in order to be eligible for a density bonus, two incentives/concessions, and waivers; and
- The Town's Below Market Price housing regulations require that 20% of the market-rate housing units be affordable to low-income households.

Required finding for consistency with California Government Code Section 65863 regarding state RHNA requirements, the Town's Housing Element Sites Inventory, and No Net Loss Law:

As required by Government Code Section 65863 to approve this housing development project, the Town makes the following No-Net-Loss findings:

- The applicant proposes a housing development project on one or more parcels identified in the Sites Inventory of the Town's Housing Element;
- The applicant proposes to provide fewer units by income category than was identified for those parcels in the sites inventory. Specifically, the project will provide fewer Very Low- and Moderate-Income units than identified in the Housing Element Sites Inventory, but will provide more Low- and Above Moderate-Income units;
- The remaining sites identified in the Sites Inventory of the Town's Housing Element are not adequate to meet the requirements of Section 65583.2 and to accommodate

the Town's regional housing needs allocation (RHNA) for the planning period by income category, specifically its RHNA for the Very Low- and Moderate-Income categories pursuant to Section 65584;

- The remaining unmet need for the Town's RHNA at each income level and the remaining capacity of the sites in the Town's Housing Element are quantified in the table below, which is incorporated in the Town's findings; and
- Within 180 days of approval of the project, the Town will identify and rezone additional site(s) to accommodate its remaining RHNA for the Very Low- and Moderate-Income categories.

No Net Loss Evaluation					
Evaluation of the Proposed Project's Impact on the Cumulative Housing Element Sites Inventory Surplus					
	Units by Income Category				
	Very Low	Low	Moderate	Above Moderate	Net Total
Housing Element Sites Inventory Surplus	101	78	138	558	601
Net Site-Level Impact from the Proposed Project to Housing Element Assumed Development Potential	-117	-79	-92	286	-14
Remaining Housing Element Sites Inventory Surplus with Project Approval	-16	33	-6	122	898

CONSIDERATIONS

Required considerations in review of Architecture and Site applications:

- As required by Section 29.20.150 of the Town Code, the applicable considerations in review of an Architecture and Site application were all made in reviewing this project.

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PLANNING COMMISSION – October 29, 2025
CONDITIONS OF APPROVAL

14859, 14917, and 14925 Los Gatos Boulevard; 16250, 16260, 16270, and 16392 Burton Road; and Assessor Parcel Number 424-07-116

Architecture and Site Application S-23-031

Subdivision Application M-23-005

Consider a Request for Approval 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. 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.

Property Owner: Yuki Farms LLC

Applicant: Grosvenor Property Americas c/o Steve Buster

Project Planner: Jocelyn Shoopman

TO THE SATISFACTION OF THE COMMUNITY DEVELOPMENT DIRECTOR:

Planning Division

1. APPROVAL: This project is vested to the ordinances, policies, and standards in effect on April 17, 2023, and these conditions of approval conform to those ordinances, policies, and standards. This application shall be completed in accordance with all of the conditions of approval and in substantial compliance with the approved plans. Any changes or modifications to the approved plans and/or business operation shall be approved by the Community Development Director, DRC, or the Planning Commission depending on the scope of the changes.
2. EXPIRATION: The approval will expire upon the later to occur of expiration of the vesting tentative map or two- and one-half years from the final approval date, pursuant to subparagraph (D) of paragraph (2) of subdivision (o) of Section 65589.5 of the Government Code, unless the project has commenced construction. If the final subdivision map is recorded in phases, the life of the approval will be extended pursuant to Section 66452.6.
3. BELOW MARKET PRICE (BMP) UNITS, MIXED-USE BUILDING: The developer shall provide 10 BMP units (low-income) as part of the mixed-use building (Building E1). "BMP Units" are dwelling units to be rented at affordable rent to lower income households for a 55-year period, as defined by the Town's applicable BMP Program Guidelines and the applicable BMP Resolution, state density

bonus law (Government Code Section 65915 *et seq.*), and the Housing Accountability Act (Government Code Section 65589.5). A deed restriction shall be recorded prior to the issuance of any building permits for residential units in the mixed-use building providing for 10 BMP Units in Building E1.

4. BELOW MARKET PRICE (BMP) UNITS, AFFORDABLE BUILDING: The developer shall provide 67 BMP Units as part of the affordable housing building (Building G1). A deed restriction shall be recorded prior to the issuance of any building permits for residential units in the affordable housing building providing for 67 BMP units in Building G1.
5. AFFORDABLE HOUSING AGREEMENT: Prior to approval of any final or parcel map or issuance of any building permit for a residential unit, whichever occurs first, the developer shall execute and record an Affordable Housing Agreement with the Town in a form subject to the Town Attorney's approval. The Affordable Housing Agreement shall provide for construction of the required BMP Units and facilitate their rental pursuant to applicable provisions of the BMP Program Guidelines and BMP Resolution in place as of April 17, 2023, state density bonus law, and the Housing Accountability Act. The applicant may satisfy this condition through the recordation of the Affordable Housing Agreement described in Condition 6.
6. PHASING OF THE CONSTRUCTION OF BMP UNITS: Sufficient units to qualify the project for two incentives or concessions under the State Density Bonus Law under subdivision (e) of Section 65915 of the Government Code (i.e., 77 BMP Units of the project's 450 units) shall be restricted for occupancy by lower income households, as defined by Section 50079.5 of the Health and Safety Code, at rents affordable to the assumed household size for each restricted unit. Such units shall constitute the project's BMP Units.

Prior to the approval of any final or parcel map or issuance of any building permits for residential units, whichever occurs first, the applicant shall execute and record an Affordable Housing Agreement in a form subject to the Town Attorney's reasonable approval. The Affordable Housing Agreement shall require Lot 19 as shown on the vesting tentative map to be developed for 68 units, consisting of 67 BMP Units to be rented to lower income households and one unrestricted manager's unit to remain affordable for a minimum of 55 years.

The Affordable Housing Agreement shall also require the applicant to provide at least 10 BMP Units affordable to lower income households in Building E1 on Lot 18 as shown on the vesting tentative map.

The BMP Units shall be constructed, and building permits and Certificates of Occupancy secured, so that at all times at least 17 percent of the residential units with building permits and Certificates of Occupancy are lower income BMP Units. If BMP units are provided in the project in addition to those planned to be

included in Buildings E1 and G1, the number of BMP Units required in Buildings E1 and G1 may be reduced, so long as at least 17 percent of the residential units with building permits and Certificates of Occupancy are BMP Units.

The Affordable Housing Agreement shall require the BMP Units to be rented to lower income households at affordable rent for a term of 55 years from the date of the initial occupancy of the BMP Units, and it shall include terms regarding provisions for marketing, income certification, and screening of potential renters of BMP Units including the financing of ongoing administrative and monitoring costs.

7. **REPLACEMENT HOUSING OBLIGATIONS:** The project will demolish seven single-family homes, six of which were occupied when the project application was made and one of which was vacant. The following conditions are required to comply with Government Code Sections 66300.5 and 66300.6:
 - a. **Required Replacement Units.** Information submitted by the applicant shows that three homes of three bedrooms each are occupied by very low-income households, and one home of two bedrooms is occupied by a low-income household. Based on the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, the vacant unit is assumed to have been occupied by a very low-income household. The affordable housing agreement shall provide that five replacement units shall be made available to low and very low-income households for a term of 55 years from the issuance of a certificate of occupancy or final inspection, as applicable. Three of the units shall contain three bedrooms each and shall be made available to very low-income households, as defined in Health & Safety Code Section 50105, at affordable housing cost or affordable rent. One unit shall contain two bedrooms and shall be made available to low-income households, as defined in Health & Safety Code Section 50079.5, at affordable housing cost or affordable rent. The vacant unit shall be replaced by one or more units of "equivalent size," as defined in Government Code Section 66300.5(d), which shall be made available to very low-income households, as defined in Health & Safety Code Section 50105, at affordable housing cost or affordable rent. "Affordable housing cost" is as defined in Health & Safety Code Section 50052.5. "Affordable rent" is as defined in Health & Safety Code Section 50053.

- b. **Relocation Benefits.** Upon project approval, the Town shall retain a relocation consultant at the applicant's expense to determine the relocation benefits that the very low and low-income tenants are entitled to that are equivalent to the relocation benefits required to be paid by public entities pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code and any implementing regulations. Those benefits shall be paid by the applicant to those lower income tenants at the time required by the statute and implementing regulations referenced in the previous sentence. Prior to the

approval of a final map, or issuance of any construction permit, whichever is earliest, the Town shall verify that all lower income tenants have received the required relocation benefits.

- c. Right to Return. The applicant shall offer all very low and low-income tenants the right to return to a comparable unit at affordable housing cost or affordable rent. A "comparable unit" for the very low-income tenants must contain three bedrooms, and a "comparable unit" for the low-income tenant must contain two bedrooms.
- d. Notice to All Tenants. All tenants must be allowed to remain until at least six months prior to the start of construction activities. If the applicant decides not to proceed with the project and returns the homes to the rental market, all existing tenants are entitled to return to the units at their current rent. The applicant shall provide written notice to all tenants of these rights at least six months prior to the date the tenants will be required to vacate the existing units. Prior to issuance of any construction permit, the applicant shall provide contact information to the Town for all existing tenants so that they may be informed of their rights should the project not succeed.

8. OUTDOOR LIGHTING: For the life of the project, exterior lighting shall be kept to a minimum and shall be down directed fixtures that will not reflect or encroach onto adjacent properties. No flood lights shall be used unless it can be demonstrated that they are needed for safety or security.

9. TREE REMOVAL PERMIT: A Tree Removal Permit shall be obtained for any trees to be removed, prior to the issuance of Building and/or Grading Permits. Per Town Code Section 26.20.010 and Chapter 29, Article 1, Division 2, the developer shall obtain a tree removal permit prior to the removal of protected trees on private or Town property. The project developer shall abide by any tree replacement ratios and/or in-lieu payments, tree protection measures, and best management practices required by the tree removal permit and/or within an updated arborist report.

10. EXISTING TREES: All existing protected trees with the potential to be preserved shown on the plan and trees required to remain or to be planted are specific subjects of approval of this plan and must remain on the site to the extent feasible during final design.

11. ARBORIST REQUIREMENTS: Prior to issuance of Building and/or Grading Permits, the developer shall implement, at their cost, all recommendations identified in the Arborist's report for the project, on file in the Community Development Department. These recommendations must be incorporated in the Building Permit plans and completed prior to issuance of a building permit where applicable and shall remain through all phases of construction.

12. TREE FENCING: Prior to issuance of Building and/or Grading Permits, protective tree fencing and other protection measures consistent with Section 29.10.1005 of the Town Code shall be placed as shown on the Tree Protection Plan (Sheet T-

5) of the approved plans prior to issuance of demolition and building permits and shall remain through all phases of construction. Include a tree protection plan with the construction plans.

- 13. TREE STAKING: Prior to final inspection, all newly planted trees shall be double staked using rubber tree ties.
- 14. LANDSCAPING: Prior to issuance of the Certificate of Occupancy for the final unit within a phase of the final subdivision map, all landscaping within the phased area must be completed. The meadow must be completed prior to the Certificate of Occupancy for the final townhome in the project.
- 15. WATER EFFICIENCY LANDSCAPE ORDINANCE: The final landscape plan shall meet the Town of Los Gatos Water Conservation Ordinance or the State Water Efficient Landscape Ordinance (WELO), whichever is more restrictive. Submittal of a Landscape Documentation Package pursuant to WELO is required prior to issuance of Building and/or Grading Permits. This is a separate submittal from your Building Permit. A review deposit based on the current fee schedule adopted by the Town Council is required when working landscape and irrigation plans are submitted for review. A completed WELO Certificate of Completion Appendix C) is required prior to final inspection/certificate of occupancy.
- 16. PROJECT IDENTIFICATION SIGNAGE: Project identification signage on the project site shall be removed within 30 days of final action on the applications.
- 17. ROOFTOP EQUIPMENT: Prior to final inspection, any new or modified roof mounted equipment shall be fully screened.
- 18. SIGN PERMIT: A sign permit must be obtained prior to installation of any permanent new signs, other than those excepted by Section 29.10.110 of the Town Code.
- 19. REUSABLE MATERIALS: All reusable materials from residential, commercial, and construction/renovation activities shall be recycled.
- 20. NOISE 1: The Town shall include the following measures as standard conditions of approval for applicable projects involving construction to minimize exposure to construction vibration:
 - a. Avoid the use of pile drivers and vibratory rollers (i.e., compactors) within 50 feet of buildings that are susceptible to damage from vibration.
 - b. Schedule construction activities with the highest potential to produce vibration to hours with the least potential to affect nearby office uses that the Federal Transit Administration identifies as sensitive to daytime vibration.
 - c. Notify neighbors of scheduled construction activities that would generate vibration.
- 21. NOISE 2: For projects involving construction equipment that are located within 25 feet of noise-sensitive receptors the following mitigation would be required:
 - a. Equipment Staging Areas – Equipment staging shall be located in areas that will create the greatest distance feasible between construction-related noise sources and noise-sensitive receptors.

- b. Electrically-Powered Tools and Facilities – Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
- c. Smart Back-up Alarms – Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
- d. Additional Noise Attenuation Techniques – During the clearing, earth moving, grading, and foundation/conditioning phases of construction, temporary sound barriers shall be installed and maintained between the construction site and the sensitive receptors. To the extent feasible, temporary sound barriers shall consist of sound blankets affixed to construction fencing or temporary solid walls along all sides of the construction site boundary facing potentially sensitive receptors.

22. ENERGY CONSERVATION AND ENERGY EFFICIENCY:

- a. Passive Solar Heating and Cooling. Require new subdivisions to examine the feasibility of incorporating site layouts that allow for passive solar and heating and cooling;
- b. Solar Orientation. Require new development to incorporate measures that reduce energy use through solar orientation by taking advantage of shade, prevailing winds, landscaping and sun screens;
- c. Sustainable Practices in Design and Construction. Require new construction and remodels to use energy- and resource-efficient and ecologically sound designs, technologies, and building materials, as well as recycled materials to promote sustainability; and
- d. Energy Efficiency Requirement. Require higher levels of energy efficiency as house size increase.

23. CULTURAL RESOURCES 1: If human remains are found during construction activities, no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the archeological monitor and the coroner of Santa Clara County are contacted. If it is determined that the remains are Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent (MLD) from the deceased Native American. The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the

commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

The Planning Division of the Community Development Department shall be responsible for ensuring the implementation of this Condition. Costs will be the responsibility of the developer(s).

24. CULTURAL RESOURCES 2: For grading or excavations deeper than four feet below the existing surface, a qualified archaeologist shall be retained to monitor the excavations. The archaeologist shall be present on-site to observe a representative sample of deep grading or excavations in at least three areas within the Plan Area until satisfied that there is no longer a significant potential for finding buried resources. In the event that any potentially significant archaeological resources (i.e., potential historical resources or unique archaeological resources) are discovered, the project archaeologist shall designate a zone in which additional archaeological resources could be found and in which work shall be stopped. A plan for the evaluation of the resource shall be submitted to the Community Development Director for approval. Evaluation normally takes the form of limited hand excavation and analysis of materials and information removed to determine if the resource is eligible for inclusion on the California Register of Historic Resources.

In the event that significant paleontological, historic, and/or archaeological remains are uncovered during excavation and/or grading in the absence of an archaeological monitor, all work shall stop in the area of the subject property until a qualified archaeologist can assess the find and, if necessary, develop an appropriate data recovery program.

The Planning Division of the Community Development Department shall be responsible for ensuring the implementation of this Condition. Costs will be the responsibility of the developer(s).

25. CULTURAL RESOURCES 3: Prior to demolition of buildings within the Plan Area identified as potentially historic resources, the developer(s) shall prepare photographic documentation of the buildings meeting the documentation standards of the Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER), as presented in the North 40 Specific Plan Historic Resources Technical Report. The historic documentation shall be prepared at Level IV (sketch plan, digital photographs of exterior and interior views, and HABS/HAER inventory cards) for the potentially historic buildings. No historic documentation shall be required for the orchard, except as may be incidentally included in the documentation of the structures.

The developer(s) shall prepare, or retain a qualified professional who meets the standards for architectural historian and/or historical architect set forth by the Secretary of the Interior (Secretary of the Interior's Professional Qualification Standards, 36 CFR 61) to prepare documentation of historic resources prior to any construction work associated with demolition or removal.

The Town of Los Gatos shall identify appropriate repositories for housing the historical documentation at the time of the project-level analysis. An interpretive display shall be incorporated into the design within the Plan Area.

26. **NESTING BIRDS:** If noise generation, ground disturbance, vegetation removal, or other construction activities begin during the nesting bird season (February 1 to August 31), or if construction activities are suspended for at least two weeks and recommence during the nesting bird season, then the project developer shall retain a qualified biologist to conduct a pre-construction survey for nesting birds. The survey shall be performed within suitable nesting habitat areas on the project site, and as feasible within 250 feet of the site boundary, to ensure that no active nests would be disturbed during project implementation. This survey shall be conducted no more than two weeks prior to the initiation of disturbance and/or construction activities. A report documenting the survey results and plan for active bird nest avoidance (if needed) shall be completed by the qualified biologist and submitted to the Town of Los Gatos for review and approval prior to disturbance and/or construction activities.

If no active bird nests are detected during the survey, then project activities can proceed as scheduled. However, if an active bird nest of a native species is detected during the survey, then a plan for active bird nest avoidance shall determine and clearly delineate an appropriately sized, temporary protective buffer area around each active nest, depending on the nesting bird species, existing site conditions, and type of proposed disturbance and/or construction activities. The protective buffer area around an active bird nest is typically 75-250 feet, determined at the discretion of the qualified biologist and in compliance with applicable project permits.

To ensure that no inadvertent impacts to an active bird nest will occur, no disturbance and/or construction activities shall occur within the protective buffer area(s) until the juvenile birds have fledged (left the nest), and there is no evidence of a second attempt at nesting, as determined by the qualified biologist.

The developer(s) shall be responsible for the implementation of this Condition, subject to monitoring by the Town of Los Gatos.

27. **BAT ROOSTS:** To avoid impacting active bat roosts, if present, any vacant buildings on the site proposed for removal that are boarded up prior to construction (dark in the daytime) shall be opened in the winter months (prior to

mid-March) to allow in light, making these areas non-suitable for use as bat roosts.

Mature trees removed due to project implementation shall be removed in two stages (with the limbs removed one day, and the main trunk removed on a subsequent day) to allow any potentially present day-roosting bats the opportunity to relocate. If bat roosts are encountered during tree removal, a bat specialist shall be hired to assist in any relocation efforts.

The developer(s) shall be responsible for the implementation of this Condition, subject to monitoring by the Town of Los Gatos.

28. **BURROWING OWLS:** To avoid impacts to burrowing owls, a qualified biologist will conduct a two-visit (i.e. morning and evening) pre-construction presence/absence survey at all areas of suitable habitat on and within 300 feet of the construction site within 30 days prior to the start of construction. Surveys will be conducted according to methods described in the Revised Staff Report on Burrowing Owl Mitigation (California Department of Fish and Wildlife 2012).

If pre-construction surveys are undertaken during the breeding season (February through August) and locate active nest burrows near construction zones, then these nests and a 200-meter (600-foot) exclusion zone will be delineated which must remain off-limits to ground-disturbing activities until the breeding season is over. The exclusion zone shall be clearly delineated/fenced, and work could proceed within the exclusion zone after the biologist has determined that fledglings were capable of independent flight and the California Department of Fish and Wildlife has approved the recommencement of work inside the exclusion zone, or has authorized physical relocation of the owls. Nesting owl pairs physically relocated (after consultation and approval from the California Department of Fish and Wildlife) as a consequence of construction activities are typically provided a habitat replacement mitigation ratio of 6.5 acres per owl pair/territory relocated.

The project developer(s) shall be responsible for the implementation of this Condition, subject to monitoring by the Town of Los Gatos.

29. **TOWN INDEMNITY:** Pursuant to Town Code Section 1.10.115, and the police power of the Town to impose appropriate Conditions of Approval, the Applicant and its successors in interest (collectively, "Applicants") securing the application approvals for Architecture and Site Application S-23-031 and Subdivision Application M-23-005 (the "Approval") shall indemnify and hold harmless the Town for any third-party challenge to the Approval (administrative appeal, judicial review, or otherwise – collectively, "Challenge"), including without limitation and subject to the following:

(a) Generally: Regarding any such Challenge to any aspect of the Approval, Applicant shall defend, indemnify, and hold harmless the Town (any reference to "Town" shall mean and include without limitation Town's elected officials, appointed

officials, legal counsel, agents, officers, employees, contractors, and special legal counsel)(with legal counsel approved by Town), from and against any third-party Challenge against the Town related to the Approval.

(b) Applicant shall bear any and all losses, damages, injuries, liabilities, costs, and expenses (including, without limitation, any award of attorney fees or damages, attorney fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any third-party Challenge ("Costs"), whether incurred by the Applicant, Town, or awarded to any third party, and shall pay to the Town upon demand made with reasonable written documentation substantiating the Costs incurred by the Town.

(c) The total of all obligations owing by the Applicant under this Condition of Approval is collectively referred to as the "Challenge Indemnity." No modification of the Approval, nor any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the Applicant's obligations pursuant to this Condition of Approval. The Town shall promptly notify the Applicant of any such Challenge, and the Town shall cooperate with the Applicant as Applicant fulfills its obligations pursuant to this Condition of Approval.

30. COMPLIANCE MEMORANDUM: A memorandum shall be prepared and submitted with the building plans for the development within a phase of the final subdivision map detailing how the applicable Conditions of Approval will be addressed for that phase.

31. IMPACT FEE TIMING AND CALCULATION: The applicant shall pay all impact fees prior to the date for final inspection or issuance of a certificate of occupancy for a building, whichever occurs first, on a pro rata basis by dwelling unit. The impact fees shall be calculated based on the rates in effect as of April 17, 2023, the time the applicant submitted its complete SB 330 preliminary application, subject to any modifications consistent with subdivision (o) of Section 65589.5 of the Government Code.

32. PUBLIC ART: The applicant shall comply with the requirements of Article VII of Chapter 25 of the Town Code.

Building Division

33. PERMITS REQUIRED: A Demolition Permit is required for the demolition of each existing structure. A separate Building Permit is required for each new structure/building proposed on the site.

34. APPLICABLE CODES: The current codes, as amended and adopted by the Town of Los Gatos as of January 1, 2023, are the 2022 California Building Standards Code, California Code of Regulations Title 24, Parts 1-12, including locally adopted Energy Reach Codes.

35. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue lined in full within the construction plans. A Compliance Memorandum shall be prepared and

submitted with the building permit application for the development within a phase of the final subdivision map detailing how the applicable Conditions of Approval will be addressed for that phase.

36. **BUILDING & SUITE NUMBERS:** Submit requests for new building addresses to the Building Division prior to submitting for the building permit application process.
37. **SIZE OF PLANS:** Minimum size 24" x 36", maximum size 30" x 42".
38. **REQUIREMENTS FOR COMPLETE DEMOLITION OF STRUCTURE:** Obtain a Building Department Demolition Application and a Bay Area Air Quality Management District Application for the removal of each existing structure. Once the demolition form has been completed, all signatures obtained, and written verification from PG&E that all utilities have been disconnected, submit the completed form to the Building Department with the Air District's J# Certificate, PG&E verification, and site plans showing all existing structures, existing utility service lines such as water, sewer, and PG&E. No demolition work shall be done without first obtaining a permit from the Town.
39. **SOILS REPORT:** A Soils Report, prepared to the satisfaction of the Building Official, containing foundation, and retaining wall design recommendations, shall be submitted with the Building Permit Application. This report shall be prepared by a licensed Civil Engineer specializing in soils mechanics.
40. **SHORING:** Shoring plans and calculations will be required for all excavations which exceed five (5) feet in depth, or which remove lateral support from any existing building, adjacent property, or the public right-of-way. Shoring plans and calculations shall be prepared by a California licensed engineer and shall conform to the Cal/OSHA regulations.
41. **FOUNDATION INSPECTIONS:** A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project Building Inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the Soils Report, and that the building pad elevations and on-site retaining wall locations and elevations have been prepared according to the approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered Civil Engineer for the following items:
 - a. Building pad elevation;
 - b. Finish floor elevation;
 - c. Foundation corner locations; and
 - d. Retaining wall(s) locations and elevations.
42. **TITLE 24 ENERGY COMPLIANCE:** All required California Title 24 Energy Compliance Forms must be blue-lined (sticky-backed), i.e., directly printed onto a plan sheet.
43. **SITE ACCESSIBILITY:** At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones and public streets or sidewalks to the accessible building entrance that they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public. At least

one accessible route shall connect all accessible buildings, facilities, elements, and spaces that are on the same site.

- 44. ACCESSIBLE PARKING: The parking lots, as well as the parking structure, where parking is provided for the public as clients, guests, or employees, shall provide accessible parking. Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
- 45. BACKWATER VALVE: As required by Town Ordinance 6.40.020, provide details for any required sanitary sewer backwater valve on the plans and provide its location. The Town of Los Gatos Ordinance and West Valley Sanitation District (WVSD) requires backwater valves on drainage piping serving fixtures that have flood level rims less than 12 inches above the elevation of the next upstream manhole.
- 46. HAZARDOUS FIRE ZONE: All projects in the Town of Los Gatos require Class A roof assemblies.
- 47. SPECIAL INSPECTIONS: When a special inspection is required by CBC Section 1704, the Architect or Engineer of Record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the Building Permit. The Town Special Inspection form must be completely filled out and signed by all requested parties prior to permit issuance. Special Inspection forms are available online at www.losgatosca.gov/building.
- 48. AIR QUALITY 1: High efficiency filtration (MERV rating of 13 or greater) on ventilation systems shall be required in residential, hotel, and office units located in areas along State Route 17 identified in the EIR as having cancer risk in excess of 10 cases per million.
- 49. AIR QUALITY 2: Ground-level outdoor residential yards that are not oriented to the Los Gatos Boulevard side of the Plan Area, shall be located no closer than 100 feet from the State Route 17 right-of-way prior to 2015, and, subject to air hazards modeling to confirm, no closer than 50 feet from the State Route 17 right-of-way thereafter (when diesel fuel and engine changes will reduce diesel emissions levels).
- 50. AIR QUALITY 3: The following shall be implemented during construction activities to reduce emissions:
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
 - c. All visible mud or dirt trackout onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph;

- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
- f. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph;
- g. All trucks and equipment, including their tires, shall be washed off prior to leaving the site;
- h. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel; and
- i. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.

51. CONSTRUCTION BEST MANAGEMENT PRACTICES (BMPs): The Town standard West Valley Clean Water Authority Nonpoint Source Pollution Control Program Sheet (page size same as submitted drawings) shall be part of the plan submittal. The specification sheet is available online at www.losgatosca.gov/building.

52. APPROVALS REQUIRED: The project requires the following departments and agencies approval before issuing a building permit:

- a. Community Development – Planning Division: (408) 354-6874
- b. Engineering/Parks & Public Works Department: (408) 399-5771
- c. Santa Clara County Fire Department: (408) 378-4010
- d. West Valley Sanitation District: (408) 378-2407
- e. Santa Clara County Environmental Health Department: (408) 918-3479
- f. Local School District: The Town will forward the paperwork to the appropriate school district(s) for processing. A copy of the paid receipt is required prior to permit issuance.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

THE FOLLOWING CONDITIONS SHALL BE ADDRESSED OR NOTED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY BUILDING OR GRADING PERMIT, OR IF ANOTHER DEADLINE IS SPECIFIED IN A CONDITION, AT THAT TIME.

53. THIRD-PARTY PLAN CHECK FEE AND INSPECTION FEE (Special projects only): The Town will procure a third-party engineering firm to perform Plan Review and Inspection Services. Applicant shall provide an initial deposit of \$100,000 plus a 20 percent fee to the Town for plan review and inspection services. This deposit and fee are required at the time of the project building permit submittal. Once this deposit is received, the Town will select the consultant and initiate the plan review process. The Applicant's deposit will be charged on a time and materials basis. A supplemental deposit will be required if the remaining deposit is

expected to be exhausted prior to completion of the work. Permitted work will not be allowed to continue without available funds to complete the required inspection services. Third-party engineering services will be required for the duration of the construction and project closeout phases.

54. **STORM DRAINAGE FEE:** The Applicant shall pay Storm Drainage fees in accordance with the Town's FY22-23 Adopted Fee Schedule that was in effect at the date the pre-application was deemed complete for the future construction of drainage facilities serving new buildings, improvements, or structures to be constructed which substantially impair the perviousness of the surface of land. The Storm Drainage fee based on the site area of 15.67 acres is **\$72,426.74**. The Applicant shall pay this fee to PPW at the time specified in Condition 31.
55. **TRAFFIC IMPACT MITIGATION FEES:** The project is subject to the Town's Traffic Impact Mitigation fee for the generation of an estimated 2,968 net new average daily trips based on the traffic study submitted by Hexagon Transportation Consultants dated February 18, 2025. The fee is based on the FY22-23 Fee Schedule that was in effect at the time the pre-application was deemed complete indicates a fee of \$1,015.00 per additional average daily trip. This results in an estimated total amount due of **\$3,012,520**. This fee is due at the time specified in Condition 31.
56. **CONSTRUCTION ACTIVITIES MITIGATION FEE (ORDINANCE 2189):** Per the Town's Comprehensive Fee Schedule, the project is subject to the Town's Construction Activities Mitigation Fee based on the square footage of new buildings. The fee is based on the FY22-23 Fee Schedule that was in effect at the time the pre-application was deemed complete, and is \$1.26 per square foot of new residential and non-residential building area. The fee shall be calculated based on the square footage total for all units shown on the construction plans to the approval of the Town Engineer. The entitlement plans indicate 718,470 square feet of new building footage resulting in a fee of **\$905,272.20**, with the final fee to be calculated based on the actual building area as shown on the building permit application. This fee is due at the time specified in Condition 31.
57. **CONSTRUCTION PLAN SUBMITTAL REQUIREMENTS:** The Grading Permit Plans and Public Improvement Plans for the first phase of construction (together referred to as "Improvement Plans") shall be submitted as a set to Parks and Public Works Department along with a title report dated no older than 60 days from the date the Improvement Plans are submitted. Improvement Plans for subsequent phases shall be submitted as a set to Parks and Public Works Department along with a title report dated no older than 60 days from the date such Improvement Plans are submitted. The Improvement Plans shall be submitted at the same time as the Building Plans are submitted to the Building Department. All improvements shall be designed and constructed in accordance with Federal law, State law, Los Gatos Town Code, and the Los Gatos Standard Specifications and Details. Construction drawings shall comply with Section 1 (Construction Plan Requirements) of the Town's Engineering Design Standards, which are available for download from the Town's website. The Improvement Plans shall include:

- a. A cover sheet with at least the proposed development vicinity map showing nearby and adjacent major streets and landmarks, property address, APN, scope of work, project manager and property owner, a "Table of Responsibilities" summarizing ownership, access rights, and maintenance responsibilities for each facility (streets, utilities, parks, landscaping, etc.), a sheet index including a sequential numeric page number for each sheet (i.e. "Sheet 1 of 54"), the lot size, required and proposed lot setbacks by type, proposed floor areas by type for each building, average slope, proposed maximum height, and required and proposed parking count and type.
- b. The Approved Conditions of Approval printed within the plan set starting on the second sheet of the plan set.
- c. An Existing Site Plan showing existing topography, bearing and distance information for all rights-of-way, easements, and boundaries, any existing easements proposed to be quit-claimed, existing hardscape, existing above ground utility features, and existing structures. The Improvement Plans shall identify the vertical elevation datum, date of survey, and surveyor responsible for the data presented.
- d. A Proposed Site Plan showing proposed topography, boundaries, proposed and existing to remain easements, hardscape, above ground utility features (hydrants, transformers, control cabinets, communication nodes, etc.), and structures. Include top and bottom elevations of every inflection point of each wall. Show proposed public right-of-way improvements. Distinguish proposed linework from existing linework using heavier line type for proposed.
- e. A Grading and Drainage Plan clearly showing existing onsite and adjacent topography using labeled contour lines, drainage direction arrows with slope value, and break lines. Proposed and existing to remain hardscape elevations must be provided in detail including slope arrows.
- f. A Utility Plan showing appropriate line types and labels to identify the different types of utilities and pipe sizes. Utility boxes, hydrants, backflow preventers, water meters, sanitary sewer cleanouts, etc. shall be located on private property unless otherwise approved by the Town Engineer.
- g. A Photometric Lighting Plan analyzing the full-width of the adjacent right-of-way. The plan shall show the average maintained horizontal illumination in foot-candles and the average to minimum uniformity ratio. Lighting shall be in compliance with the Town's Standard Specification section 2.38.
- h. A Landscaping Plan for the project site and the full width of the public rights-of-way adjacent to the project. The plans shall clearly identify public and private utilities and points of demarcation between the two.
- i. A Composite Plan showing civil, landscape, electrical, and joint trench locations combined on one drawing to identify potential conflicts between disciplines. The Composite Plan shall include the size, location, and details of all trenches, locations of building utility service stubs and meters, and placements or arrangements of junction structures as a part of the

Improvement Plan submittals for the project. Show preferred and alternative locations for all utility vaults and boxes if project has not obtained PG&E approval. A licensed Civil or Electrical Engineer shall sign the Composite Plan. (All dry utilities shall be placed underground). A note shall be placed on the joint trench composite plans which states that the plan agrees with Town Codes and Standards and that no underground utility conflict exists.

- j. General Notes found in the Town of Los Gatos General Guidelines.
- k. A statement in the general notes indicating the need to obtain a Caltrans Oversized/Overweight Vehicles Transportation Permit if oversized or overweight vehicles are expected to be used.
- l. A statement that all utility boxes in vehicular pathways shall be traffic-rated.

58. STANDARD PLAN COMPLIANCE: The project shall comply with the Town's Standard Plans to the extent applicable and subject to the reasonable approval of the Town Engineer. Street improvements, all street sections, the design of all off-site storm drainage facilities shall be in accordance with Town Standard Specifications and Standard Plans in effect as of April 17, 2023 or North 40 Specific Plan street standards for private roads, as applicable and approved by the Town Engineer. Improvements deemed necessary by the Town Engineer shall be shown on the Improvement Plans.

59. GRADING PERMIT: A grading permit is required for all site grading and drainage work that is outside the perimeter of a building, retaining wall footing, or other structure authorized by a valid building permit. The Applicant must submit a grading permit application after the appeal period of the entitlement approval process has passed. Submittals are accepted through Accela only. The grading permit application shall include detailed grading plans and associated required materials. Plan check fees are based on the scope of onsite work. Prior to approval of the grading permit, the Applicant shall pay all fees due and provide faithful performance and payment securities for the performance of the work described and delineated on the approved grading plan, final erosion and sedimentation control plan, and interim erosion and sedimentation control plan (if required), in an amount to be set by the Town Engineer (but not to exceed one hundred (100) percent) of the approved estimated cost of the grading and erosion and sedimentation control measures. The form of security shall be one or a combination of the following to be determined by the Town Engineer and subject to the approval of the Town Attorney: (1) Bond or bonds issued by one or more duly authorized corporate sureties on a form approved by the Town; (2) Deposit with the Town, money, or negotiable bonds of the kind approved for securing deposits of public monies; or (3) other instrument of credit from one or more financial institutions subject to regulation by the State or Federal Government wherein such financial institution pledges funds are on deposit and guaranteed for payment. The grading permit shall be issued prior to the issuance of the building permit unless otherwise allowed by the Town Engineer. The permit shall be limited to work shown on the grading plans approved by the

Town Engineer. In granting a permit, the Town Engineer may impose any condition deemed necessary to protect the health, safety, and welfare of the public, to prevent the creation of a nuisance or hazard to public or private property, and to assure proper completion of the grading including but not limited to: (1) Mitigation of adverse environmental impacts; (2) Improvement of any existing grading or correction of any existing grading violation to comply with Town Code; (3) Requirements for fencing or other protection of grading which would otherwise be hazardous; (4) Requirements for dust, erosion, sediment, and noise control, hours of operation and season of work, weather conditions, sequence of work, access roads, and haul routes; (5) Requirements for safeguarding watercourses from excessive deposition of sediment or debris in quantities exceeding natural levels; (6) Assurance that the land area in which grading is proposed and for which habitable structures are proposed is not subject to hazards of land slippage or significant settlement or erosion and that the hazards of seismic activity or flooding can be eliminated or adequately reduced; (7) Temporary and permanent landscape plans.

60. PUBLIC IMPROVEMENTS: Prior to the issuance of any building permit within a phase of the final subdivision map and prior to any work being done in the Town's right of way, the Applicant must submit Public Improvement Plans for improvements related to that phase for review and approval. All public improvements shall be made according to the Town's adopted Standard Plans, Standard Specifications, and Engineering Design Standards in effect as of April 17, 2023. The Applicant is required to confirm the location of existing utility lines along the project frontage by potholing. Prior to any potholing, Applicant shall submit an Encroachment Permit application with a pothole plan for Town review and approval. The Applicant shall provide the pothole results to the Town Engineer prior to final design. All existing public utilities shall be protected in place and, if necessary, relocated as approved by the Town Engineer. No private facilities are permitted within the Town right of way or within any easement unless otherwise approved by the Town Engineer. The Applicant shall have Public Improvement Plans prepared, stamped, and signed by a California licensed civil engineer.
 - a. Once the Public Improvement Plans have been approved, the Applicant shall submit an application for an Encroachment Permit. The Encroachment Permit requires the Applicant to post the required bonds and insurance and provide a one (1) year warranty for all work to be done in the Town's right of way or Town easement. New concrete shall be free of stamps, logos, names, graffiti, etc. Any new concrete installed that is damaged shall be removed and replaced at the Contractor's sole expense. Prior to issuance of the encroachment permit, the Applicant shall submit a temporary traffic control plan ("TTCP") inclusive of all modes of travel for any lane or sidewalk closures. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required. The TTCP shall comply with the State of California Manual of

Uniform Traffic Control Devices (“MUTCD”) and standard construction practices.

- b. The project engineer shall notify the Town Engineer in writing of any proposed changes. Any proposed changes to the approved plans shall be subject to the approval of the Town. The Applicant shall not commence any work deviating from the approved plans until such deviations are approved. Any approved and constructed changes shall be incorporated into the final “as-built” plans.
- c. The following right-of-way improvements shall be completed prior to the issuance of the first occupancy permit, unless otherwise noted or approved by the Town Engineer:
 - i. **BURTON ROAD IMPROVEMENTS:** The Applicant shall make a contribution to the Town in the amount of \$155,000 towards the construction of the required half street section pursuant to Los Gatos Town Code Section 24.50.080. Submittal of this in-lieu payment shall be paid prior to the issuance of the occupancy permit for the 200th site unit, or later as may otherwise approved by the Town Engineer.
 - ii. **LOS GATOS BOULEVARD IMPROVEMENTS:**
 - a. The Applicant shall improve the western side of Los Gatos Boulevard’s frontage along the project site with a 10-feet wide multi-use path and 6-feet wide planter strip from the northern boundary of North 40 Phase I to the northern boundary of APN 424-070-064 as shown on the approved plans and as approved by the Town Engineer.
 - b. The Applicant shall construct a continuation of the center median north to the intersection of Los Gatos Boulevard and Samaritan Drive with mountable sections for northbound emergency vehicle access to the site at the two proposed connections along Los Gatos Boulevard as shown on the approved plans.
 - c. **STREET TREES:** The Applicant shall plant a minimum of 10 trees along the Los Gatos Boulevard frontage, to match the spacing along the Phase I frontage. The street tree plans shall be per Town Standard Drawings and will include Town Standard tree grates.
 - d. **TREE GRATES:** The Applicant shall install Town Standard Tree Grates around each street tree. Tree grates shall be 4-feet by 6-feet, model OT-T24 by Urban Accessories, and shall be black power coated. The tree grates shall be shown on the Improvement Plans to be located at the back of curb to the approval of the Town Engineer and shall be installed with the street trees prior to the first occupancy.
 - iii. **STREET MARKINGS:** The Applicant shall install necessary street markings of a material and design approved by the Town Engineer and replace any that are damaged during construction. These include but are not limited

to all pavement markings, painted curbs, and handicap markings. All permanent pavement markings shall be thermoplastic and comply with Caltrans Standards. Color and location of painted curbs shall be shown on the plans and are subject to approval by the Town Engineer. Any existing painted curb or pavement markings no longer required shall be removed by grinding if thermoplastic, or sand blasting if in paint.

- iv. CURB RAMP(S): The Applicant shall construct curb ramps in accordance with the latest Caltrans State Standard Drawings and in the location shown on the approve plans. The actual ramp "Case" shall be identified on the plans and shall be to the approval of the Town Engineer.
- v. CURB AND GUTTER: The Applicant shall replace to existing Town standards all curb and gutter along the western side of Los Gatos Boulevard's frontage along the project site from the northern boundary of North 40 Phase I to the southern boundary of APN 424-070-064. New curb and gutter shall be constructed per the Town Standard Drawing ST-210 (Vertical) adopted and in effect as of April 17, 2023.
- vi. DRIVEWAY REMOVAL: The Applicant shall remove all existing driveway approaches and replace them with sidewalk, curb, and gutter per the Town Standard Drawings in effect as of April 17, 2023.
- vii. SEWER CLEAN-OUT: The Applicant shall install the sewer lateral clean-out on private property just behind the property line in accordance with the West Valley Sanitation District standards in effect as of April 17, 2023. Sewer clean-out(s) shall be constructed prior to occupancy of the first building.
- viii. WATER METER: The Applicant shall install the water meter(s) on private property just behind the property line in accordance with the San Jose Water Company standards.
- ix. PARKING LOTS: The Applicant shall submit plans for all required off street parking lots showing proper grading, drainage, ramps profile, and parking dimensions in conformance with applicable Town parking standards adopted and in effect as of April 17, 2023. The plans shall be approved by the Town Engineer prior to the issuance of the first building permit within a phase of the final subdivision map. Construction shall be completed prior to the occupancy permit of any adjacent building.
- x. BICYCLE PARKING: The Applicant shall provide both long-term bicycle lockers and short-term bicycle racks on-site, as shown on the approved site plan, to the approval of the Town Engineer. Construction of bicycle parking shall be completed prior to the occupancy permit of any adjacent building.
- xi. STORM WATER CATCH BASIN(S): The Applicant shall install standard storm water catch basins per approved plans and in accordance with the Town Standard Drawing adopted and in effect as of April 17, 2023. Construction shall be completed at the same time the associated improvements are completed.

xii. **STREETLIGHT(S):** The Applicant shall provide and install seven (7) standard galvanized steel octaflute electrolier streetlight poles with a pole height of 30-feet on the project site's frontage along Los Gatos Boulevard. The Applicant is responsible for all PG&E service fees and hook up charges. Any new service point connection required to power the new lights shall be shown on the construction drawings along with the conduit, pull boxes and other items necessary to install the streetlights. An Isometric lighting level needs to be provided by the designer/contractor. The Applicant shall provide a separate light study of the impact of the proposed streetlights. The new streetlights shall each have a 31-feet 9-inches mounting height with mounting arm length of 8-feet. the Fixtures shall be CREE, Type III Cut-Off Model XSP2, 4000K, 240 volts, 165W or approved equal. The streetlights shall be installed at the locations as shown on the approved offsite plans.

- 1) A letter shall be provided by PG&E stating that public street light billing will be per Rule LS2A. Private lights shall be metered with billing addressed to the homeowners' association. Pole numbers, assigned by PG&E, shall be clearly delineated on the plans.
- 2) Public street lighting will not be required/allowed per General Plan update and Hillside designation. On-lot lighting shall be incorporated and promoted.

xiii. **BICYCLE FACILITIES:** The Applicant shall install bike facilities as shown on the approved plans and as directed by the Town Engineer.

61. **TREE REMOVAL PERMIT:** The Applicant shall apply and obtain a Tree Removal Permit from the Parks and Public Works Department for the removal of existing trees on-site or in the public right-of-way prior to the issuance of a building permit or demolition building permit, whichever is issued first. Tree removals shall be consistent with the arborist report and approved entitlement plans.

62. **PHASED PERMITS:** The Applicant may, with the approval of the Town Engineer, phase the permits to expedite the construction process. If this is done, each phase of the work will require a separate and complete set of plans to be submitted, reviewed, and approved prior to the issuance of the said permit. Overlapping of permits may occur, if approved by the Town Engineer. No work on the next phase of construction, in advance of the permitted work, may occur. No "at risk" work will be permitted. Only the below phased permitted work will be allowed:

- a. Clearing-Grubbing/Rough Grading;
- b. Fine Grading;
- c. Underground Utilities;
- d. Site Improvements;
- e. Off-Site Improvements; and
- f. Plans shall be submitted, reviewed, and approved by the Town Engineer prior to the commencement of work.

63. **EXISTING FACILITY PROTECTION AND REPAIR:** All existing public utilities shall be either protected in place, relocated, or repaired. The Applicant shall repair or

replace all existing improvements not designated for removal, and all new improvements that are damaged during construction or removed because of the Applicant's operations. This includes sidewalk, curb and gutter, streetlights, valley gutters, curb ramps, and any other existing improvements in the area that are not intended to be removed and replaced. The Applicant shall request a walk-through with the PPW construction Inspector before the start of construction to verify existing conditions. Said repairs shall be completed prior to issuance of the first certificate of occupancy of the project.

64. **UNDERGROUND UTILITIES:** This project abuts one of the Town's Underground Utility Districts. All new services to the development shall be placed underground in accordance with the various utility regulations. Transformers and switch gear cabinets within designated Underground Districts shall be placed underground unless otherwise approved by the Town Engineer or if the applicable utility company or district with jurisdiction otherwise requires. Underground utility plans must be submitted to the Town and approved by the Town Engineer prior to installation.
65. **UTILITY RESPONSIBILITIES:** The Applicant is responsible for the maintenance of existing stormwater drainage facilities, including piped and open channel stormwater conveyances in private areas. The Applicant is responsible for all expenses necessary to connect to the various utility providers. Currently, the public storm sewer system is owned and maintained by the Town of Los Gatos, the water system in Los Gatos is owned and maintained by San José Water Company, and the sanitary sewer system in Los Gatos is owned and maintained by West Valley Sanitation District. Any alterations of the approved utilities listed must be approved by the Town prior to any construction.
66. **UTILITY COMPANY COORDINATION:** The Applicant shall negotiate any necessary right-of-way or easements with the various utility companies in the area, subject to the review and approval by the Town Engineer and the utility companies. Prior to the approval of the site plan for construction, the Applicant shall submit "Will Serve" letters from PG&E, San José Water, West Valley Sanitation District, West Valley Collections and Recycling, and AT&T (or the current "Carrier of Last Resort") with a statement indicating either a list of improvements necessary to serve the project or a statement that the existing network is sufficient to accommodate the project. Coordination of the stormwater conveyance system will be addressed during the Grading Permit review.
67. **PREPARATION OF ELECTRICAL PLANS:** All street lighting electrical plans shall be prepared by a California registered professional engineer experienced in preparing these types of plans.
68. **EXTERIOR SITE LIGHTING STANDARDS:** The Applicant shall submit a photometric plan for on-site lighting showing lighting levels in compliance with the Town Standard Specifications section 2.38. The plan shall show the minimum maintained horizontal illumination in foot-candles and the uniformity ratio for all areas. This lighting standard is applicable to all parking lots,

driveways, circulation areas, aisles, passageways, recesses, and accessible grounds contiguous to all buildings. Private, interior courtyards not accessible to the public are not required to meet this standard. The lighting system shall be so designed as to limit light spill beyond property lines and to shield the light source from view from off site. The photometric plan for each phase shall be approved by the Town Engineer and shall be addressed on the construction plans submitted for the first building permit within the applicable phase. Any subsequent building permits that include any site lighting shall also meet these requirements.

69. **STORM DRAINAGE STUDY:** The Applicant shall submit a Master Storm Drainage Study for the entire proposed development stormwater conveyance system evaluating pre- and post-development peak discharge rates for the theoretical 2-year, 10-year, and 100-year (50-percent, 10-percent, and 1-percent annual chance) storm events including supporting hydraulic calculations for proposed pipe network. The study must address sizing and design details for the stormwater treatment systems proposed with the development. The study shall include an evaluation of the project site drainage including topography, natural drainage patterns, and existing man-made diversions (structures, raised pads, fences, etc.). If the study indicates that the theoretical water surface elevation or hydraulic grade line of the proposed development during a 10 percent annual chance storm event is above ground level at any point, the Applicant shall construct and dedicate to the Town new downstream storm drainage facilities necessary to achieve a connection point water depth no more than 80 percent full during the projected 10 percent annual chance storm event. The study must evaluate the 1 percent annual chance storm event base flood elevation. The finish floor elevations of all structures shall be constructed to be reasonable safe from flooding per Town Code Section 29.90.080(1) (c.) which is typically done by constructing finished floors at 1-foot above base flood elevation. The Applicant shall submit the master study for review and approval by the Town Engineer. The applicant shall submit an amended Master Storm Drainage Study for any phase of construction which modifies the storm drainage system evaluated in the Master Storm Drainage Study. The amended Master Storm Drainage Study shall be approved by the Town Engineer prior to the issuance of the first building permit for the applicable phase.
70. **STORMWATER MANAGEMENT PLAN:** The Applicant shall develop a Storm Water Management Plan ("SWMP") that complies with the California Water Board regulations and delineates site design measures, source control measures, low-impact-development (LID) treatment measures, hydromodification management measures, and construction site controls as appropriate. The Plan must indicate erosion protection measures for the inlet structures (e.g., pipe outlets, pump dissipator pipes, and/or bubblers). For the Bay Area Hydrologic Modification ("BAHM") analysis, the Applicant must provide pump operations and intended routing during various runoff conditions (i.e., treatment runoff vs. Hydrologic Modification controls) and the rationale for the pump size selected

relative to the treatment flow rate. The Applicant shall update the BAHM analysis to conform to project conditions to the satisfaction of the Town Engineer and include a summary of the changes made to the BAHM analysis since the entitlement plan review for review by the C3 consultant. The Applicant must select and indicate bioretention area plants capable of withstanding and surviving the higher design ponding conditions if bioretention is proposed. If pumps are proposed, the Applicant must:

- a. Provide pump discharge rates that receiving bioretention areas are capable of treating, to avoid consistently overwhelming the bioretention areas.
- b. The Applicant must include an alarm system that will notify the owner or operator of a pump failure.
- c. If off-site improvements modify the quantities of regulated and unregulated off-site impervious area, the Applicant must update Section 2, item "d" and Section 8 of the C.3 Data Form to reflect those changes.

71. DEVELOPER STORM WATER QUALITY RESPONSIBILITY: The Applicant is responsible for ensuring that all contractors including subcontractors are aware of all stormwater quality measures and implement such measures. The Applicant shall perform all construction activities in accordance with approved Improvement Plans, Los Gatos Town Code Chapter 12 – Grading, Erosion and Sediment Control, and the National Pollutant Discharge Elimination System (NPDES) General Permit. Failure to comply with these rules and regulations will result in the issuance of correction notices, citations, or a project stop order.
72. SITE DRAINAGE: Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed in public curbs. Any storm drains (public or private) directly connected to public storm system shall be stenciled/signed with appropriate "NO DUMPING - Flows to Bay" NPDES required language using methods approved by the Town Engineer on all storm inlets surrounding and within the project parcel. Furthermore, storm drains shall be designed to serve exclusively stormwater. Dual-purpose storm drains that switch to sanitary sewer are not permitted in the Town of Los Gatos. No improvements shall obstruct or divert runoff to the detriment of an adjacent, downstream or down slope property.
73. OFF-SITE DRAINAGE – The Applicant shall not alter any existing drainage patterns without an approved Grading Permit.
74. CLEAN, INSPECT, AND REPAIR STORM LINE: If the project will connect to the public storm drainage system, the Applicant is required to evaluate the conditions of the existing storm lines along the project frontage by videotaping and providing the result to the Town Engineer. The Applicant shall clean and inspect (via remote TV camera) the storm line from the manhole upstream to the manhole downstream of the project area. The video inspection shall be done by a professional video inspection company and be completed prior to building permit issuance. The video of the inspection shall be reviewed with PPW and any cracked, broken, or otherwise compromised integrity is found, the areas of the line along the project frontage shall be repaired by the Applicant at the

applicant's expense. The Applicant shall include the required repairs on the Improvement Plans submitted. All necessary repairs to the storm line shall be completed and approved prior to the project connecting to the storm drainage system.

75. **GRADING & DRAINAGE WINTER MORATORIUM:** All grading activity shall comply with the Municipal Regional Stormwater Permit and Chapter 12 of the Town Code. There shall be no earthwork disturbance or grading activities between October 15th and April 15th of each year unless approved by the Town Engineer. In order to be considered for approval, the Applicant must submit a Winterization Erosion Control Plan certified by a California certified QSD to the Town Engineer for review and approval. If grading is allowed during the rainy season, a maximum of two (2) weeks is allowed between clearing of an area and stabilizing/building on the exposed area. The submission of a certified plan does not guarantee approval. Any approved and executed plan must be kept on-site while the project is in construction.
76. **SWPPP AND EROSION CONTROL:** The Applicant shall prepare and submit a comprehensive stormwater pollution prevention plan (SWPPP) inclusive of interim and final erosion control plans to the Town Engineer for review and approval. The interim erosion control plan(s) shall include measures carried out during construction before final landscaping is installed. Multiple phases of interim erosion control plans may be necessary depending on the complexity of the project. Interim erosion control best management practices may include silt fences, fiber rolls, erosion control blankets, Town approved seeding mixtures, filter berms, check dams, retention basins, etc. The Applicant shall ensure a Qualified SWPPP Developer (QSD) or Qualified SWPPP Practitioner (QSP) monitors erosion and sediment control as required by the Construction General Permit. The Applicant must take measures to ensure continuous compliance with the Construction General Permit, and shall install, maintain, and modify the erosion control measures as needed to continuously protect downstream water quality. In the event an emergency modification is deemed necessary, the Applicant is to implement necessary measures to protect downstream waterways immediately and then submit the changes made within 24-hours to the Town Engineer for review and approval. The Applicant shall provide the Town Engineer the assigned Notice of Intent (NOI) permit number received after filing a Notice of Intent under the Construction Stormwater General Permit. The erosion control plans and SWPPP shall comply with applicable measures contained in the most current Santa Clara County National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP). All test submitted to the regional board must also be submitted to the Town Engineer. Any fees or penalties assessed against the Town in response to the Applicant's failure to comply with the Permit must be paid by the Applicant. The Applicant must permit Town staff onsite to conduct periodic NPDES inspections throughout the recognized storm season to verify compliance with the Construction General Permit and Stormwater ordinances and regulations.

77. SITE TRIANGLE AND TRAFFIC VIEW AREA: Fencing, landscaping, and permanent structures shall not visually obstruct line of sight between three-feet and 7.5-feet in height if located within the driveway view area, traffic view area, or corner sight triangle. The driveway and intersection site triangles are represented on Town Standard Drawing ST-231. The traffic view area and corner sight triangle are shown on Town Standard Drawing ST-232. This includes all above ground obstructions including utility structures, for example electric transformers. The various clearance lines shall be shown on the site plan to demonstrate compliance.
78. GEOTECHNICAL REVIEW: New development shall be sited away from high risk geologic and seismic hazard zones or, if located in a high-risk zone, shall incorporate construction techniques or specialized technologies to reduce risk. Prior to any building permit issuance, the Applicant's California State licensed engineering geologist and/or geotechnical engineer shall submit a design level geotechnical report for new developments proposed with significant grading, potential erosion, and sedimentation hazards or in hazard zones mapped by the State or identified by the Town, as shown in Figures 9-2 through 9-5 of the Town's 2040 General Plan Chapter 9 Hazards and Safety Element. The report shall identify all site geologic, seismic, and geotechnical engineering conditions and potential hazards and include appropriate design measures to mitigate potential fault ground rupture/deformation impacts to acceptable levels. The report shall also specify construction methods to protect existing and future residences from identified hazards. The report will require a peer review by the Town's geological and geotechnical consultant. A deposit and fee for the peer review will be required per the Town's current fee schedule, unless there are any remaining deposit funds from the entitlement phase. The Town will route the design level geotechnical report to the Town's peer review consultant once the report is submitted and deposit and fee are available. Once the design level report is approved, the Applicant's geotechnical engineer shall review the grading and drainage plan and proposed pavement and foundation designs to verify that the designs are in accordance with their recommendations. The Applicant's geotechnical engineer's approval shall be conveyed to the Town either by letter or by signing and stamping the plans. All grading operations and soil compaction activities shall be per the approved project's design level geotechnical report. The Applicant shall add this condition to the general notes on the grading plan.
79. GEOTECHNICAL ENGINEER OBSERVATION: All grading activities shall be conducted under the observation of, and tested by, a licensed geotechnical engineer. A report shall be filed with the Town of Los Gatos for each phase of construction stating that all grading activities were performed in conformance with the requirements of the project's design level geotechnical report. The Applicant shall submit a Final Geotechnical Construction Observation and Testing Summary in an "as-built" letter/report prepared and submitted to the

Town prior to issuance of the certificate of occupancy. The Applicant shall add this condition to the general notes on the grading plan.

80. **GEOLOGIC HAZARDS CHECKLIST:** The applicant's geotechnical engineer shall complete, sign, stamp, and submit the Town's Geologic Hazards Checklist for all new proposed development to demonstrate that potential hazards have been identified and that proposed structures, including grading cuts and fills, will be designed to resist potential earthquake effects. The applicant shall submit this form at the same time as the design level geological report.

81. **PRECONSTRUCTION MEETING:** After the issuance of any Grading or Encroachment permit and before the commencement of any on or off-site work, the Applicant shall request a pre-construction meeting with the PPW Inspector to discuss the project conditions of approval, working hours, site maintenance, and other construction matters. At that meeting, the Applicant shall submit a letter acknowledging that:

- a. They have read and understand these project Conditions of Approval;
- b. They will require that all project sub-contractors read and understand these project Conditions of Approval; and
- c. They ensure a copy of these project Conditions of Approval will be posted on-site at all times during construction.

82. **STREET CUT RESTORATION:** Where the Applicant makes pavement cuts on Los Gatos Boulevard for a utility trench, the trench shall be backfilled using the Town's standard "T" trench detail, including Town-approved controlled density fill. The asphalt thickness of the T trench section shall be a minimum of 3-inches, meet Town standards, or shall match the existing pavement thickness, whichever is greater. Because the utility trenches are expected to extend across Los Gatos Boulevard to the furthermost northbound lane, the Applicant shall grind off the existing thermoplastic lane markings and apply a micro-surfacing coating along the entire length of Los Gatos Boulevard, from curb to curb, from the northern boundary of North 40 Phase I to the southern boundary of APN 424-070-064 as directed by the Town Engineer. The Contractor shall schedule a pre-paving meeting with the PPW Inspector prior to the day the paving is to take place. Restoration materials shall be approved by the Town Engineer prior to placement. All striping and pavement markings shall be replaced in-kind with thermoplastic upon completion of roadway surfacing. All pavement restorations shall be completed and approved by the Town Engineer within six months of the final utility cuts on Los Gatos Boulevard, or as directed by the Town Engineer.

83. **FLOOR DRAINS:** All floor drains shall be plumbed to connect to the sanitary sewer system only. Site design must facilitate drainage away from building floor drains.

84. **GARBAGE/RECYCLE STORAGE AND SERVICE:** The Applicant shall provide adequate area for the purposes of storing garbage, composting and recycling collection containers for scheduled servicing by the Town's solid waste collection provider. New food service buildings and/or multi-family residential complexes shall provide

a covered or enclosed area for dumpsters and recycling containers. The area shall be designed to be hydrologically isolated. Areas around trash enclosures, recycling areas, and/or food compactor enclosures shall not discharge directly to the storm drain system. Any drains installed in or beneath dumpsters and compactors shall be connected to the sanitary sewer. Any drains installed in or beneath tallow bin areas serving food service facilities shall be connected to the sanitary sewer system with a grease removal device prior to discharging. The Applicant shall contact the local permitting authority and/or West Valley Sanitation District for specific connection and discharge requirements. Per Town Code Section 29.10.09010, the collection containers shall not be placed in the right of way except during the period of time necessary to allow removal of the waste. brought to the service area on the day of service and returned to the storage enclosure by the property owner that same day. The containers are not to be in public view or in the public right-of-way prior to or beyond the scheduled service times. A letter from West Valley Collection and Recycling confirming serviceability and site accessibility shall be provided to the Town Engineer for approval prior to the approval of an occupancy permit.

85. SITE LANDSCAPING COORDINATION: The Applicant shall coordinate the overall site landscaping and, if proposed, the stormwater treatment area landscaping. Stormwater treatment areas should be identified on the site first, and then site landscaping to make sure the correct plant material is identified for each area. Some site landscaping plant material may not be suitable in stormwater treatment areas due to the nature of the facility. Sanitary sewer facilities cannot be aligned through stormwater treatment facilities.
86. OFF-HOURS MATERIAL DELIVERY: The Applicant shall coordinate with the future site operators of commercial uses so that all site delivery of materials and goods to non-residential portions of the project are delivered off-hours and on-site. This will allow the on-site customer parking for the development site to be utilized during business hours and not be impacted by the staging of delivery vehicles. The Applicant shall provide a written plan, to ensure that this condition is satisfied, prior to occupancy of the first site building. The plan shall be to the approval of the Town Engineer.
87. MULTI-FAMILY BUILDING LOADING ZONE – The Applicant shall provide a Town compliant loading zone for the mixed-use building (building E1) that is 10-feet wide and 30-feet long, or as determined by the Town Engineer. Construction shall be completed prior to any occupancy permit is issued for the Multi-Family Building (building E1).

THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE APPROVAL OF THE FINAL MAP OR PARCEL MAP, OR IF ANOTHER DEADLINE IS SPECIFIED IN A CONDITION, AT THAT TIME.

88. DEDICATIONS: The Applicant shall dedicate in Fee title to an eight (8) foot wide strip of land along the project frontage of Burton Road for roadway purposes. The

Applicant shall also dedicate a 14.5-feet public access easement along Los Gatos Boulevard and public utility easement as shown on the approved plans and as approved by the Town Engineer.

- 89. TEMPORARY CONSTRUCTION EASEMENT: Prior to the issuance of a grading or building permit, it shall be the sole responsibility of the project to obtain any and all proposed or required easements and/or permissions necessary to perform any work on neighboring private property herein proposed. Proof of agreement/approval is required prior to the issuance of any Permit.
- 90. SUBDIVISION (FINAL) MAP: The Applicant shall have a subdivision map, prepared by a person authorized to practice land surveying in California, delineating all parcels created or deleted and all changes in lot lines in conformance with the Los Gatos Town Code and the Subdivision Map Act. Existing buildings shall be demolished prior to the recordation of the map if they conflict with any newly created lot line. The Town Council must approve all Final Maps. The Town Council meeting will be scheduled approximately fifty (50) days after the Final Map, Public Improvement Plans, Stormwater Treatment Facilities Maintenance Agreement, Landscape Maintenance Agreement, and Subdivision Improvement Agreement are approved by the Town Engineer. The Final Subdivision Map shall be approved by PPW and recorded by the County Recorder's Office prior to the issuance of the first building permit. In lieu of the Town Clerk's Office coordinating the recordation of the Final Map(s) with the County, the Applicant may submit a map guarantee by the Applicant's title company for the release of the signed Final Map to the title company for recordation. Prior to the Town's release of the Final Map, the Town Engineer may require the Applicant to submit to the Town an electronic copy of the map in the AutoCAD Version being used by the Town at the time of recordation. It is the Applicant's responsibility to check with their title company and the County Recorder's Office to determine the time necessary to have the map recorded after Town approval.
- 91. SUBDIVISION IMPROVEMENT AGREEMENT: The Applicant shall enter as a contractor into a Subdivision Improvement Agreement ("SIA") with the Town per Town Code Section 24.40.020, Gov. Code Section 66462(a), and shall arrange to provide Payment and Performance bonds each for 100 percent of the cost of public infrastructure improvements to be constructed in the public right-of-way and grading work performed onsite. These improvements shall include, but are not limited to, roadway construction, sidewalk, curb and gutter, storm lines, street lights, signal equipment, and earthwork. Town Standard insurance shall be provided per the terms of the agreement. The agreement shall be approved by the Town Council with the project's first Final Map.
- 92. MONUMENTS: The Applicant shall arrange for the engineer to have all monuments set per the recorded map. A certificate letter by the Surveyor or Engineer stating the monuments are set per plan shall be provided to the Town Engineer prior to occupancy.

93. COVENANTS, CONDITIONS & RESTRICTIONS (CC&R): The Applicant shall prepare and submit draft project Covenants, Conditions and Restrictions (CC&R) for the project, except for the affordable housing (Lot 19). The CC&Rs shall be submitted with the project map for review of the Town Engineer, the Town Attorney, and the Planning Manager. The CC&Rs shall include relevant project Conditions of Approval. Such CC&R terms related to the project's Conditions of Approval and/or any obligations directly involving the Town shall be subject to approval by the Town Engineer, the Town Attorney, and the Planning Manager and shall include language that restricts the Homeowner's Association from making changes to those provisions of the CC&Rs related to the project's Conditions of Approval and/or any obligations directly involving the Town without first obtaining approval from the Town. References to the Stormwater Treatment Facilities Maintenance Agreement obligations shall be incorporated. The CC&Rs shall be reviewed and approved by Town staff prior to the Town Council approval of the Final map.

THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO RELEASE OF UTILITIES, FINAL INSPECTION, OR ISSUANCE OF A CERTIFICATE OF OCCUPANCY WITHIN A PHASE OF THE FINAL MAP, WHICHEVER OCCURS FIRST, OR IF ANOTHER DEADLINE IS SPECIFIED IN A CONDITION, AT THAT TIME.

94. RECORD DRAWINGS: The Applicant shall submit a scanned PDF set of stamped record drawings and construction specifications for all off-site improvements related to the phase of the final map to the Department of Parks and Public Works. All underground facilities shall be shown on the record drawings as constructed in the field. The Applicant shall also provide the Town with an electronic copy of the record drawings in the AutoCAD Version being used by the Town at the time of completion of the work. The Applicant shall also submit an AutoCAD drawing file of all consultants composite basemap linework showing all public improvements and utility layouts. This condition shall be met prior to the release of utilities, final inspection, or issuance of a certificate of occupancy, whichever occurs first.

95. RESTORATION OF PUBLIC IMPROVEMENTS: The Applicant shall repair or replace all existing improvements not designated for removal that are damaged or removed during construction. Improvements such as, but not limited to curbs, gutters, sidewalks, driveways, signs, streetlights, pavements, raised pavement markers, thermoplastic pavement markings, etc., shall be repaired or replaced to a condition equal to or better than the original condition. Any new concrete shall be free of stamps, logos, names, graffiti, etc. Existing improvement to be repaired or replaced shall be at the direction of the PPW Inspector and shall comply with all Title 24 Disabled Access provisions. The restoration of all improvements identified by the PPW Inspector shall be completed before the issuance of a certificate of occupancy. The Applicant shall request a walk-through with the PPW Inspector before the start of construction to verify existing conditions.

96. STORMWATER TREATMENT FACILITIES MAINTENANCE AGREEMENT: The Applicant shall execute and record a Stormwater Treatment Facilities Maintenance Agreement to ensure perpetual maintenance of the regulated project's treatment facilities. The agreement shall outline the operation and maintenance (O&M) plan for the permanent storm water treatment facilities. The Town-Standard Stormwater BMP Operation and Maintenance Agreement will be provided by PPW upon request. The agreement shall be executed prior to occupancy of the first building and include the following:

- a. The property owner shall operate and maintain all on-site stormwater treatment facilities in good condition and promptly repair/replace any malfunctioning components.
- b. The property owner shall inspect the stormwater treatment facilities at least twice per year and submit an inspection report to PPW at PPW_Stormwater@losgatosca.gov no later than October 1st for the Fall report, and no later than March 15th of the following year for the Winter report. Written records shall be kept of all inspections and shall include, at minimum, the following information:
 - i. Site address;
 - ii. Date and time of inspection;
 - iii. Name of the person conducting the inspection;
 - iv. List of stormwater facilities inspected;
 - v. Condition of each stormwater facility inspected;
 - vi. Description of any needed maintenance or repairs; and
 - vii. As applicable, the need for site re-inspection.
- c. The property owner shall not make any design changes to the system with the Town's approval.
- d. The property owner(s) shall develop a maintenance and replacement schedule for the stormwater treatment facilities that describes maintenance frequency and responsibility. This maintenance schedule shall be included with the approved Stormwater Treatment Facilities Maintenance Agreement.
- e. The property owner(s) shall reimburse the Town for the cost of site inspections required under the Municipal Regional Permit.
- f. The property owner(s) shall authorize Town Staff to perform maintenance and/or repair work and to recover the costs from the property owner in the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety.

97. STORMWATER MANAGEMENT FACILITIES INSPECTION: Prior to covering underground stormwater treatment facilities or final inspection, as applicable, the Applicant must facilitate the testing of all stormwater facilities by a certified QSP or QSD to confirm the facilities are meeting the minimum design infiltration rate. All tests shall be made at on 20 foot x 20 foot grid pattern over the surface of the completed stormwater facility unless otherwise approved by the Town Engineer. All soil and infiltration properties for all stormwater

facilities shall be evaluated by the geotechnical engineer. Percolation tests (using Double Ring Infiltrometer Testing) at horizontal and vertical (at the depth of the stormwater facility) shall be conducted for each stormwater facility. A 50 percent safety factor shall be applied to the calculated percolation test and shall be used as the basis for design (the design percolation rate). The geotechnical report shall include a section designated for stormwater design, including percolation results and design parameters. Sequence of construction for all stormwater facilities (bioswales, detention/ retention basins, drain rock, etc.) shall be done toward final phases of project to prevent silting of the stormwater treatment facilities.

98. LANDSCAPE MAINTENANCE AGREEMENT: The Applicant shall enter into a Landscape Maintenance Agreement with the Town of Los Gatos in which the property owner agrees to maintain the vegetated areas along the project's Los Gatos Boulevard and Burton Road frontages located within the public right-of-way. The agreement must be executed and accepted by the Town Attorney prior to the issuance of any occupancy permit.
99. TRANSPORTATION DEMAND MANAGEMENT PLAN: The Applicant shall submit for approval a Transportation Demand Management ("TDM") Plan prior to the issuance of any building permit within a phase. The TDM plan shall include measures that are required to obtain the goal of a 15 percent vehicle trip reduction. Such measures may include bicycle facility provisions, shower facilities, local shuttle service, transit passes and subsidies, carpool incentive, designated car share parking, or other trip-reducing measures. The TDM plan shall also include a TDM Coordinator and identify the requirement for an annual TDM effectiveness report to be submitted the Town of Los Gatos. The TDM Plan shall be approved prior to the first occupancy of the given phase.
100. DEDICATION OF PUBLIC ACCESS EASEMENT FOR CONSTRUCTION OF BURTON ROAD CONNECTION: The Applicant shall dedicate an irrevocable, nonexclusive Public Access Easement ("PAE") over Lots AAA, BBB, CCC, DDD, EEE, CC, and a portion of Lot AA as shown on the vesting tentative map to the Town to accommodate the Town or a third-party's future construction of a through-connection from the project site to Burton Road. Upon completion of the through-connection, the PAE shall allow public vehicular access. The PAE shall be conveyed to the Town on the final map phase that includes Lots AAA, BBB, CCC, DDD, EEE, CC, and AA and perfected with an Easement Agreement that includes plats and legal descriptions of the PAE, the form of which shall be subject to the reasonable approval of the Town Engineer and the Town Attorney. The Easement Agreement shall include rights for the Town or its designee to construct the future through-connection within the PAE area using a design approved by the Town, subject to the condition that the party performing such construction shall repair or replace any improvements not designated for removal and that are damaged during construction, including without limitation, any public or private utilities within the PAE and improvements located outside the PAE.

101. LOS GATOS BOULEVARD, SAMARITAN DRIVE, AND BURTON ROAD
INTERSECTION IMPROVEMENTS CONTRIBUTION: Upon completion of a future through-connection from the project site to Burton Road, the project would contribute additional traffic to the intersection of Los Gatos Boulevard/Burton Road, which would be addressed through traffic signal improvements conceptually estimated to cost \$590,000 plus a 25 percent (\$147,550) design and construction contingency for a total of \$737,500. The project's fair share contribution for the necessary improvements is calculated to be 22.9 percent resulting in a shared cost estimate of **\$168,887.50**. Funding shall be submitted by the applicant within 30 days of notice from the Town that the connection between the development and Burton Road is complete.
102. VMT REDUCTION STRATEGIES: For projects that would generate VMT, one or more VMT reduction strategies included in the SB 743 Implementation Decisions for the Town of Los Gatos (July 2020) document shall be required to reduce VMT of the project. Examples of VMT reduction strategies that shall be implemented are provided below. The VMT reduction strategies are organized by their relative scale for implementation (i.e., individual site level, Town-wide level, and regional level).

Individual Site Level

- Encourage Telecommuting and Alternative Work Schedules: This strategy relies on effective internet access and speeds to individual project sites/buildings to provide the opportunity for telecommuting. This strategy would reduce commute VMT but also result in a change in VMT for other travel purposes; thus, this strategy should consider the net change in the Town's project-generated VMT.
- Provide Ride-Sharing Programs: This strategy focuses on encouraging carpooling and vanpooling by project site/building tenants.
- Provide Local Shuttles: This strategy focuses on providing local shuttle service. The local shuttles would provide service to transit hubs, schools, commercial centers, and residential areas to improve transit connectivity and address the "first/last mile" problems. Alternatively, a demand responsive service could be provided as subsidized trips by contracting to private transportation network companies (TNCs) or taxi companies. Note that implementation of this strategy would require regional or local agency implementation.
- Provide Employer-Sponsored Vanpool/Shuttle: This strategy relies on employers purchasing or leasing vans or shuttles, and often subsidizing the cost of at least program administration, if not more. Vanpools typically service employee's commute to work, while shuttles service nearby transit stations and surrounding commercial centers. Scheduling and rider charges, if any, are within the employer's purview.

Town-Wide Level

- **Bicycle and Pedestrian Network Improvements:** This strategy focuses on creating a comprehensive bicycle and pedestrian network within the project and connecting to nearby destinations. Projects in Los Gatos tend to be smaller so the emphasis of this strategy would likely be the construction of network improvements that connect the project site directly to nearby destinations. Alternatively, implementation could occur through an impact fee program or benefit/assessment district based on regional or local plans such as the Bicycle and Pedestrian Master Plan and Connect Los Gatos.
- **Provide Traffic Calming Measures:** This strategy combines the California Air Pollution Control Officers Association (CAPCOA) research focused on traffic calming with new research on providing a low-stress bicycle network. Traffic calming creates networks with low vehicle speeds and volumes that are more conducive to walking and bicycling. Building a low-stress bicycle network produces a similar outcome. One potential change in this strategy over time is which could enhance the effectiveness of this strategy.
- **Implement Car-Sharing Program:** This strategy reduces the need to own a vehicle or reduces the number of vehicles owned by a household by making it convenient to access a shared vehicle for those trips where vehicle use is essential. Examples include programs like ZipCar, Car2Go, and Gig.
- **Limit Parking Supply:** When combined with companion TDM measures, reduced parking supply discourages driving by limiting easy and convenient parking options. Implementation of this strategy may require reducing (or removing) minimum parking requirements and allowing developers to use shared parking strategies.
- **Unbundle Parking Costs from Property Cost:** Unbundling separates parking costs from property cost, for instance by not including a parking space in a residential unit's rent, or by requiring employers to lease each parking space separately from the building owner. This strategy ensures that the user understands that the cost of driving includes parking and can encourage people to use an alternative mode to save money.
- **Implement Market Price Public Parking (On-Street):** This strategy focuses on implementing a pricing strategy for parking by pricing all on-street parking in central business districts, employment centers, and retail centers. Priced parking would encourage “park once” behavior and may also result in area-wide mode shifts.

Regional Level

- **Increase Density:** This strategy focuses on increasing density of land uses, where allowed by the General Plan and/or Zoning Ordinance, to reduce

distances people travel and provide more travel mode options. This strategy also provides a foundation for many other strategies. For example, densification increases transit ridership, which justifies enhanced transit service.

- Increase Diversity of Urban and Suburban Developments: This strategy focuses on inclusion of mixed uses within projects or in consideration of the surrounding area to minimize vehicle travel in terms of both the number of trips and the length of those trips.
- Increase Transit Accessibility: This strategy focuses on encouraging the use of transit by locating a project with high density near transit. A project with a residential/commercial center designed around a bus station is referred to as a transit-oriented development (TOD).
- Integrate Affordable and Below Market Rate Housing: This strategy provides greater opportunities for lower income families to live closer to job centers since income effects probability that a commute will take transit or walk to work.
- Increase Transit Service Frequency/Speed: This strategy focuses on improving transit service convenience and travel time competitiveness with driving. Given existing land use density in Los Gatos, this strategy may be limited to traditional commuter transit where trips can be pooled at the start and end locations, or it may require new forms of demand-responsive transit service. Note that implementation of this strategy would require regional or local agency implementation, substantial changes to current transit practices, and would not likely be applicable for individual development projects.
- Implement Area or Cordon Pricing: This strategy focuses on implementing a cordon (i.e., boundary) pricing scheme, where a cordon is set around a specific area to charge a toll to enter the area by vehicle. The cordon location is usually the boundary of an area with limited points of access. The cordon toll may be constant, applied during peak periods, or be variable, with higher prices during congestion peak periods. The toll can also be based on a fixed schedule or be dynamic, responding to real-time congestion levels. Note that implementation of this strategy requires alternative modes of travel that are available and reliable, such as high-quality transit infrastructure.

103. TRANSPORTATION MANAGEMENT ASSOCIATION (TMA): In the event that the Town adopts a TMA policy in the future, the Town and/or future owners and operators of development in the North 40 Phase II area (inclusive of the properties designated as Phase II in the North 40 Specific Plan as of the date of the project's SB 330 preliminary application) other than the project shall participate in the TMA to fund, implement, coordinate and manage VMT-reduction programs as determined appropriate by the TMA members. The TMA shall also be responsible for conducting TDM monitoring to quantify

performance required by the Town. The Applicant (or the HOA formed by Applicant) shall join and maintain membership in any TMA formed with service area that includes the project site within either 6 months after the TMA formation or the date of occupancy of the first unit in the project, whichever is later. Participation in the TMA shall be optional for the operator of the affordable housing located on Lot 19.

104. **EMERGENCY RESPONDER RADIO COVERAGE:** All new buildings, including parking garages shall have approved radio coverage for emergency responders throughout their interiors. Prior to issuance of the final occupancy permit, the Applicant shall conduct a radio signal survey demonstrating compliance with Section 510 of the California Fire Code and the applicable provisions of NFPA 72 (National Fire Alarm and Signaling Code) and NFPA 1221 (Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems). Radio coverage must meet a minimum signal strength of -95 dBm, ensuring at least 95 percent coverage throughout general building areas and 99 percent coverage within critical areas, as defined by these standards. If the survey shows inadequate coverage, the Applicant shall install an approved Emergency Responder Radio Coverage System (ERRCS), such as an FCC-certified signal booster or distributed antenna system (DAS), meeting the requirements of the California Fire Code and referenced NFPA standards. All ERRCS installations must include battery backup, monitoring systems, and shall be tested and approved by the Fire Marshal (or designee) prior to occupancy. With approval of the Community Development Director and Police Chief, the requirements in this condition can be waived or modified when such change would not unnecessarily impair the provision of emergency communication as specified in this condition.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT, OR IF ANOTHER DEADLINE IS SPECIFIED IN A CONDITION, AT THAT TIME.

105. **PROJECT CONSTRUCTION SETUP:** All storage and office trailers will be kept off the public right-of-way.
106. **PUBLIC WORKS CONSTRUCTION NOTICE:** The contractor shall notify the PPW Inspector at least ten (10) working days prior to the start of any construction work. At that time, the Contractor shall provide an initial project construction schedule and a 24-hour emergency telephone number list.
107. **PROJECT CONSTRUCTION SCHEDULE:** The contractor shall submit the project schedule in a static PDF 11-inches by 17-inches format and Microsoft Project, or an approved equal. The Contractor shall identify the scheduled critical path for the installation of improvements to the approval of the Town Engineer. The schedule shall be updated monthly and submitted to the PPW Inspector in the same formats as the original.

108. PROJECT CONSTRUCTION HANDOUT: The Contractor shall provide to the Town Engineer an approved construction information handout for the purpose of responding to questions the Town receives regarding the project construction.
109. PROJECT CONSTRUCTION SUPERVISION: The Contractor shall always provide a qualified supervisor on the job site during construction.
110. PUBLIC WORKS CONSTRUCTION INSPECTION: All work shown on the Improvement Plans shall be inspected to the approval of the Town Engineer. Uninspected work shall be removed as deemed appropriate by the Town Engineer.
111. PROJECT CONSTRUCTION HOURS: Construction activities related to the issuance of any PPW permit shall comply with Town Code Section 16.20.035 which restricts construction to the weekday between 8:00 a.m. and 6:00 p.m. and Saturday 9:00 a.m. to 4:00 p.m. No work shall be done on Sundays or on Town Holidays unless otherwise approved by the Town Engineer. Please note that no work shall be allowed to take place within the Town right-of-way after 5:00 p.m. Monday through Friday. In addition, no work being done under Encroachment Permit may be performed on the weekend unless prior approvals have been granted by the Town Engineer. The Town Engineer may apply additional construction period restrictions, as necessary, to accommodate standard commute traffic along arterial roadways and along school commute routes. Onsite project signage must state the project construction hours. The permitted construction hours may be modified if the Town Engineer finds that the following criteria is met:
 - a. Permitting extended hours of construction will decrease the total time needed to complete the project without an unreasonable impact to the neighborhood.
 - b. Permitting extended hours of construction is required to accommodate a construction requirement such as a large concrete pour or major road closure. Such a need would be presented by the project's design engineer and require approval of the Town Engineer.
 - c. An emergency situation exists where the construction work is necessary to correct an unsafe or dangerous condition resulting in obvious and eminent peril to public health and safety. If such a condition exists, the Town may waive any of the remaining requirements outlined below.
 - d. The exemption will not conflict with any other condition of approval required by the Town to mitigate significant environmental impacts.
 - e. The contractor or property owner will notify residential and commercial occupants of adjacent properties of the modified construction work hours. This notification must be provided three days prior to the start of the extended construction activity.
 - f. The approved hours of construction activity will be posted at the construction site in a place and manner that can be easily viewed by any interested member of the public.

- g. The Town Engineer may revoke the extended work hours at any time if the contractor or owner of the property fails to abide by the conditions of extended work hours or if it is determined that the peace, comfort, and tranquility of the occupants of adjacent residential or commercial properties are impaired because of the location and nature of the construction.
- h. The waiver application must be submitted to the PPW Inspector ten (10) working days prior to the requested date of waiver.

112. PROJECT CONSTRUCTION BMPs: All construction activities shall conform to the requirements of the CASQA Stormwater Best Management Practices Handbooks for Construction Activities and New Development and Redevelopment, the Town's grading and erosion control ordinances, the project specific temporary erosion control plan, and other generally accepted engineering practices for erosion control as required by the Town Engineer adopted an in effect as of April 17, 2023, when undertaking construction activities.

113. PROJECT CONSTRUCTION EXCAVATION: The following provisions to control traffic congestion, noise, and dust shall be followed during site excavation, grading, and construction:

- a. All construction vehicles should be properly maintained and equipped with exhaust mufflers that meet State standards.
- b. Travel speeds on unpaved roads shall be limited to fifteen (15) miles per hour.
- c. Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible.
- d. Water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to ensure proper control of blowing dust for the duration of the project.
- e. Watering on public streets and wash down of dirt and debris into storm drain systems is prohibited. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the PPW Inspector, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. Recycled water shall be used for construction watering to manage dust control where possible, as determined by the Town Engineer. Where recycled water is not available potable water shall be used. All potable construction water from fire hydrants shall be coordinated with the San José Water Company.

- f. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Construction Inspector.
- g. Construction grading activity shall be discontinued in wind conditions in excess of 25 miles per hour, or that in the opinion of the PPW Inspector cause excessive neighborhood dust problems.
- h. Site dirt shall not be tracked into the public right-of-way and shall be cleaned immediately if tracked into the public right-of-way. Mud, silt, concrete and other construction debris shall not be washed into the Town's storm drains.
- i. Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation.
- j. All aggregate materials transported to and from the site shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
- k. Prior to issuance of any permit, the Applicant shall submit any applicable pedestrian or traffic detour plans to the satisfaction of the Town Engineer for any lane or sidewalk closures. The temporary traffic control plan shall be prepared by a licensed professional engineer with experience in preparing such plans and in accordance with the requirements of the latest edition of the California Manual on Uniform Traffic Control Devices (MUTCD) and standard construction practices. The Traffic Control Plan shall be approved prior to the commencement of any work within the public right-of-way.
- l. During construction, the Applicant shall make accessible any or all public and private utilities within the area impacted by construction, as directed by the Town Engineer.
- m. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The Applicant shall require the soils engineer submit to daily testing and sampling reports to the Town Engineer.

114. MATERIAL HAULING ROUTE AND PERMIT: For material delivery vehicles equal to, or larger than two-axle, six-tire single unit truck size as defined by FHWA Standards, the Applicant shall submit a truck hauling route that conforms to Town of Los Gatos Standards for approval. Note that the Town requires a Haul Permit be issued for any hauling activities. The Applicant shall require contractors to prohibit trucks from using "compression release engine brakes" on residential streets. The haul route for this project unless otherwise approved by the Town Engineer, shall be northbound Los Gatos Boulevard to Highway 85 or southbound Los Gatos Boulevard to westbound Lark Avenue to Highway 17. A letter from the Applicant confirming the intention to use the designated haul route shall be submitted to the Town Engineer for review and approval prior to the issuance of any Town permits. All material hauling activities including but not limited to, adherence to the approved route, hours of operation, staging of materials, dust control and street maintenance shall be the responsibility of the Applicant. Hauling of soil on- or off-site shall not occur during the morning or

evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.), and at other times as specified by the Town Engineer. The Applicant must provide an approved method of cleaning tires and trimming loads on site. All material hauling activities shall be done in accordance with applicable Town ordinances and conditions of approval.

115. **HERITAGE TREE PROTECTION MEASURES:** The Applicant shall submit a tree protection plan showing how all on- and off-site heritage trees will be protected during construction. All approved and installed Heritage Tree protection measures shall be installed prior to any site activities and maintained throughout the period of construction. The Project Arborist shall complete inspections on an as-needed basis during the construction period and shall submit a monthly report of findings in an email or letter to the Town Engineer and Town Planner assigned to this project.
116. **PROJECT CLOSE-OUT:** Prior to requesting a Final Inspection, the Applicant shall submit to the Town Engineer a letter indicating that all project conditions have been met, and all improvements are complete. All work must be completed to the satisfaction of the Planning Director and Town Engineer prior to the first occupancy. All public improvements, including the complete installation of all improvements relative to streets, fencing, storm drainage, underground utilities, etc., shall be completed and attested to by the Town Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, including those for water and sanitary sewer services, such installation shall be verified as having been completed and accepted by those agencies. In addition, the Applicant shall submit an itemized final quantities list of all public improvements constructed on-site and within the public right-of-way. The final quantities list shall be prepared by the project engineer and be to the approval of the Town Engineer. The final quantities list shall be broken out into on-site and off-site improvements based on the format provided by the Town. Until such time as all required improvements are fully completed and accepted by Town, the Applicant shall be responsible for the care, maintenance, and any damage to such improvements. Town shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage, regardless of cause, happening or occurring to the work or improvements required for this project prior to the completion and acceptance of the work or Improvements. All such risks shall be the responsibility of and are hereby assumed by the Applicant.
117. **CONSTRUCTION WORKER PARKING:** The Applicant shall provide a Construction Parking Plan that minimizes the effect of construction worker parking in the neighborhood and shall include an estimate of the number of workers that will be present on the site during the various phases of construction and indicate where sufficient off-street parking will be utilized and identify any locations for off-site material deliveries. Said plan shall be approved by the Town Engineer prior to issuance of Town permits and shall be complied with at all times during construction. Failure to enforce the parking plan

may result in suspension of the Town permits. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§15.40.070).

121. SITE WATER DISCHARGE: In accordance with the Town Code, Prohibition of Illegal Discharges (Los Gatos Town Code Section 22.30.015), the Town Engineer may approve in coordination West Valley Sanitation District the discharge of uncontaminated pumped ground waters to the sanitary sewer only when such source is deemed unacceptable by State and Federal authorities for discharge to surface waters of the United States, whether pretreated or untreated, and for which no reasonable alternative method of disposal is available. Following the verification of the applicable local, state and/or federal approvals, a Discharge Plan will be approved and monitored by the Town Engineer.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS ENTITLEMENT OCCUPIES THE PREMISES.

118. POST CONSTRUCTION BEST MANAGEMENT PRACTICES (BMP): Post construction storm water pollution prevention requirements shall include:

- a. The Applicant shall be charged the cost of abatement for issues associated with, but not limited to, inspection of the private stormwater facilities, emergency maintenance needed to protect public health or watercourses, and facility replacement or repair if the treatment facility is no longer able to meet performance standards or has deteriorated. Any abatement activity performed on the Applicant's property by Town staff will be charged to the Applicant at the Town's adopted fully-loaded hourly rates.
- b. Maintenance of the storm drain inlets "No Dumping – Drains to Bay" plaques to alert the public to the destination of storm water and to prevent direct discharge of pollutants into the storm drain. Template ordering information is available at www.flows2bay.org.
- c. All process equipment, oils, fuels, solvents, coolants, fertilizers, pesticides, and similar chemical products, as well as petroleum based wastes, tallow, and grease planned for storage outdoors shall be stored in covered containers at all times.
- d. All public outdoor spaces and trails shall include installation and upkeep of dog waste stations.
- e. Garbage and recycling receptacles and bins shall be designed and maintained with permanent covers to prevent exposure of trash to rain. Trash enclosure drains shall be connected to the sanitary sewer system.
- f. It is the responsibility of the property owner(s)/homeowners association to implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

119. GENERAL: Review of this Developmental proposal is limited to acceptability of site access, water supply and may include specific additional requirements as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
120. FIRE SPRINKLERS REQUIRED: (As Noted on Sheet G10) Approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.18 whichever is the more restrictive. For the purposes of this section, firewalls used to separate building areas shall be constructed in accordance with the California Building Code and shall be without openings or penetrations. NOTE: The owner(s), occupant(s) and any contractor(s) or subcontractor(s) are responsible for consulting with the water purveyor of record in order to determine if any modification or upgrade of the existing water service is required. A State of California licensed (C-16) Fire Protection Contractor shall submit plans, calculations, a completed permit application and appropriate fees to this department for review and approval prior to beginning their work. CFC Sec. 903.2.
121. FIRE ALARM REQUIREMENTS: (As Noted on Sheet G10) Refer to CFC Sec. 907 and the currently adopted edition of NFPA 72. Submit shop drawings (3 sets) and a permit application to the SCCFD for approval before installing or altering any system. Call (408) 341-4420 for more information.
122. EMERGENCY RESPONDER RADIO COVERAGE IN NEW BUILDINGS: (As Noted on Sheet G10) All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems. CFC Sec. 510.1.
123. FIRE HYDRANT SYSTEMS REQUIRED: (As Noted on Sheet G10) Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, onsite fire hydrants and mains shall be provided where required by the fire code official. Exception: For Group R3 and Group U occupancies equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, the distance requirement shall be not more than 600 feet. [CFC, Section 507.5.1].
124. FIRE DEPARTMENT CONNECTION: (As Noted on Sheet C17) The fire department connection (FDC) shall be installed at the street on the street address side of the building. It shall be located within 100 feet of a public fire hydrant and within ten (10) feet of the main PIV (unless otherwise approved by the Chief due to practical difficulties). FDC's shall be equipped with a minimum of two (2), two-and-one-half (2-

1/2") inch national standard threaded inlet couplings. Orientation of the FDC shall be such that hose lines may be readily and conveniently attached to the inlets without interference. FDC's shall be painted safety yellow. [SCCFD, SP-2 Standard].

125. STANDPIPES REQUIRED: (As Noted on Sheet G10) Standpipe systems shall be provided in new buildings and structures in accordance with this section. Fire hose threads used in connection with standpipe systems shall be approved and shall be compatible with fire department hose threads. The location of fire department hose connections shall be approved. Standpipes shall be manual wet type. In buildings used for high-piled combustible storage, fire hose protection shall be in accordance with Chapter 32. Installation standard. Standpipe systems shall be installed in accordance with this section and NFPA 14 as amended in Chapter 47. CFC Sec. 905.

126. PUBLIC/PRIVATE FIRE HYDRANT(S) REQUIRED: (As Noted on Sheet G10) Provide public/private fire hydrant(s) at location(s) to be determined jointly by the Fire Department and San Jose Water Company. Maximum hydrant spacing shall be 450 feet, with a minimum single hydrant flow of 4,500 GPM at 20 psi, residual. Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets. CFC Sec. 507, and Appendix B and associated Tables, and Appendix C.

127. BUILDINGS AND FACILITIES ACCESS: (As Noted on Sheet G10) Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or with the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. [CFC, Section 503.1.1].

128. REQUIRED AERIAL ACCESS: (As Noted on Sheet C17) 1. Where required: Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway. 2. Width: Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height, as shown on the approved vesting tentative map. 3. Proximity to building: At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572) and a maximum of 30 feet (9144mm) from the building, and shall be positioned parallel to one entire side of the building, as approved by the fire code official. SCCFD SD&S A-1.

129. TURNING RADIUS: (As Noted on Sheet C17) As shown on the approved vesting tentative map, the minimum inside turning radius is 30 feet and outside turning radius is 50 feet for required access roadways. Greater radius up to 60 feet may be required where the Fire Department determines that Ladder Truck access is required. Circulating refers to travel along a roadway without dead ends.

130. FIRE DEPARTMENT ROADWAY TURNAROUND REQUIRED: (As Noted on Sheet C17) Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. Provide an approved fire department roadway turnaround with a minimum radius of 50 feet outside and 30 feet inside. Maximum grade in any direction shall be 5%. Installations shall conform with Fire Department Standard Details and Specifications A-1. [CFC Section 503.2.5].
131. REQUIRED FIRE FLOW: The fire flow for this project is 6000 GPM at 20 psi residual pressure. If an automatic fire sprinkler system will be installed, the fire flow will be reduced by 25%, establishing a required adjusted fire flow of 4500 GPM at 20 psi residual pressure. Note: The minimum required number and spacing of the hydrants shall be in accordance with CFC Table C102.1.
132. TIMING OF INSTALLATION: (As Noted on Sheet G10) When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2. Construction documents. Construction documents for proposed fire apparatus access, location of fire lanes, security gates across fire apparatus access and construction documents and hydraulic calculations for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction. CFC Sec. 501.3, 501.4.
133. GROUND LADDER ACCESS: (As Noted on Sheet C17) Ground-ladder rescue from second and third floor rooms shall be made possible for fire department operations. With the climbing angle of seventy-five degrees maintained, an approximate walkway width along either side of the building shall be no less than seven feet clear. Landscaping shall not be allowed to interfere with the required access. CFC Sec. 503 and 1029 NFPA 1932 Sec. 5.1.8 through 5.1.9.2.
134. PARKING: When parking is permitted on streets, in both residential/commercial applications, it shall conform to the dimensions shown on the approved street sections included with the vesting tentative map.
NOTE: Fire lane and turnaround striping shall be provided and verified by site inspection.
135. FIRE LANES REQUIRED: (As Noted on Sheet C17) Fire apparatus access roads shall be designated and marked as a fire lane as set forth in Section 22500.1 of the California Vehicle Code.
136. KNOX KEY BOXES/LOCKS WHERE REQUIRED FOR ACCESS: Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The Knox Key Box shall be a of an approved type and shall contain keys to gain necessary access as required by the fire code official. Locks. An approved Knox Lock shall be installed on gates or similar barriers when required by the fire code official. Key box maintenance. The operator of the building shall immediately notify the fire code

official and provide the new key when a lock is changed or re-keyed. The key to such lock shall be secured in the key box. [CFC Sec. 506].

137. WATER SUPPLY REQUIREMENTS: Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing contamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). 2019 CFC Sec. 903.3.5 and Health and Safety Code 13114.7.

138. CONSTRUCTION SITE FIRE SAFETY: All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification S1-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.

139. ADDRESS IDENTIFICATION: New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. CFC Sec. 505.1.

140. TWO-WAY COMMUNICATION SYSTEM: (As Noted on Sheet G10) Two-way communication systems shall be designed and installed in accordance with NFPA 72 (2022 edition), the California Electrical Code (2022 edition), the California Fire Code (2022 edition), the California Building Code (2022 edition), and the city ordinances where two-way system is being installed, policies, and standards. Other standards also contain design/installation criteria for specific life safety related equipment. These other standards are referred to in NFPA 72.

141. REQUIRED SECONDARY FIRE DEPARTMENT ACCESS: (As Noted on Sheet C17) Commercial and Industrial Developments 1. Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have a least two means of fire apparatus access for each structure. 2. Buildings exceeding 62,000 square feet in area. Buildings or facilities having a gross building area of more than 62,000 square feet (5760 mm) shall be provided with two separate and approved fire apparatus access roads. Exception:

Projects having a gross building area of up to 124,000 square feet (11520 mm) that have a single approved fire apparatus access road when all buildings are equipped throughout with approved automatic sprinkler systems. Multi-Family Residential Developments (R-1 & R-2 occupancies) 1. Multi-family residential projects having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads. CFC Sec. Chp. 5 as adopted.

142. GENERAL: This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch.1, 105.3.6].

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March 6, 2025

Jocelyn Shoopman
Senior Planner
Town of Los Gatos
Community Development Department
110 E. Main Street
Los Gatos, CA 95030

**Re: Supplemental Material for 14859 Los Gatos Blvd and 16270 Burton Road
(APN 424-07-009, -053, -081, -094, -095, -115, -116, and -052)
Architecture and Site Application S-23-031
Subdivision Application M-23-005**

Dear Ms. Shoopman:

On behalf of Grosvenor Property Americas (“**Applicant**”), we are pleased to submit further updates to our complete application 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, 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 Applicant submitted a complete preliminary application for the Project on April 18, 2023, and followed with its formal development application on September 18, 2023. The Town found the application complete on April 17, 2024. The Town’s completeness determination included numerous substantive comments regarding the Project. The Applicant supplemented its complete application in May of 2024, and the Town issued a series of written consistency evaluation letters on July 17, 2024. The Applicant submitted additional information on October 3, 2024, which triggered further comments from the Town on October 30, 2024. The Applicant responded with revisions on November 23, 2024, and the Town provided additional written comments on December 23, 2024. Since then, the Applicant team and the Town staff have had ongoing meetings and exchanged written comments. Based on those discussions we believe that this submittal fully responds to the comments raised by the Town in its December 23, 2024 letters.

EXHIBIT 24

March 6, 2025
Page 2

I. Updated Project Description.

The Applicant proposes the construction of the Project, a mixed-use housing development project that includes 450 homes, 15,000 square feet of retail, over 3,000 square feet of commercial and civic space, and associated on- and off-site improvements located in the North 40 Specific Plan area of the Town.

The Project Site is 15.65 total acres, which includes unbuildable areas, areas planned for open space, and all of the land that will be dedicated to the public for access to the Project's circulation system and public utilities. Excluding the primary backbone public infrastructure and circulation portions of the Project Site that will be dedicated by easement for public use results in a lot area of 14.47 acres, which conservatively includes alleys, open space, and undevelopable land on the Project Site.

The Project Site currently includes eight (8) single family homes, which would be demolished (as anticipated in the previously certified North 40 Specific Plan Environmental Impact Report) and replaced by the Project.

The Town's Housing Element includes the Project Site in its inventory of sites available for housing development that will be affordable to lower income households to accommodate the Town's RHNA. The Housing Element designates the Project Site for residential development at a minimum density of at least 30 dwelling units per acre, and it assumed a development capacity of up to 461 units. The Project proposes 450 dwelling units on a site area of 14.47 acres, resulting in a gross density of 31.1 du/ac, which is consistent with the Housing Element's use and density designations.

The Project's residential program will provide a total of 450 new rental apartments and for-sale and/or rental town homes. Of the 450 total units, the Project will dedicate 77 units as units that will be rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code as affordable rents, as defined in Section 50053 of the Health and Safety Code. The 77 dedicated units will include 67 affordable rental homes available to low and very low-income households (in addition to one unit reserved for a manager) on approximately 1.25 acres that will be transferred to an affordable housing developer. Ten additional units dedicated to low-income households will be made available in the Project's mixed-income multi-family building.

The 450 homes are complemented by various resident amenities and community-serving ground floor commercial spaces within the multi-family rental building. The new buildings are arranged around a generously sized central public open space (the "**Meadow**"), open to all and visible from Los Gatos Boulevard along a pedestrian "**Paseo**". The Meadow will feature active uses, landscaping, and an interpretive display that features the existing red barn, that collectively celebrate the Property's agricultural heritage. The Meadow will also include a new public

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pavilion, which is designed to be adaptable for a variety of civic, community and/or retail uses for future flexibility.

Adjacent to the public open space, a 2,400 square foot barn-inspired commercial space, Building J, is proposed and envisioned to complement both the Meadow's agrarian theme and the retail uses in Building I. A new 4,800 square foot retail building (Building I) is located closer to Los Gatos Boulevard and is designed to be sub-dividable for multiple tenants and includes generous outdoor dining areas. Building J and Building I are part of approximately 15,000 square feet of commercial space that helps create vibrancy and a sense of place.

The Project includes all necessary access, circulation, streetscape, and landscaping to complement and service the new buildings and to complete relevant sections of the bicycle and pedestrian routes through and around the site. On-site streets will be connected to existing North 40 Phase I streets. The Applicant will dedicate land to the Town to accommodate the future widening of Burton Road and a through-connection between Burton Road and the Project to complete the internal circulation system as anticipated in the North 40 Specific Plan.

II. The Project is Consistent with Applicable Objective Development Standards.

On January 31, 2023, the Town adopted its first version of the Sixth Cycle Housing Element Update, which was adopted and in effect when the Applicant submitted its complete preliminary application. The California Department of Housing and Community Development (“HCD”) found that the Town’s January 31, 2023 Housing Element did not substantially comply with the requirements of state Housing Element law. The Town made numerous revisions to its Housing Element in response to HCD’s findings before adopting a substantially compliant Housing Element that HCD certified on July 10, 2024. However, because the Project has a vested right to proceed under the ordinances, policies, and standards in place at the time the Applicant submitted the preliminary application, the January 31, 2023 Housing Element applies. (See Gov. Code § 65589.5(o).)

The Project proposes to provide 77 of its 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 Housing Accountability Act. (Gov. Code § 65589.5(h)(3).) In addition, as discussed above, the Project is consistent with the Housing Element’s land use and density designations. 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 North 40 Specific Plan’s requirement as applied to the Project.

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Because the Project provides 77 of its 450 dwelling units as affordable to lower income households, it is eligible for benefits under the State Density Bonus Law, including two concessions/incentives that result in cost reductions and unlimited waivers of development standards necessary to accommodate the Project as proposed. (Gov. Code § 65915(d)(2)(B), (e).) Attachment A to this letter includes a complete enumeration of all requested incentives/concessions and waivers, and the updated Objective Design Standards checklist references such modifications where appropriate.

Finally, the Project complies with the Town's affordability requirements as adopted in the BMP Ordinance (Division 6 of Chapter 29 of the Town Code). Of the Project's 450 total units, 373 units would be rented or sold at market rate. The Town's BMP Ordinance requires that 20 percent of the 373 market rate units – or 75 units – be reserved as affordable housing. The Project exceeds this requirement and will dedicate 77 units (21 percent of the market rate units) as units dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code as affordable rents, as defined in Section 50053 of the Health and Safety Code.

Note that because the Project's complete preliminary application was submitted before the Town adopted a Housing Element certified by HCD, the Project is eligible for the Builder's Remedy. This means that Town would be forbidden from denying the Project, even if the Project were not consistent with the Town's standards. Although the Project is eligible for the Builder's Remedy, it is not necessary to invoke the Builder's Remedy here, because the Project complies with the Housing Element and applicable, objective standards as modified via the State Density Bonus Law.

III. Conclusion

With this submittal, the Applicant has responded to each of the Town's substantive, applicable comments provided on December 23, 2024, and during subsequent conversations and meetings with Town staff. Accordingly, we look forward to the Project's Planning Commission hearing in April.

Sincerely,



Eric S. Phillips

Encls.

**14859 Los Gatos Blvd and 16270 Burton Road
(APN 424-07-009, -053, -081, -094, -095, -115, -116, and -052)
Architecture and Site Application S-23-031
Subdivision Application M-23-005**

Proposed Density Bonus Concessions, Waivers, and Parking Reductions

Although the Project meets many of the General Plan policies, including the land use and density designated in the Housing Element, and the guidelines of the North 40 Specific Plan, the Applicant seeks incentives or concessions, waivers, and parking reductions pursuant to the State Density Bonus Law (Gov. Code § 65915).

The Project will dedicate 77 of its 450 units to be rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code at a monthly cost that is an affordable rent, as defined in Section 50053 of the Health and Safety Code. Note that this level of affordability equals 21 percent of the Project's market rate units, which exceeds the affordability requirements in the Town's BMP Ordinance. In addition, by providing this level of affordability, the Project is entitled to the following benefits under State Density Bonus Law:

- A density bonus of 30.5% above the otherwise maximum allowable residential density (Gov. Code § 65915(f)(1);
- Two incentives or concessions (Gov. Code § 65915(d)(2)(B); for purposes of the State Density Bonus Law, the terms “incentives” and “concessions” are interchangeable, and this summary will use “concession” going forward);
- Waivers or reductions for “any development standard that will have the effect of physically precluding the construction of a development” that provides enough affordable housing to qualify for the State Bonus Law (Gov. Code § 65915(e)); and
- Minimum parking requirements, inclusive of guest parking and including parking provided in uncovered or tandem spaces, that do not exceed specified ratios. (Gov. Code § 65915(p).)

As detailed below, the Applicant proposes to use the State Density Bonus Law's concessions, waivers, and parking reduction benefits to allow the development of the Project as proposed. In addition, the Applicant reserves the right to modify the request to include different or additional concessions and waivers if needed to address additional applicable development standards.

Concessions

1. *Allow residential uses on the ground floor of buildings.* Section 2.5.10c of the North 40 Specific Plan prohibits residential uses on the ground floor of buildings in the Northern District, which covers the Project site. Because the Housing Element designates the Project site as a site that is suitable for very low, low-, or moderate-income households at a residential density of at least 30 du/ac, inconsistency with this zoning standard is not a basis to deny the Project under Government Code section 65589.5(d)(5)(A). Accordingly, we do not believe that this standard is applicable to the Project. However, to the extent it applies, the Project proponent requests a concession to allow residential uses on the ground floor of buildings.

Although portions of the Project incorporate commercial elements, it is not financially feasible to develop commercial spaces on the ground floor of all the buildings on the Project site. Therefore, eliminating this development standard will result in cost savings to help provide the level of affordability proposed.¹

2. Alternative BMP Phasing Requirements. Los Gatos Municipal Code Section 29.10.3025 requires that “BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units.” It also provides that “The Town Council may grant an exception to the phasing requirements during the project approval process.” Due to the phased nature of the Project, it is necessary for a portion of the Project’s market rate units to develop and receive Certificates of Occupancy to raise sufficient funds to create the building pad and infrastructure necessary to develop the 100% affordable multifamily building on Lot 19 within the Project. Specifically, the Project needs the ability to develop and sell 127 units (29% of the 450 total units in the Project) before being required to develop the 100% affordable multifamily building. If the Project were required to include affordable units within the first 127 units built and developed, it would reduce the return on these units and increase the cost burden of financing the creation of the 100% affordable multifamily building on Lot 19. Therefore, approval of a concession to allow for alternative BMP phasing requirements would result in actual and identifiable cost reductions for the Project. Notwithstanding this proposed concession, if the mixed-income multifamily building (Building E1) on Lot 18 develops before the Project has secured full financing for the development of Lot 19, the Project would provide BMP units within Building E1 in proportion to the Project’s market-rate units. Moreover, if Building E1 develops after the Project has secured full financing for the development of Lot 19, the Project would provide the 10 BMP units required within Building E1 concurrently with Building E1’s market-rate units.

To memorialize the requested alternative BMP phasing requirements, while continuing to provide the Town with security that all 450 units within the Project would be developed, the Project proposes the following condition be memorialized as part of the Project approvals:

PHASING OF THE CONSTRUCTION OF BMP UNITS: At full buildout of the project, sufficient units to qualify the project for two incentives or concessions under the State Density Bonus Law under subdivision (e) of Section 65915 of the Government Code (i.e., 77 units of the project’s 450 units) shall be restricted for occupancy by lower income households, as defined by Section 50079.5 of the Health and Safety Code, at affordable rents for the assumed household size, calculated pursuant to Section 50053 of the Health and Safety Code, for each restricted unit. Such units shall constitute the project’s BMP units.

¹ See HCD Notice of Violation to City of Elk Grove (October 12, 2022), which concludes that allowing residential ground floor development in mixed use areas that otherwise require ground floor commercial uses results in actual and identifiable cost reductions such that refusal to approve a concession would violate the State Density Bonus Law.

Prior to the approval of building permits for residential units, the applicant shall execute and record an affordable housing agreement in a form subject to the Town Attorney's reasonable approval. The affordable housing agreement shall:

- Require the applicant to provide no fewer than 10 BMP units affordable to lower income households in Building E1 on Lot 18 as shown on the vesting tentative map. The BMP units within Building E1 shall be constructed and Certificate of Occupancies secured in proportion with or prior to the construction of the market rate units within Building E1;
- Require the applicant to provide no fewer than 67 BMP units affordable to lower income households with one unrestricted manager's unit in Building G1 on Lot 19 as shown on the vesting tentative map;
- Restrict BMP units for a term of 55 years from the date of the initial occupancy of the BMP units;
- Include terms regarding provisions for marketing, income certification, and screening of potential renters of BMP units including the financing of ongoing administrative and monitoring costs.

The affordable housing agreement shall also include the following phasing requirements and performance criteria:

- The Town shall issue no more than 127 Certificates of Occupancy (29% of the 450 total units in the project) until the project satisfies the Affordable Housing Completion Milestone.
- The **“Affordable Housing Completion Milestone”** shall mean:
 - The applicant or its assignee has completed all backbone infrastructure and grading necessary to serve Lot 19; and
 - The applicant or its assignee has accepted an allocation of 4% or 9% Low Income Housing Tax Credits to construct no fewer than 67 BMP units affordable to lower income households with one unrestricted manager's unit on Lot 19.
- Until the project achieves the Affordable Housing Completion Milestone, the applicant or its designee shall diligently pursue financing for the construction of the 68 approved units on Lot 19. This shall require, at a minimum, the submittal of an application for private grant funding or county, state, and/or federal government funding at least once per calendar year.
- The applicant may elect to commence Building E1 before achieving the Affordable Housing Completion Milestone subject to the following:

- If Building E1 is developed before any townhomes, 17% of total units within Building E1 (e.g., 44 of 255 units) shall be provided as BMP units.
- If Building E1 is developed after some or all of the townhomes have received Certificates of Occupancy, Building E1 shall provide 44 units as BMP units plus 17% of the number of townhomes that have received Certificates of Occupancy (up to 21 additional BMP units in Building E1).
- Once the project achieves the Affordable Housing Completion Milestone, the affordability restrictions shall be released from all but 10 units in Building E1.

Waivers

When considering the following proposed waivers, it is important to remember that “[i]n no case may [the Town] apply any development standard that will have the effect of physically precluding the construction of a development [that qualifies for the State Density Bonus Law] at the densities” allowed and with the requested concessions. (See Gov. Code, § 65915(e)(1).) Cases have confirmed that once a project qualifies for a density bonus, “the law provides a developer with broad discretion to design projects with additional amenities even if doing so would conflict with local development standards.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 774-75; see also *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1346–1347 [waivers must be granted even though redesigning the project to decrease amenities would reduce the need for waivers].)

1. Increased Maximum Height. Section 2.5.2 of the North 40 Specific Plan and referenced in Policy LU5 sets a maximum building height of 30 feet across the Project site and Section 2.5.7(b) sets a maximum building height of 25 feet for buildings located within 50 feet of Los Gatos Boulevard. The Project requires a waiver to allow the Affordable Multifamily (Building G) units to achieve a maximum height of 63 feet measured from the lowest natural grade to highest roof surface or 61 feet when measured from the proposed grade, and the town home units to achieve a maximum height of 49 feet when measured from the lowest natural grade or 44 feet when measured from lowest proposed grade, and the Mixed-Income Multifamily (Building E) units to achieve a maximum height of 100 feet from when measured from the lowest natural grade to the highest roof surface or approximately 94 feet when measured from the lowest proposed grade. It should be noted that Building E is approximately 89 feet when measured from Los Gatos Boulevard and that detailed measurements are included in the updated architectural sheets in the attached revised drawings (Planning Comments 18, 27 and 29). The Specific Plan’s development standards do not accommodate the Project’s proposed density, which is allowed pursuant to the adopted Housing Element. Increased height is necessary for each proposed

building typology to accommodate the proposed unit count and necessary parking facilities across the Project site.^{2, 3}

2. Modified Street Sections. Section 4.13.3 of the North 40 Specific Plan defines a 40' road section for Section 6d of North A Street with two 12' drive lanes and two 8' parking lanes. The Project proposes wider sidewalks, bicycle lanes, and reduced lane widths; accommodating all of the proposed facilities in the street would require additional right of way that would reduce the amount of developable area for buildings, resulting in a lower unit count. Therefore, the Project proponent requests a waiver from the required street section dimensions.

3. Deviations from Objective Design Standards. The Project has been designed to comply with as many of the Objective Design Standards as feasible while meeting the unit count called for in the Housing Element; however, to physically fit the Project as designed at the density allowed, the following standards must be waived:

- A.2.1. (100% affordable multifamily housing, townhomes, and commercial buildings only) Short-term bicycle parking cannot be accommodated within 50' of each building entry while maintaining adequate space for residential density and proposed open space. In the alternative, the project distributes bike parking throughout the site to balance even distribution and convenience, while also supporting active community use.
- A.2.2. (100% affordable multifamily housing, mixed-use multifamily, and townhomes) Long-term bicycle parking is provided at one space per unit. To maintain adequate space for residential density and proposed open space, short-term bicycle parking is provided at a ratio of one space per 2,000 square feet of non-residential floor area.
- A.3.4.e. (100% affordable multifamily housing and mixed-use multifamily only) To maintain adequate space for residential density and proposed open space, long-term bicycle spaces are proposed to be accommodated with stacked parking. Although the proposed bicycle racks would not meet the Objective Design Standards' dimensions, a reduction is necessary to provide adequate long-term bicycle parking without reducing the Project's residential density.
- A.5.1. (Commercial building only) The project is designed to prioritize the pedestrian experience and active ground-floor retail uses where the buildings have frontage on C1 Street, D4 Street, and the Pedestrian Paseo, which is proposed as a Project amenity serving the public and future Project residents. It is necessary to locate surface parking between the buildings and Los Gatos Boulevard, otherwise the Project would need to be redesigned to remove the proposed amenity or reduce its residential density.
- A.6.3. (Mixed-use multifamily only) The multifamily building has a parking structure, and a pedestrian access gate cannot be provided without redesigning the Project and

² In some cases, the height waivers proposed may exceed the more precise heights shown on the architectural plans. We propose rounding the height up to nearest foot to allow for some variance between the current plans and final construction plans.

³ See HCD Notice of Violation to City and County of San Francisco (December 29, 2022), which concludes that it is a violation of the State Density Bonus Law to approve a project subject to a condition of approval that the applicant reduce the height proposed as a waiver.

affecting its density. Pedestrians can access the exterior by using an elevator, corridor or stairs.

- A.10.2. (Mixed-use multifamily and townhomes only) The Project requires a new unbroken retaining wall between C5 Street and the neighboring property so long as the adjacent grade remains lower than the Project Site's grade to support development at the permitted density.
- A.11.1.b. (100% affordable multifamily housing, mixed-use multifamily, and townhomes) The 100% affordable multifamily building cannot accommodate balconies and cannot meet the private open space requirements while maintaining the unit count. The mixed-use multifamily building can accommodate balconies on only 49% of the units (126 units) without reducing Project density. In addition, it may be necessary for the Project to remove some or all of the roof decks from the townhomes before submitting for building permits.
- A.12.1. (Mixed-use multifamily and commercial buildings only) The Project proposes a Paseo to connect Los Gatos Boulevard to the Meadow, which would house the ground floor retail consistent with the Project's first concession request and serve as a Project amenity serving the public and future Project residents. Providing 75 percent of any street-facing façade would require a Project redesign to remove the proposed amenity and conflict with its concession request.
- B.1.1. (Townhomes only) The primary street-facing façade of the townhomes complies with B1.1.1b, c, and f. However, since each facade of the townhomes faces a street, depending on siting, it is not possible for the townhomes to comply with the requirement that all street-facing facades incorporate three of the identified design solutions.
- B.1.2. (100% affordable multifamily housing and mixed-use multifamily only) An upper-story setback would reduce the density of the Project.
- B.3.1. (Mixed-use multifamily only) The mixed-use multifamily building (E1) cannot comply with the requirement to install horizontal eave breaks every 40 feet of building façade without redesigning the Project and reducing its density.
- B.4.1. (Townhomes only) Townhomes comply at Front Facade of each building, but redesigning the Project to differentiate the base of the buildings at the Rear/Garage or Side Facades would affect the overall residential capacity by reducing the building form and floor area for the Project's residential uses.
- B.4.3. (100% affordable multifamily housing and townhomes only) The 100% affordable multifamily building (6 points) and the townhomes (14 points) cannot reach 16 points through street-facing façade plan variation while maintaining the unit count.
- B.4.4. (Townhomes only) The Project proposes the Meadow as an amenity serving the public and future Project residents. Townhomes H1 and H2 are designed to face the Meadow rather than the street to activate this project amenity. As a result, the garage doors on these two townhomes exceed 40 percent of the length of the façade; otherwise, the Project would need to be designed to modify the proposed amenity or reduce its residential density.
- B.4.6.b. (Commercial building only) The Project proposes a Paseo to connect Los Gatos Boulevard to the Meadow, which would house the ground floor retail consistent with the Project's first concession request and serve as a Project amenity serving the public and future Project residents. To activate the Paseo and accommodate the design of this

Project amenity consistent with the Project's concession request, the commercial buildings deviate from the façade requirements.

- B.4.10. (Townhome F3 only) Townhome B3 is adjacent to a single-family use and cannot be designed to set back five additional feet from the façade plan of the lower floor without reducing the project's residential development capacity.
- B.4.11. (Mixed-use multifamily building and townhomes only) The mixed-use multifamily building's balconies extend into the airspace beyond the building footprint, as does the balcony for Townhome F3. This encroachment must be allowed to accommodate the project's residential density and open space amenities.
- B.4.13. (Mixed-use multifamily building only) The mixed-use multifamily building (E1) cannot comply with the façade requirement without redesigning the Project and reducing its density.

4. **BMP Program Standards**. As noted above, because the Project is consistent with the Housing Element's designated density for the Property and because it reserves 77 of its units as affordable to lower income households, the Housing Accountability Act prohibits the Town from denying the Project based on inconsistencies with zoning standards, including the Town's BMP Program. However, to the extent applicable, we request a 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. Because the Project would involve a partnership with a non-profit developer to provide affordable housing units using tax credits and other financing mechanisms that require the affordable units be consolidated, compliance with the BMP Program requirements would physically preclude development of the Project. Likewise, requiring larger affordable units would result in few units per building, reducing the Project's density.

Parking Reductions

Consistent with the standards established in subdivision (p) of Government Code section 65915, the Applicant proposes that the mixed-use multifamily housing building and the townhomes be subject to the following minimum parking ratios, inclusive of guest parking:

- Zero to one bedroom: one onsite parking space;
- Two to three bedrooms: one and one-half onsite parking spaces; and
- Four and more bedrooms: two and one-half parking spaces.

Note that the 100% affordable multifamily housing building complies with the Town's parking standards, which require less parking than the State Density Bonus Law. Therefore, this portion of the request is not applicable to the affordable housing component of the Project.

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Appendix B – OBJECTIVE DESIGN STANDARDS CHECKLISTAPPLICANT RESPONSIBILITY

Applicants are responsible for accurately responding to each objective design standard listed below by indicating whether each standard has been met or does not apply.

Applicants shall indicate the sheet(s) within the project plans that show compliance with each objective design standard.

APPENDIX B – OBJECTIVE DESIGN STANDARDS CHECKLIST - CUMULATIVE

YES	NO	N/A	Objective Design Standard	SHEET
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A. SITE STANDARDSA.1. Pedestrian Access

YES	NO	N/A	Objective Design Standard	SHEET
			A.1.1 All on-site buildings, entries, facilities, amenities, and vehicular and bicycle parking areas shall be internally connected with a minimum four-foot-wide pedestrian pathway or pathway network that may include use of the public sidewalk. The pedestrian pathway network shall connect to the public sidewalk along each street.	G3, C6, L1.00
			A.1.2 Pedestrian pathways within internal parking areas shall be separated from vehicular circulation by a physical barrier, such as a grade separation or a raised planting strip, of at least six inches in height and at least six feet in width. A pedestrian pathway is exempt from this standard where it crosses a parking vehicular drive aisle.	G3

A.2. Short-Term Bicycle Parking (Class II)

YES	NO	N/A	Objective Design Standard	SHEET
			Short-term bicycle parking (Class II bicycle parking facility) consists of racks that support the bicycle frame at two points and allow for the bicycle frame and one wheel to be locked to the rack with a U-lock.	L4.02
			A.2.1 Short-term bicycle parking space shall be located within 50 feet of the primary pedestrian building entrance.	G12
			A.2.2 Short-term bicycle parking shall be provided at a rate of one space per dwelling unit and one space per 2,000 square feet of non-residential floor area.	G12
			A.2.3 Each short-term bicycle parking space shall be a minimum of seven feet in length and two feet in width.	L4.02
	X		A.2.4 If more than 20 short-term bicycle spaces are provided, at least 50 percent of the spaces shall be covered by a permanent solid-roofed weather protection structure.	N/A

A.3. Long-Term Bicycle Parking (Class I)

YES	NO	N/A	Objective Design Standard	SHEET
			Long-term bicycle parking facilities (Class I bicycle parking facility) consists of bicycle lockers or bicycle rooms with key access for use by residents.	
			A.3.1 Long-term bicycle facilities shall be located on the ground floor and shall not be located above the building and/or structure.	A2.100, A4.011, A4.013
			A.3.2 Multi-family residential and residential mixed-use buildings shall provide one long-term bicycle parking space per dwelling unit. Developments such as townhomes that include individual garages for each unit shall not be required to provide long-term bicycle parking.	A2.100, A4.020, A4.011, A4.013
			A.3.3 Bicycle locker minimum requirements:	
			a. Dimensions of 42 inches wide, 75 inches deep, and 54 inches high.	N/A
			b. Must withstand a load of 200 pounds per square foot.	N/A
			c. Opened door must withstand 500-pound vertical load.	N/A
			A.3.4 Bicycle rooms with key access minimum requirements:	
			a. Bicycle rooms shall have a minimum ceiling height of seven feet.	A2.100, A2.300, A4.013
			b. Bicycle rooms shall contain racks that support the bicycle frame at two points and allow for the bicycle frame and one wheel to be locked to the rack with a U-lock.	A2.100, A2.300, A4.013
			c. Long-term bicycle parking spaces shall be served by an aisle with a minimum width of six feet.	A2.100, A2.300, A4.013
			d. Maneuverability space of at least two feet shall be provided between the aisle and long-term bicycle parking spaces	A2.100, A2.300, A4.013

Obj. Design Std.	100% Affordable Housing		Mixed Use Multifamily		Townhomes		Commercial Buildings	
	Yes/No/NA	Applicant Response	Yes/No/NA	Applicant Response	Yes/No/NA	Applicant Response	Yes/No/NA	Applicant Response
A.1.1	Yes	4-foot-wide min. pedestrian pathway network is provided throughout the site to all on-site buildings, entries, facilities, amenities, vehicular & bicycle parking. See Civil Sections on C6 and note added to Landscape Site Plan on L1.00	Yes	4-foot-wide min. pedestrian pathway network is provided throughout the site to all on-site buildings, entries, facilities, amenities, vehicular & bicycle parking. See Civil Sections on C6 and note added to Landscape Site Plan on L1.00	Yes	4-foot-wide min. pedestrian pathway network is provided throughout the site to all on-site buildings, entries, facilities, amenities, vehicular & bicycle parking. See Civil Sections on C6 and note added to Landscape Site Plan on L1.00	Yes	4-foot-wide min. pedestrian pathway network is provided throughout the site to all on-site buildings, entries, facilities, amenities, vehicular & bicycle parking. See Civil Sections on C6 and note added to Landscape Site Plan on L1.00
A.1.2	Yes	Project Complies	Yes	Project Complies	Yes	Project Complies	Yes	Project Complies
A.2.1	No	Bike parking is distributed throughout the site to consider even distribution and convenience, while also supporting active community use. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	Yes	Short-term bicycle parking is distributed throughout the project site area near building entrances.	No	Short-term bicycle parking cannot be accommodated within 50' of each townhome entry door while maintaining adequate space for residential density and proposed open space. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	No	Short-term bicycle parking cannot be accommodated within 50' of each building entry while maintaining adequate space for residential density and proposed open space. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.
A.2.2	No	Long-term bicycle parking is provided at one space per unit. Short-term bicycle parking cannot reasonably be provided at a rate of one space per dwelling unit while maintaining adequate space for residential density and proposed open space. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable. One space per 2,000 square feet of non-residential floor area is provided. See sheet G12 for more information.	No	Long-term bicycle parking is provided at one space per unit. Short-term bicycle parking cannot reasonably be provided at a rate of one space per dwelling unit while maintaining adequate space for residential density and proposed open space. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable. One space per 2,000 square feet of non-residential floor area is provided. See sheet G12 for more information.	No	Long-term bicycle parking is provided at one space per unit. Short-term bicycle parking cannot reasonably be provided at a rate of one space per dwelling unit while maintaining adequate space for residential density and proposed open space. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable. One space per 2,000 square feet of non-residential floor area is provided. See sheet G12 for more information.	Yes	One space per 2,000 square feet of non-residential floor area is provided. See sheet G12 for more information.
A.2.3	N/A	Project Complies. See 3/L4.02.	Yes	Project Complies. See 3/L4.02.	Yes	Project Complies. See 3/L4.02.	Yes	Project Complies. See 3/L4.02.
A.2.4	N/A	Not applicable, all short-term racks are less than 20 spaces, and distributed throughout the site.	N/A	Not applicable, all short-term racks are less than 20 spaces, and distributed throughout the site.	N/A	Not applicable, all short-term racks are less than 20 spaces, and distributed throughout the site.	N/A	Not applicable, all short-term racks are less than 20 spaces, and distributed throughout the site.
A.3. Long-Term Bicycle Parking (Class I)								
A.3.1	Yes	Project Complies. See A2.100.	Yes	Project Complies. See A4.011 and A4.013.	N/A	Not applicable; Townhomes have garages.	N/A	Not applicable
A.3.2	Yes	Project Complies. See A2.100.	Yes	Project Complies. See A4.020, A4.011 and A4.013.	N/A	Not applicable; Townhomes have garages.	N/A	Not applicable
A3.3a	N/A	Not Applicable, Bicycle Room Provided	N/A	Not Applicable, Bicycle Room Provided	N/A	Not applicable, Townhomes have garages.	N/A	Not applicable
A3.3b	N/A	Not Applicable, Bicycle Room Provided	N/A	Not Applicable, Bicycle Room Provided	N/A	Not applicable, Townhomes have garages.	N/A	Not applicable
A3.3c	N/A	Not Applicable, Bicycle Room Provided	N/A	Not Applicable, Bicycle Room Provided	N/A	Not applicable, Townhomes have garages.	N/A	Not applicable
Bicycle rooms with key access minimum requirements:								
A3.4a	Yes	Project Complies. See A2.100 and A2.300.	Yes	Project Complies. See A4.013.	N/A	Not applicable, Townhomes have garages.	N/A	Not applicable
A3.4b	Yes	Project Complies. See A2.100 and A2.300.	Yes	Project Complies. See A4.013.	N/A	Not applicable, Townhomes have garages.	N/A	Not applicable
A3.4c	Yes	Project Complies. See A2.100 and A2.300.	Yes	Project Complies. See A4.013.	N/A	Not applicable, Townhomes have garages.	N/A	Not applicable
A3.4d	Yes	Project Complies. See A1.101 and A2.100. 10' separation is provided when loading bikes on both sides (6' aisle + 2' on each side for maneuvering room). 8' separation is provided when loading bikes on one side (6' aisle + 2' on one side for maneuvering room).	Yes	Project Complies. See A4.013.	N/A	Not applicable, Townhomes have garages.	N/A	Not applicable

e. Each horizontal long-term bicycle parking space shall be a minimum of seven feet in length, two feet in width, four-and-one-half feet in height. Each vertical long-term bicycle parking space shall be a minimum of three-and-one-half feet in length, two feet in width, and seven feet in height.			A2.100 A4.013		A3.4e		To maintain adequate space for residential density and proposed open space, the Affordable Housing proposes horizontal stacked parking. See sheet A2.100. Each 78" x 84" clear module can store (4) bicycles. Although the proposed bicycle racks would not meet the Objective Design Standards' dimensions, a reduction is necessary to provide adequate long-term bicycle parking without reducing the Project's residential density. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.		No		To maintain adequate space for residential density and proposed open space, the Multi-family building provides a mix of two-tier lift assist, vertical and circular bicycle racks to provide a higher capacity to meet the requirements. A variety of bicycle rack types are proposed to accommodate a variety of bicycle sizes. See sheet A4.013. Although the proposed bicycle racks would not meet the Objective Design Standards' dimensions, a reduction is necessary to provide adequate long-term bicycle parking without reducing the Project's residential density. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.		N/A		Not applicable; Townhomes have garages.		N/A		Not applicable			
A.4. Vehicular Access																						
YES	NO	N/A	Objective Design Standard	SHEET	A4.1	Off-street parking lots shall have vehicular circulation using an internal vehicular network that precludes the use of a public street for aisle-to-aisle internal circulation.	G3	A4.1	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.
A.5. Parking Location and Design																						
YES	NO	N/A	Objective Design Standard	SHEET	A.5.1	Surface parking lots and carports shall not be located between the primary building frontage and the street.	G3	A.5.1	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.	Yes	Project complies, see G3.
A.5.2																						
Uncovered parking rows with at least 15 consecutive parking spaces shall include a landscape area of six feet minimum width at intervals of no more than 10 consecutive parking stalls. One tree shall be provided in each landscape area.																						
A.6. Parking Structure Access																						
YES	NO	N/A	Objective Design Standard	SHEET	A.6.1	Any vehicular entry gate to a parking structure shall be located to allow a minimum of 18 feet between the gate and the back of the sidewalk to minimize conflicts between sidewalks and vehicle queuing.	A4.011 A4.301	A.6.1	N/A	Not Applicable.	Yes	Multi-family Building has a Parking Structure. At the garage entry closest to D4 Street and going down into level B, a roll-up door is provided. A minimum 18 feet between this roll up door and back of sidewalk is provided. At the garage entry located mid-block along C5 Street and going down into level 1, no gates or roll-up doors are provided, so the 18 foot clearance is not provided at this location. See sheet A4.011 and A4.301, detail 2.	N/A	Not Applicable.	N/A	Not Applicable.	N/A	Not Applicable.	N/A	Not Applicable.		
A.6.2																						
A parking structure shall not occupy more than 50 percent of the building width of any street-facing façade, and it shall be recessed a minimum of five feet from the street-facing façade of the building.																						
A.6.3																						
For projects with five or more residential units and that have a vehicle access gate to the parking structure, a pedestrian gate shall also be provided.																						
A.7. Utilities																						
YES	NO	N/A	Objective Design Standard	SHEET	A.7.1	Pedestrian-oriented lighting shall be provided along all pedestrian paths in community recreation spaces. Exterior lighting fixtures shall be a minimum of three feet and a maximum of 12 feet in height. Light fixtures shall be placed along the pedestrian path at a spacing of no more than 30 linear feet.	EL100 EL300 EL301	A.7.1	Yes	Project complies, see sheets EL100, EL300 and EL301.	Yes	Project complies, see sheets EL100, EL300 and EL301.	Yes	Project complies, see sheets EL100, EL300 and EL301.	Yes	Project complies, see sheets EL100, EL300 and EL301.	Yes	Project complies, see sheets EL100, EL300 and EL301.	Yes	Project complies, see sheets EL100, EL300 and EL301.		
A.7.2																						
Exterior lighting shall be fully shielded and restrain light to a minimum 30 degrees below the horizontal plane of the light source. Lighting shall be arranged so that the light will not shine directly on lands of adjacent residential zoned properties. Uplighting is prohibited.																						
A.7.3																						
Street-level views of ground level utility cabinets, mechanical equipment, trash, and service areas shall be screened from sight with landscape planting, fencing, or a wall, as allowed by the Town Code. The screening shall be at least the same height as the item being screened and screening that is not landscape material shall be constructed with one or more of the materials used on the primary building.																						
A.7.4																						
Roof-top mechanical equipment shall be screened from view from the street. Solar equipment is exempt from this requirement.																						
A.8. Landscaping and Screening																						
YES	NO	N/A	Objective Design Standard	SHEET	A.8.1	At least 50 percent of the front setback area shall be landscaped.	G4	A.8.1	Yes	Project complies. Note added to L1.00 through L1.11.	Yes	Project complies. Note added to L1.00 through L1.11.	Yes	Project complies. Note added to L1.00 through L1.11.	Yes	Project complies. Note added to L1.00 through L1.11.	Yes	Project complies. Note added to L1.00 through L1.11.	Yes	See notes on L1.00 and landscape enlargements on sheets L1.01 through L1.11.		

			A.8.2	A minimum 10-foot-wide landscape buffer shall be provided along the full length of the shared property line between multi-family or Residential Mixed-Use development and abutting residential properties. The buffer shall include the following: a. A solid masonry wall with a six-foot height, except within a street-facing setback where walls are not permitted; and b. Trees planted at a rate of at least one tree per 30 linear feet along the shared property line. Tree species shall be selected from the Town of Los Gatos Master Street Tree List and shall be a minimum 15-gallon size.	L1 series	A.8.2	Not Applicable.	Not Applicable. See note added to L1.00.	Not Applicable.	Not Applicable.	Not Applicable.	
			A.8.3	Surface parking lots shall be screened from view of the street with landscaping or a wall with a minimum three-foot height to screen the parking lot when not already screened by a primary building. When located in a street-facing setback, screening may not exceed a height of three feet.	L1.00	A.8.3	Yes	Surface parking lots are screened by primary building or 3-foot height landscaping. See sheet L1.00.	Yes	Surface parking lots are screened by primary building or 3-foot height landscaping. See sheet L1.00.	N/A	Not Applicable.
A.9. Fencing												
YES	NO	N/A	Objective Design Standard			SHEET						
			A.9.1	Fences, walls, and gates within required setbacks along all street frontages are prohibited unless used to screen on-site parking spaces from view from the street.	A2.100	A.9.1	Yes	100% Affordable Housing complies this standard - no fences, walls or gates within setbacks.	Yes	No fences, walls, or gates within setbacks.	Yes	No fences, walls, or gates within setbacks.
			A.9.2	Chain link fencing is prohibited.	N/A	A.9.2	Yes	Project complies.	Yes	Project complies.	Yes	Project complies.
			A.9.2	Perimeter barrier gates for vehicles and pedestrian entry gates shall have a maximum height of six feet.	N/A	A.9.2	N/A	Not Applicable.	N/A	Not Applicable.	N/A	Not Applicable.
			A.9.4	Solid vehicular and pedestrian entry gates are prohibited. Entry gates shall be a minimum 50 percent open view.	A4.011 A4.201	A.9.4	N/A	Not Applicable.	Yes	The multi-family building complies. The overhead roll up open grill door at the basement entry is greater than 50% open free area and view as noted on sheet A4.011 and A4.201.	N/A	Not Applicable.
A.10. Retaining Walls												
YES	NO	N/A	Objective Design Standard			SHEET						
			A.10.1	Retaining walls shall not exceed five feet in height. Where an additional retained portion is necessary, multiple-terraced walls shall be used. Terraced walls shall set back at least three feet from the lowest segment.	C7-C12	A.10.1	Yes	Project complies.	Yes	Project complies.	Yes	Project complies.
			A.10.2	Retaining walls shall not run in a straight continuous direction for more than 50 feet without including the following: a. A break, offset, or landscape pocket in the wall plane of at least three feet in length and two feet in depth; and b. Landscaping at a minimum height of three feet at the time of installation along a minimum of 60 percent of the total length of the retaining wall.	C7-C12	A.10.2	Yes	Project complies.	No	There is a new retaining wall between C5 street and the neighboring property. Adjacent neighbor existing grade is lower than this project site. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	No	There is a new retaining wall between C5 street and the neighboring property. Adjacent neighbor existing grade is lower than this project site. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.
A.11. Landscaped, Private, and Community Recreation Spaces												
YES	NO	N/A	Objective Design Standard			SHEET						
			A.11.1	The landscaped, private, and community recreation spaces listed below are required for all qualifying projects. Community recreation spaces and private recreation spaces are calculated independent of each other. Landscaped areas within community recreation spaces can contribute to required minimums for both landscaped area and community recreation space.	G11	A.11.1	Yes	Recreational and landscaped spaces are annotated alongside Open Space on Sheet G11.	Yes	Recreational and landscaped spaces are annotated alongside Open Space on Sheet G11.	Yes	Recreational and landscaped spaces are annotated alongside Open Space on Sheet G11.
				b. Landscaped space: A minimum of 20 percent of the site area shall be landscaped.	G11	A.11.a.	Yes	Project complies. See Sheet G11.	Yes	Project complies. See Sheet G11.	Yes	Project complies. See Sheet G11.
				b. Private recreation space: The minimum horizontal dimension is six feet in any direction and a minimum area of 60 square feet. The minimum vertical clearance required is eight feet. Private recreation space shall be directly accessible from the residential unit. Landscaped sections of private recreation space shall not count towards required landscaping requirements.	A1.101 A4.030-A4.031	A.11.b.	No	100% Affordable Housing Building cannot accommodate balconies and cannot meet the private open space requirements while maintaining the unit count. See sheet A1.101. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	No	49% of the units (126 units) comply with private recreation space requirement. The remainder of the units cannot accommodate balconies while maintaining the unit count. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	Yes	49% of the units (126 units) comply. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable. All Townhome units comply as currently designed, see Townhome plan sheets. Note that to achieve the proposed density, it may be necessary for the Project to remove some or all of the roof decks before submitting for building permits, which would cause the Project to fall short of the open space standard. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard would not be applicable, and future modifications would be allowed.
				i. Each ground floor dwelling unit shall have a minimum of 120 square feet of usable private recreation space.	G3	A.11.b.i.	No	Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable. See sheet G3.	No	Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable. See sheet G3.	No	Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable. See sheet G3.
				ii. Each dwelling unit above the ground floor shall have a minimum of 60 square feet of usable private recreation space. Where multiple balconies are provided for a single unit, the 60-square-foot minimum can be an aggregate of all balconies, provide each balcony meets the requirements for minimum horizontal dimensions.	A2 Series A3 Series A4.030-A4.031	A.11.b.ii.	No	Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	No	49% of the units (126 units) comply. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	YES	All Townhome units comply, see Townhome plan sheets.
				c. Community recreation space: The minimum dimensions are 10 feet by six feet. A minimum of 60 percent of the community recreation space shall be open to the sky and free of permanent solid-roofed weather protection structures. Community recreation space shall provide shading to a minimum 15 percent of the community recreation space by either trees or structures, such as awnings, canopies, umbrellas, or a trellis. Tree shading shall be calculated by using the diameter of the tree crown at 15 years maturity. Shading from other built structures shall be calculated by using the surface area of the overhead feature.	G11	A.11.c.	YES	Residential community recreation space (100 sf x 255 units = 25,500 sf) is provided as part of the site-wide open space. See sheet G11.	YES	Residential community recreation space (100 sf x 255 units = 25,500 sf) is provided as part of the site-wide open space. See sheet G11.	YES	Residential community recreation space (100 sf x 255 units = 25,500 sf) is provided as part of the site-wide open space. See sheet G11.
				i. Community recreation space shall be provided in Residential Mixed-Use developments at a minimum of 100 square feet per residential unit plus a minimum of two percent of the non-residential square footage.	G11	A.11.c.i.	YES	For the purposes of this calculation, the Meadow and the Paseo meet the Community Recreation space requirement. Please see sheet G11 for more information.	YES	For the purposes of this calculation, the Meadow and the Paseo meet the Community Recreation space requirement. Please see sheet G11 for more information.	YES	For the purposes of this calculation, the Meadow and the Paseo meet the Community Recreation space requirement. Please see sheet G11 for more information.
				ii. Community recreation space shall be provided in multi-family residential development projects at a minimum of 100 square feet per residential unit.	A1.101 G11	A.11.c.ii.	YES	100% Affordable Housing building complies. Recreation space requirements are indicated on sheet A1.101. Total site community recreation space is indicated on G11 alongside site Open Space requirements.	YES	For the purposes of this calculation, the Meadow and the Paseo meet the Community Recreation space requirement. Please see sheet G11 for more information.	YES	For the purposes of this calculation, the Meadow and the Paseo meet the Community Recreation space requirement. Please see sheet G11 for more information.
				iii. A project with four or less residential units is exempt from community recreation space requirements.	N/A	A.11.c.iii.	N/A	Not Applicable.	YES	Project complies without counting the Mixed Use Multi-Family landscaped roof. See sheet G11.	N/A	Not Applicable.
				iv. Landscaped roof space can satisfy both required landscaping requirements and community recreation space requirements. Landscaped roof space may not be used to satisfy more than 50 percent of the required landscaping for the site.	G11	A.11.c.iv.	N/A	Not Applicable.	YES	Project complies without counting the Mixed Use Multi-Family landscaped roof. See sheet G11.	N/A	Not Applicable.
A.12. Building Placement												
YES	NO	N/A	Objective Design Standard			SHEET						

		A.12.1	To ensure buildings provide a continuous frontage along sidewalks, development in commercial zones shall place at least 75 percent of any ground floor street-facing façade on or within five feet of the setback line designated in the Town Code.	A1.100	A.12.1	N/A	Not Applicable.	No	The Project proposes a Paseo to connect Los Gatos Boulevard to the Meadow, which would house the ground floor retail consistent with the Project's first concession request and serve as a Project amenity serving the public and future Project residents. Providing 75 percent of any street-facing façade would require a Project redesign to remove the proposed amenity and conflict with its concession request. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	N/A	Not Applicable.	No	The Project proposes a Paseo to connect Los Gatos Boulevard to the Meadow, which would house the ground floor retail consistent with the Project's first concession request and serve as a Project amenity serving the public and future Project residents. Providing 75 percent of any street-facing façade would require a Project redesign to remove the proposed amenity and conflict with its concession request. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.		
					A.12.2	N/A	Not Applicable.			Project Complies with all elements utilized. Refer to sheet A4.011 for location of commercial storefront. Amenities below are detailed all along the commercial storefront and shown on L1.11.	N/A	Not Applicable.			
		A.12.2	A Residential Mixed-Use project with a ground-floor non-residential use shall provide site amenities on a minimum of 15 percent of the ground plane between the building and the front or street-side property line. The site amenities shall be comprised of the following elements:	L1.11 A4.011	A.12.2.a.	N/A	Not Applicable.			YES	See note above.	N/A	Not Applicable.	N/A	Not Applicable.
			a. Landscape materials or raised planters;	L1.11	A.12.2.b.	N/A	Not Applicable.			YES	See note above.	N/A	Not Applicable.	N/A	Not Applicable.
			b. Walls designed to accommodate pedestrian seating, no higher than 36 inches;	L1.11	A.12.2.c.	N/A	Not Applicable.			YES	See note above.	N/A	Not Applicable.	N/A	Not Applicable.
			c. Site furnishings, including fountains, sculptures, and other public art; or	L1.11	A.12.2.d.	N/A	Not Applicable.			YES	See note above.	N/A	Not Applicable.	N/A	Not Applicable.
			d. Tables and chairs associated with the ground floor use.	L1.11											
B. BUILDING DESIGN															
B.1. Massing and Scale															
YES	NO	N/A	Objective Design Standard	SHEET											
			B.1.1												
			Multiple-story building façades that face a street shall incorporate breaks in the building mass by implementing a minimum of three of the following solutions along the combined façade area of all primary buildings facing the street:												
				See below											
			a. A minimum of 40 percent of the upper floor façade length shall step back from the plane of the ground-floor façade by at least five feet;	A4.102	B.1.1	YES	100% Affordable Housing - Complies, as noted below.			YES	Mixed Use Multi-Family - Complies, as noted below.				
					B1.1a	N/A	Not Utilized for 100% Affordable Housing.			N/A	The primary street-facing façade of townhomes complies with B1.1.b, c, and f. However, since each façade of the townhomes faces a street, depending on siting, the Townhomes do not comply. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.			N/A	Not Applicable.
			b. Changes in the façade plane with a minimum change in depth of two feet for a minimum length along the façade of two feet at intervals of no more than 30 feet;	A3 Series	B1.1b	N/A	Not Utilized for 100% Affordable Housing.			N/A	Not Utilized for Mixed Use Multi-Family.			N/A	Not Applicable.
					B1.1c	YES	100% Affordable Housing - complies, See Sheets A2.100-A2.104.			N/A	Mixed Use Multi-Family - complies, See Sheet A4.101			N/A	Not Applicable.
			c. Recessed façade plane to accommodate a building entry with a minimum ground plane area of 24 square feet. Where an awning or entry covering is provided, it can extend beyond the wall plane;	A2.100-A2.104 A4.101	B1.1d	N/A	Not Utilized for 100% Affordable Housing.			N/A	Not Utilized for Mixed Use Multi-Family.			N/A	Not Applicable.
					B1.1e	YES	100% Affordable Housing - complies, See Sheets A1.101, A2.100-A2.104.			N/A	Mixed Use Multi-Family - complies, See Sheets A4.101			N/A	Not Applicable.
			d. An exterior arcade that provides a sheltered walkway within the building footprint with a minimum depth of eight feet. For a façade 50 feet or greater, the arcade must be a minimum length of 65 percent of the full building façade; for a façade less than 50 feet, the arcade must be a minimum of 80 percent of the full building façade.	N/A	B1.1f	YES	100% Affordable Housing - complies, See Sheets A2.100-A2.104.			N/A	Not Utilized for Mixed Use Multi-Family.			N/A	Not Applicable.
			e. Ground floor open area abutting street-facing façade with a minimum area of 60 square feet;	A2.100-A2.104 A4.101	B1.2	No	Not Utilized for 100% Affordable Housing. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.			N/A	Not Utilized for Mixed Use Multi-Family. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.			N/A	Not Applicable.
			f. Vertical elements, such as pilasters or columns, that protrude a minimum of one foot from the façade and extend the full height of the building base or ground floor, whichever is greater.	A2.100-A2.104											
			B.1.2												
			Upper floors above two stories shall be set back by a minimum of five feet from the ground-floor façade.	N/A											
B.2. Parking Structure Design															
YES	NO	N/A	Objective Design Standard	SHEET											
			B.2.1												
			The ground-floor façade of a parking structure facing a street or pedestrian walkway shall be fenestrated on a minimum of 40 percent of the façade.	A4.011	B.2.1	N/A	Not Applicable.			YES	Yes, the ground floor facades of the parking structure facing the streets will be fenestrated on a minimum 40% of the facade as noted on sheet A4.011.			N/A	Not Applicable.
			B.2.2		B.2.2	N/A	Not Applicable.			N/A	N/A, there are no upper levels of parking			N/A	Not Applicable.
			B.2.3		B.2.3	N/A	Not Applicable.			N/A	N/A, there are no portions of the parking structure façade facing a street longer than 40 feet in length.			N/A	Not Applicable.
			B.2.3.a.		B.2.3.a.	N/A	Not Applicable.			N/A	N/A, there are no portions of the parking structure façade facing a street longer than 40 feet in length.			N/A	Not Applicable.
			B.2.3.b.		B.2.3.b.	N/A	Not Applicable.			N/A	N/A, there are no portions of the parking structure façade facing a street longer than 40 feet in length.			N/A	Not Applicable.

B.3. Roof Design		
YES	NO	N/A
		B.3.1 At intervals of no more than 40 feet along the building façade, horizontal eaves shall be broken using <u>at least one</u> of the following strategies:
		A.2.104
		a. Gables;
		A.2.104
		b. Building projection with a depth of a minimum of two feet;
		A.2.104
		c. Change in façade or roof height of a minimum of two feet;
		A.2.104
		d. Change in roof pitch or form; or
		A.2.104
		e. Inclusion of dormers, parapets, and/or varying cornices.
		A.2.104
		B.3.2 Skylights shall have a flat profile rather than domed.
		N/A
		B.3.3 The total width of a single dormer or multiple dormers shall not exceed 50 percent of the total roof length at the street-facing façade. The dormer width shall be measured at dormer roof fascia
		A.2.104
		B.3.4 Carpet roof materials shall be the same as the primary building.
		N/A

B.3. Roof Design		
YES	NO	N/A
	B.3.1 YES 100% Affordable Housing complies, See sheet A2.104	SHEET
	B.3.1.a. YES 100% Affordable Housing complies, See sheet A2.104	
	B.3.1.b. YES, MIN 2' PROJECTION are indicated to demonstrate compliance, See sheet A2.104 AND A2.200-A2.201.	
	B.3.1.c. YES, MIN 2' CHANGE IN HEIGHT are indicated to demonstrate compliance, See sheet A2.104 AND A2.200-A2.201.	
	B.3.1.d. YES, CHANGE IN PITCH are indicated to demonstrate compliance, See sheet A2.104 AND A2.200-A2.201.	
	B.3.1.e. YES, PARAPET ANNOTATIONS ARE INDICATED TO demonstrate compliance, See sheet A2.104 AND A2.200-A2.201.	
	B.3.2 N/A Not Applicable.	
	B.3.3 N/A Not Applicable, as there is no dormer on the 100%affordable building	
	B.3.4 N/A Not Applicable.	

B.4. Façade Design and Articulation		
YES	NO	N/A
		B.4.1 Objective Design Standard
		SHEET
		B.4.1 Buildings greater than two stories shall be designed to differentiate the base, middle, and top of the building on any street-facing façade. Each of these elements shall be distinguished from one another using <u>at least two</u> of the following solutions:
		A.2.200-A2.201 A3 Series A4.400-A4.401
		a. Variation in building mass for a minimum of 60 percent of the length of the street-facing façade through changes in the façade plane that protrude or recess with a minimum dimension of two A.2.200-A2.201 A3 Series
		b. Balconies or habitable projections with a minimum depth of two feet for a minimum of 20 A.3 Series A4.200-A4.104 percent length of the street-facing façade;
		c. Variation in façade articulation, using shade and weather protection components, projecting a A.2.200-A2.201 minimum of three feet for a minimum of 20 percent length from the street-facing façade;
		d. The use of at least two different façade materials, each covering a minimum of 20 percent of A.2.200-A2.201 A3 Series A4.200-A4.201 the street-facing façade;
		e. The upper floor shall implement a façade height that is a minimum of two feet greater than the A.3 Series façade height of the floor immediately below. The greater façade height shall be made evident by A.2.200-A2.201 A3 Series
		B.4.2 All façade materials, such as siding, window types, and architectural details, used on the street-facing façade shall be used on all other building façades.
		A.2.200-A2.201 A3 Series A4.200-A4.201

B.4. Façade Design and Articulation (continued)		
YES	NO	N/A
		B.4.3 Objective Design Standard
		SHEET
		B.4.3 Variation in the street-facing façade planes shall be provided for buildings greater than one story by incorporating any combination of the following architectural solutions to achieve a minimum of 16 points:
		Architectural features, such as:
		o Arcade or gallery along the ground floor; 8.00
		o Awnings or canopies on all ground floor windows of commercial space; 6.00 A.4.200 A.4.201
		o Building cornice; 5.00 A.4.200 A.4.201 A.4.400 A.4.401
		o Façade sconce lighting at a minimum of one light fixture per 15 linear feet. 3.00 A.4.200 A.4.201
		▪ Bay or box windows projecting a minimum of 18 inches from the façade plane and comprising a minimum of 20 percent of the fenestration on the upper floors of the facade; 6.00 A.4.200-A.4.202 A.4.200-A.4.202
		▪ Balconies or Juliet balconies provided on a minimum of 40 percent of the fenestration on the upper floors of the facade; 6.00
		▪ Landscaped trellises or lattices extending across a minimum of 65 percent of any level of the facade; 6.00
		▪ Materials and color changes; 3.00 A.2.200-A.2.202 A.4.200-A.4.202
		▪ Eaves that overhang a minimum of two feet from the facade with supporting brackets; 3.00 A.2.200-A.2.202 A.4.200-A.4.202
		▪ Window boxes or plant shelves under a minimum of 60 percent of the fenestration on the upper floors of the facade; 3.00
		▪ Decorative elements such as molding, brackets, or corbels 3.00
		TOTAL 6 Points (G) 14 Points (TH) 17 Points (E1)
		100% Affordable Housing Total = 6 Points
		Mixed Use Multifamily Total = 17 Points
		Townhomes Total = 14 Points

		B.4.4	Garage doors shall be recessed a minimum of 12 inches from the facade plane and along the street-facing façade shall not exceed 40 percent of the length of the building façade.	A4.011	B.4.4	Not Applicable.		YES	Mixed Use Multi-family complies. See sheet A4.011.	No	The Project proposes the Meadow as an amenity serving the public and future Project residents. Townhomes H1 and H2 are designed to face the Meadow rather than the street to activate this project amenity. As a result, the garage doors on these two townhomes exceed 40 percent of the length of the façade; otherwise, the Project would need to be designed to modify the proposed amenity or reduce its residential density. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	N/A	Not Applicable.			
		B.4.5	Changes in building materials shall occur at inside corners.	A2.200-A2.201 A3.2 Series A4.4 Series	B.4.5	YES	100% Affordable Housing complies, see sheets A2.200-A2.201	YES	Mixed Use Multi-family complies, See A4.4 Series	N/A	All Townhomes Total complies, See A 3.2 Series	N/A	Not Applicable.			
		B.4.6	A primary building entrance shall be provided facing a street or community recreation space. Additionally, all development shall meet the following requirements:	A2.200-A2.201 A4.101	B.4.6	YES	100% Affordable Housing complies, see sheets A2.200-A2.201	YES	Mixed Use Multi-family complies, See A4.101.	N/A	All Townhomes: N/A	N/A	Not Applicable.			
		a. Pedestrian entries to ground-floor and upper-floor non-residential uses shall meet at least one of the following standards:	I. The entrance shall be recessed in the facade plane at least three feet in depth; or	A2.200-A2.201 A4.101	B.4.6.a.	N/A	100% Affordable Housing: N/A - units accessed through main entry	YES	Mixed Use Multi-family complies, See A4.101 and A4.200-A4.202	N/A	All Townhomes: N/A	N/A	Not Applicable.			
			ii. The entrance shall be covered by an awning, portico, or other architectural element projecting from the facade a minimum of three feet	A4.101-A4.101- A4.102	B.4.6.a.i.	N/A	100% Affordable Housing: N/A - units accessed through main entry	N/A	Mixed Use Multi-family - not required, other 1 standard met	N/A	All Townhomes: N/A	N/A	Not Applicable.			
					B.4.6.a.ii.	N/A	100% Affordable Housing: N/A - units accessed through main entry	YES	Mixed Use Multi-family complies, See A4.101 and A4.102.	N/A	All Townhomes: N/A	N/A	Not Applicable.			
B.4. Façade Design and Articulation (continued)																
B.4. Façade Design and Articulation (continued)																
YES	NO	Objective Design Standard		SHEET												
		b. For ground-floor commercial uses, facades facing a street shall include windows, doors, or openings for at least 50 percent of the building façade that is between two and 10 feet above the level of the sidewalk.		A4.200-A4.201												
		B.4.7	Pedestrian entries to buildings shall meet minimum dimensions to ensure adequate access based on use and development intensity. Building entries inclusive of the doorway and the facade plane shall meet the following minimum dimensions:	A2.200-A2.201 A3.2 Series A4.2 Series A5.202-A5.203	B.4.6.b.	N/A	Not Applicable.		Mixed Use Multi-family complies, see sheet A4.200-A4.201	YES	Not Applicable.	N/A	The Project proposes a Paseo to connect Los Gatos Boulevard to the Meadow, which would house the ground floor retail consistent with the Project's first concession request and serve as a Project amenity serving the public and future Project residents. To activate the Paseo and accommodate the design of this Project amenity consistent with the Project's concession request, the commercial buildings deviate from the façade requirements. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	No	Complies: See A5.202-A5.203	
		a. Individual residential entries: five feet in width	A3.2 Series A4.2	B.4.7	YES	100% Affordable Housing complies, see sheets A2.200-A2.201				YES	Mixed Use Multi-family complies, see A4.101	YES	All Townhomes Comply, see A3.2 Series	YES	Not Applicable.	
		b. Single entry to multiple residential unit building, including Residential Mixed-Use buildings: eight feet in width	A2.200-A2.201 A4.101	B.4.7.a.	N/A	Not Applicable.				N/A	Not Applicable.	N/A	All Townhomes Comply	N/A	Not Applicable.	
		c. Storefront entry: six feet in width	A2.200-A2.201 A4.101	B.4.7.b.	YES	100% Affordable Housing complies, see A2.200-A2.201 or A2.100				YES	Mixed Use Multi-family complies. See sheet A4.101	N/A	All Townhomes: N/A	N/A	Not Applicable.	
		B.4.8	Mirrored windows are prohibited.	N/A	B.4.7.c.	YES	100% Affordable Housing complies, see A2.200-A2.201 or A2.100			YES	Mixed Use Multi-family complies. See sheet A4.101	N/A	All Townhomes: N/A	YES	Complies: See A5.202-A5.203	
		B.4.9	Awnings shall be subject to the following requirements:	A2.200-A2.201 A3.2 Series A4.2	B.4.8	YES	No mirrored windows proposed.			YES	No mirrored windows proposed.	N/A	No mirrored windows proposed.	YES	No mirrored windows proposed.	
		a. A minimum vertical clearance of eight feet measured from the pedestrian pathway;	A2.200-A2.201 A3.2 Series A4.200-A4.201	B.4.9.a.	YES	100% Affordable Housing - vertical height of awning + canopies is indicated to demonstrate compliance, See sheet A2.200.				YES	Mixed Use Multi-Family complies - see A4.200-A4.201.	N/A	Townhomes comply. Dimensions added to townhome elevation sheets: A3.1.2.200, A3.2.2.200, A3.3.2.200, A3.4.2.200, A3.5.2.200, A4.2.2.200	YES	Complies: See A5.202-A5.204	
		b. Shall not extend beyond individual storefront bays; and	A2.200-A2.201 A3.2 Series A4.200-A4.201	B.4.9.b.	YES	100% Affordable Housing complies, see A2.200-A2.201.				YES	Mixed Use Multi-family complies, see A4.2	N/A	All Townhomes comply, see A3.2 Series	YES	Complies: See A5.202-A5.205	
		c. Shall not be patterned or striped.	A2.200-A2.201 A3.2 Series A4.400-A4.401	B.4.9.c.	YES	100% Affordable Housing complies, see A2.200-A2.201.				YES	Mixed Use Multi-family complies, see A4.400-A4.401.	N/A	All Townhomes comply, see A3.2 Series	YES	Complies: See A5.202-A5.206	
		B.4.10	For buildings abutting a single-family zoning district or existing single-family use, no part of a rooftop or upper floor terrace or deck shall be closer than five feet from the facade plane of the lower floor, to prevent views into adjacent residential uses.	A2.200-A2.201	B.4.10	N/A	Not Applicable.			YES	Mixed Use Multi-family Complies.	No	All Townhomes comply Except for F3. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	N/A	Not Applicable.	
		B.4.11	Balconies are allowed on facades facing the street and those facades facing existing non-residential uses on abutting parcels. Such balconies shall be without any projections beyond the building footprint.	A2.200-A2.201 A3.2 Series	B.4.11	YES	100% Affordable Housing complies, see A2.200-A2.201.			No	Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	No	All Townhomes comply Except for F3. Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	N/A	Not Applicable.	
		B.4.12	Residential Mixed-Use buildings shall provide at least one of the following features along street-facing facades where the facade exceeds 50 feet in length:		B.4.12	N/A	Not Applicable.			YES	Mixed Use Multi-family complies.	N/A	Not Applicable.	N/A	Not Applicable.	
		a. A minimum five-foot offset from the facade plane for a length of at least 10 feet;	A4.101	B.4.12.a.	N/A	Not Applicable.				YES	Mixed Use Multi-family complies, see A4.101.	N/A	Not Applicable.	N/A	Not Applicable.	
		b. Multiple pilasters or columns, each with a minimum width of two feet; or		B.4.12.b.	N/A	Not Applicable.				N/A	Not Utilized.	N/A	Not Applicable.	N/A	Not Applicable.	
		c. Common open space, such as a plaza, outdoor dining area, or other spaces.		B.4.12.c.	N/A	Not Applicable.				N/A	Not Utilized.	N/A	Not Applicable.	N/A	Not Applicable.	
		B.4.13	Continuous blank facades on any floor level shall not exceed 25 percent of the entire façade length along any street.		B.4.13	YES	100% Affordable Housing complies, see A2.200.			No	Because a waiver pursuant to the State Density Bonus Law has been requested, this standard is not applicable.	YES	All Townhomes comply, see A3.1.2.200, A3.2.2.200, A3.3.2.200, A3.4.2.200, A3.5.2.200, A3.6.2.200, A3.7.2.200	YES	Complies: See A5.202-A5.206	

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From: Javier Zaldivar [REDACTED]
Sent: Wednesday, April 30, 2025 11:36 AM
To: Planning <Planning@losgatosca.gov>
Cc: Lourdes Gonzalez [REDACTED]
Subject: Support for north 40 phase 2

[EXTERNAL SENDER]

Please see the attached support letter.

I can be reached at [REDACTED]. Thank you.

Javier Zaldivar
Executive Director
San Andreas Regional Center

A message from jz's iPhone



April 29, 2025

April 28, 2025

**SANTA CLARA AND
SAN BENITO COUNTIES**

6203 San Ignacio Avenue
Suite 200
San Jose, CA 95119

P.O. Box 50002
San Jose, CA
95150-0002
Tel: 1(408) 374-9960
Fax: 1(408) 281-6960

MONTEREY COUNTY

1370 S. Main Street
Salinas, CA 93901
Tel: 1(831) 900-3636
Fax: 1(831) 424-3007

SANTA CRUZ COUNTY

1110 Main Street
Watsonville, CA 95076
Tel: 1(831) 900-3737
Fax: 1(831) 728-5514

Re: April 30, 2025 Public Comment Item #1

Via
email:planning@losgatosca.gov

Dear Planning Commissioners,

I am writing on behalf of San Andreas Regional Center to express my strong support for the North 40 Phase II Development, particularly the inclusion of affordable housing and designated units for adults with intellectual and developmental disabilities (IDD). San Andreas Regional Center (SARC) is funded by the State of California to serve people with Intellectual and Developmental Disabilities as required by the Lanterman Developmental Disabilities Act. Our service area includes Santa Clara County and the Town of Los Gatos.

The purpose of this letter is to support the advancement of the North 40 Phase II Development as this project will include 16 apartments subject to a preference for extremely low income people with developmental disabilities. On a daily basis, SARC's Service Coordinators must address the impact of the lack of permanent supportive housing for people with developmental disabilities in Los Gatos. More than 100 people with developmental disabilities, including families who live in Los Gatos have been referred by SARC to Housing Choices for help finding affordable housing.

Although SARC is not able to pay for residents' actual housing costs, we are funded to provide a variety of services that help residents with developmental disabilities live successfully in integrated housing in the community. In addition to funding on-site housing support services provided by Housing Choices, SARC will provide a variety of other services depending on the Individual Program Plan of each resident, including, for example, Independent Living, Supported Living, Community Day Programs, Employment Services and Behavioral Support. 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 ensure that the IDD-designated units and affordable housing components are preserved and prioritized as the project moves forward.

Please contact me if I can provide any further information.

Javier Zaldivar

Javier Zaldivar
Executive Director
San Andreas Regional Center

www.sarc.org

Member of the Association
of Regional Center Agencies



"Consumers First Through Service, Advocacy, Respect and Choice"

Serving Persons with Developmental Disabilities

From: Lucas, Jennifer@SCDD [REDACTED]
Sent: Wednesday, April 30, 2025 11:44 AM
To: Planning <Planning@losgatosca.gov>
Cc: Lucas, Jennifer@SCDD [REDACTED]
Subject: Item #1 - Letter of support for North 40 Phase II Development

[EXTERNAL SENDER]

Dear Planning Commissioners,

Please find my letter of support regarding Item #1 for tonight's Commission meeting.

Thank you,

Jennifer Lucas (she/her)
Manager, Central Coast Office
State Council on Developmental Disabilities
[REDACTED]

www.scdd.ca.gov

**Make your voice count. Share your story
today: bit.ly/scddmedicaid**

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State Council on Developmental Disabilities

• website • www.scdd.ca.gov

• email • centralcoast@scdd.ca.gov



STATE OF CALIFORNIA
Gavin Newsom, Governor

2580 N First Street, Suite 240
San Jose, CA 95131
408) 324-2106
408) 324-2108 fax

April 30, 2025

Los Gatos Planning Commission
110 E. Main St.
Los Gatos, CA 95030
Via email to: planning@losgatosca.gov

Re: Public Comment Item #1 Support for North 40 Phase II

Dear Chair Thomas and Planning Commissioners,

On behalf of the Central Coast Office of the California State Council on Developmental Disabilities (SCDD), I am writing to express our enthusiastic support for the North 40 Phase II Development, especially the inclusion of affordable housing and designated units for adults with Intellectual and Developmental Disabilities (IDD).

The CA SCDD is responsible for driving systemic change that advances self-determination, inclusion, and independence for individuals with IDD. Access to affordable housing in the community is critical for people with IDD, as it removes structural barriers that often prevent them from living safely, independently, and with dignity. Individuals with developmental disabilities have a legal right to live in community-based settings rather than institutions. Ensuring access to affordable, inclusive housing upholds the civil rights protections guaranteed under the CA's Lanterman Act and the Americans with Disabilities Act (ADA).

The North 40 Phase II development delivers on Los Gatos' long-standing promise to build for all income levels. With 91 affordable homes, including a fully affordable building of 67 low-income units, this development answers the community's call for inclusive housing after years of market-rate construction. It signals a meaningful shift toward a future where everyone—regardless of ability or income—has a place in Los Gatos.

The inclusion of at least 16 IDD-designated units is especially vital. These are not just numbers—they represent adults who grew up in Los Gatos, attended local schools, and are now seeking the chance to live independently, near their families and support networks. This is their home, too. With on-site support from Housing Choices, a San Andreas Regional Center vendor, these individuals will receive the stability and assistance they need to thrive. Their inclusion ensures that people with disabilities can live with dignity and their own community.

"The Council advocates, promotes & implements policies and practices that achieve self-determination, independence, productivity & inclusion in all aspects of community life for Californians with developmental disabilities and their families."

The majority of adults with IDD continue to live with their aging parents and caregivers. Many families are grappling with the difficult question of what will happen to their adult children with disabilities when they are no longer able to provide care. This project offers both a housing solution and peace of mind. In fact, the Los Gatos Union High School District's post-secondary program serves around 30 students with disabilities—several of whom age out each year with no clear next step. North 40 Phase II provides that critical next step.

In addition to being socially responsible, this development plays a pivotal legal role. It supports Los Gatos in meeting its Housing Element obligations and complying with SB 330. Approving this project helps the town avoid risk of state intervention, such as the builder's remedy, while maintaining local control and alignment with state priorities for affordable, accessible, and inclusive housing.

We 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 commitment in addressing the urgent need for affordable and inclusive housing in our community. Please contact me if I can provide any additional information in support of this project.

Respectfully submitted,



Jennifer Lucas
Regional Manager, Central Coast Office
CA State Council on Developmental Disabilities
2580 N. First Street, Ste. 240
San Jose, CA 95131
[REDACTED]
[REDACTED]

From: Sara Grignon [REDACTED]
Sent: Wednesday, April 30, 2025 1:42 PM
To: Planning <Planning@losgatosca.gov>
Subject: April 30, 2025 Public Comment Item #1

[EXTERNAL SENDER]

Please find the attached public comment for tonight's meeting.

Thank you,
Sara

Sara Grignon • Central District Director
Hope Services
30 Las Colinas Ln San Jose, CA 95119-1212
[REDACTED]
[REDACTED]



Transforming lives through Hope since 1952

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Katie Sandoval-Clark
VP, Development

Daniel Burns
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Planning Commission
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

April 29, 2025

Dear Planning Commissioners,

I am writing on behalf of Hope Services to express my strong support for the North 40 Phase II Development, particularly the inclusion of affordable housing and designated units for adults with intellectual and developmental disabilities (IDD).

Hope Services is a leading provider of services to people with intellectual and developmental disabilities and mental health needs in Silicon Valley. We serve approximately 3,700 people and their families in nine Bay Area Counties and provide a broad spectrum of services. Many individuals and families that we support reside in Los Gatos. These families are looking for places in the community where their adult son or daughter can call home. Natural supports are imperative for the success of people in our population and living in the communities where they were raised helps keep those natural supports in place. These are residents who grew up here, attended our schools, and now deserve the opportunity to thrive in their hometown.

We are very grateful for Los Gatos' commitment to services and housing for people with IDD. We do not take this commitment for granted. After years of market-rate development, it is refreshing to see meaningful progress toward housing for all income levels, especially individuals with disabilities. In addition, this project so beautifully responds to the town's commitment for creating a more inclusive and accessible community.

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 ensure that the IDD-designated units and affordable housing components are preserved and prioritized as the project moves forward.

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

Sincerely,

Aila Malik
Interim CEO
Hope Services

30 Las Colinas Lane • San Jose, CA 95119-1212 • T 408-284-2850 • F 408-284-2863 • hopeservices.org

Hope Services Federal nonprofit 501(c)(3) Tax ID: 94-1399287. In compliance with IRS regulations, this letter verifies that you received no goods or services in return for your contribution to Hope Services. Your charitable deduction may be disallowed if you are unable to provide this letter to the IRS upon request.



From: DeAnna Pursai [REDACTED]

Sent: Wednesday, April 30, 2025 2:54 PM

To: Planning <Planning@losgatosca.gov>

Cc: Dennise Jauregui [REDACTED]; Nicole Kim [REDACTED]

Subject: Letter of Support for North 40 Phase II Development from College of Adaptive Arts

[EXTERNAL SENDER]

Dear Los Gatos Planning Leaders,

Please accept our letter of support for the North 40 Phase II Development. Thanks for your leadership, and please don't hesitate to reach out with any additional questions.

With sincerest appreciation,

DeAnna Pursai 😊



DeAnna Pursai, Director of Development and Community Outreach 🎉

Swenson Flagship Campus at West Valley College | [REDACTED]
14000 Fruitvale Ave., Saratoga CA 95070

Mission: To provide equitable, accessible, and lifelong college programs for adults with intellectual and developmental disabilities wherever and whenever they need them.

Vision: To transform the perception of individuals with intellectual and developmental disabilities by creating a world with innovative and inclusive access to ongoing college education.



College of Adaptive Arts

Inclusive Collegiate Partnerships

Mission: To provide an equitable collegiate experience to adults with special needs who historically have not had access.

Vision: To empower the student body to creatively transform perception of individuals with disabilities.

Re: April 30, 2025 Public Comment Item #1

Dear Planning Commissioners,

I am writing on behalf of College of Adaptive Arts to express my strong support for the North 40 Phase II Development, particularly the inclusion of affordable housing and designated units for adults with intellectual and developmental disabilities (IDD).

College of Adaptive Arts provides an equitable and lifelong collegiate experience for adults with intellectual and developmental disabilities. Our college sees first-hand how important it is for the students to have access to affordable and inclusive housing. It gives them so much pride and independence to become successful contributing citizens in our community.

The proposal delivers on Los Gatos' commitment to affordable housing. After years of market-rate development, it is refreshing to see meaningful progress toward housing for all income levels. This project directly responds to the town's long-standing necessity of creating more inclusive and accessible housing opportunities.

The inclusion of at least 16 units for individuals with IDD is especially 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.

People with developmental disabilities have the legal right to live in community-based settings, not institutions, under the Lanterman Act and the Americans with Disabilities Act (ADA). Without affordable housing like Los Gatos North 40 Phase II, many individuals with IDD cannot fully enjoy these rights.

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 II 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. Advancing this project reduces the risk of state intervention, such as the imposition of the builder's remedy, and strengthens the Town's

College of Adaptive Arts

Swenson Flagship Campus at West Valley College

14000 Fruitvale Ave., Saratoga CA 95070 | info@collegeofadaptivearts.org | 408-538-3809



College of Adaptive Arts

Inclusive Collegiate Partnerships

Mission: To provide an equitable collegiate experience to adults with special needs who historically have not had access.

Vision: To empower the student body to creatively transform perception of individuals with disabilities.

position in maintaining local land use authority while aligning with state priorities for fair, inclusive, and accessible housing.

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 ensure that the IDD-designated units and affordable housing components are preserved and prioritized as the project moves forward.

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

Sincerely,

DeAnna Pursai
Co-founder & Director of Development and Community Outreach

College of Adaptive Arts

Swenson Flagship Campus at West Valley College
14000 Fruitvale Ave., Saratoga CA 95070 | info@collegeofadaptivearts.org | 408-538-3809

From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Thursday, May 1, 2025 9:55 PM
To: Planning <Planning@losgatosca.gov>
Subject: Online Form Submission #15863 for Community Development Contact Form

[EXTERNAL SENDER]

Community Development Contact Form

First Name *Field not completed.*

Last Name *Field not completed.*

Email Address [REDACTED]
(Required)

Phone Number *Field not completed.*

Tell Us About Your
Inquiry (Required) Comment Regarding A Planning Project

Address/APN you are
inquiring About
(Required) 143-151 E. Main St

Message (Required) Letter to Council requesting EIR for SB 330 projects

Add An Attachment if
applicable [scan0789.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

LAW OFFICES OF
BRENT N. VENTURA
Inactive
[REDACTED]

April 30, 2025

Mayor Matthew Hudes and
Honorable Town Councilmembers
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

**Re: Every SB330 Builders Remedy Projects Currently Pending
Approval in Los Gatos**

101 S Santa Cruz Ave.
14288 Capri Dr.
15300- 15330 Los Gatos Blvd.
14849 Los Gatos Blvd.
15459-16392 Los Gatos Blvd.
15349-15367 Los Gatos Blvd.
15171 Los Gatos Blvd
14917-14925 Los Gatos Blvd
101 Blossom Hill Rd.
16492 Los Gatos Blvd.
143-151 E. Main St.
16250-16270 Burton Road
980 University Ave.
101 S. Santa Cruz Ave.
178 Twin Oaks Rd.
14789 Oka Rd.

Dear Mayor Hudes and Honorable Councilmembers,

Please accept this communication as a respectful plea to the Council to adopt a much more aggressive posture in reviewing all of these SB 330 applications. The current cautious and conservative review process, will fail to fully inform yourselves as decision makers of all the impacts and health and safety risks that these projects will impose on our community, especially when evaluated .cumulatively

The Town should demand and insist that an EIR be conducted to identify all the impacts posed by these projects, whether in reviewing each individual application, especially the more massive developments, or at a minimum, preparation of an EIR to review the cumulative impacts all these projects will impose on a community such as ours with very limited resources.

Some of the impacts that are not being reviewed in any depth at all during the current review process include the impacts on the Town's ability to fight urban wildfire, wildfire evacuation ability, building beyond the capacity of our urban waters supply system to sustain firefighting against wildfire, building beyond the capacity of our sewage system, building in known floodzones, cumulative impacts on our the capacities and service levels that can be sustained by our educational, roadway, emergency responders ,and capital improvement systems.

These items address health and safety issues directly affecting current residents and the Town as a whole. Health and safety issues as Town wide objective review standards. These are not issues affecting design or building standards. Health and Safety issues are protected review issues under the language of SB330 . That statutory language recited protects the Town in taking action to gain information to promote public health and safety.through the environmental review process.

SB330 does not preclude a California jurisdiction from requiring EIRs for builder remedy projects. I have completed some research, and I am unaware of any subsequent legislation that has been adopted by the State that specifically prevents jurisdictions from requiring Environmental Impact Reports on any SB 330 development application. If I am misinfomed here, I apologize, But what I have heard is that the Governor's Emergency Declaration relating solely to the affected LA wildfire area, somehow, now prohibits agencies from demanding EIRs be prepared for any builders remedy projects. I strongly disagree. I believe the legal representatives of these applicants are attempting to intimidate and threaten our elected officials by claiming legal rights that have not yet been granted.

So unless there is specific legislation changing the original scope and rights specified in SB 330, this Council should and must proceed to demand EIRs to protect public health and safety. I firmly believe whatever financial risks you fear, will be acceptable to your constituents. The people of this community want to protect our unique quality of life, and insure the ongoing health and safety of all residents. The very people you represent would rather the Town fight these projects undermining public health and safety, than have its elected leaders throw its hand into the air, saying “there is nothing we can do.”

It is a time for strong leadership and accepting some risks for the future well being of all. Courage not fear. The people of this community will rally behind you!

Respectfully submitted,


BRENT N. VENTURA

BNV/bt

RECEIVED

LAW OFFICES OF
BRENT N. VENTURA
Inactive

MAY 02 2025

**TOWN OF LOS GATOS
PLANNING DIVISION**

May 1, 2025

Mayor Matthew Hudes and
Honorable Town Councilmembers
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

**Re: Every SB 330 Builders Remedy Projects Currently Pending
Approval in Los Gatos**

101 S Santa Cruz Ave.
14288 Capri Dr.
15300- 15330 Los Gatos Blvd.
14849 Los Gatos Blvd.
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143-151 E. Main St.
16250-16270 Burton Road
980 University Ave.
101 S. Santa Cruz Ave.
178 Twin Oaks Rd.
14789 Oka Rd.

Dear Mayor Hudes and Honorable Councilmembers,

Since the filing period for SB 330 projects has terminated, and while the review process has commenced and is underway, there have been two critically significant changes to the health and safety, as well as the sustainability of residential habitation in identified portions of Los Gatos. Both of these critically significant public health and safety changes occurred after January 1, 2025.

The first of these was two urban wildfires in the Los Angeles metropolitan area that manifested current Fire Codes and Standards are inadequate for emergency responders to save life or property. Firefighting resources proved woefully inadequate, and the urban/municipal water supply was exhausted briefly after the conflagration commenced. Also, the rapid spread of wildfire in the urbanized, densely populated areas, which occurred in quarter mile leaps, by windblown embers illustrated the extreme risk of wildfire spreading from wildfire risk zones into heavily urbanized, densely populated areas, once thought completely safe from the threat, creates entirely new threats and health and safety issues when considering community development.

The second critical change after 1/1/25 occurred when CALFIRE finalized its maps identifying in Los Gatos the zones of severe wildfire risk. As you are well aware, the land area of Los Gatos at risk of severe wildfire was greatly increased than what previous analysis had predicted. There are some SB 330 projects proposed that are either within, adjacent to or within a half mile a severe wildfire risk zone. The idea of greatly intensifying residential densities in areas identified as subject of severe wildfire risk is objective grounds to question the health and safety of proceeding with these projects.

Whether these facts alone give the Town valid legal grounds to deny these projects, is an open legal question. But it does seem prudent for the Town to make inquiry, and require the State and/or HCD to issue clear guidance to jurisdictions reviewing these projects, as to whether public health and safety are protected and satisfied by allowing the construction of high density residential towers immediately adjacent or within a half mile of severe wildfire risk zones. If the State mandates these projects despite the patent and severe risks, than at least the Town should be indemnified from liability. The State should immunize jurisdictions for compelling them to approve high density residential projects under SB 330 when doing so clearly raise very significant health and safety risks to both current and future residents of the community.

Regardless, while the Town seeks to gain clarity from HCD, the State or the Courts on these health and safety concerns. Los Gatos as an independent government entity in California can proceed independently without any prior authorization, to act, on an Emergency basis, and immediately protect the health and safety of its current residents

by enacting a new Fire Building Code.

My legal research indicates that the Town as its own independent legal government entity in California has the right to enact and adopt its own, specific fire building codes that reflect the specific risks, geography, climate, and topography of our jurisdiction. Los Gatos is not obligated to adopt and implement any national or Statewide Fire Code. The Town has the legal authority to draft, adopt, and implement its own Fire Code reflecting the very specific Firefighting risks facing the hillside community with 3 different severe wildfire risk zones within our borders.

The Town is currently endangering the health and safety of its citizens, to whom they have a sworn duty to protect, by delegating the Building Fire Permit authority to a Central Fire clerk, working with an outdated Fire Code that was drafted and implemented without absolutely any consideration of the health and safety issues::

- The zones of severe wildfire risk coming down from the hillsides directly into Downtown Los Gatos;

- That the LA wildfires showed the urban water supply system failed leaving firefighters without sufficient water pressure and adequate water supply to fight the wildfire;

-That emergency evacuation Notices failed, and first responders were unsuccessful in evacuating in the region exposed to fire resulting in extremely high deaths and injuries;

- That the Los Angeles conflagration was spread from burning areas to areas up to a half a mile away that were uninvolves in the initial firestorm by windblown burning embers which firefighters had no ability to contain;

- That to now build very high density, high rise residential towers within, adjacent to, or within a half mile of severe wildfire risk zones presents an imminent, clear and present danger to public health and safety;

Los Gatos needs to immediately adopt a new, current Fire Building Code that

incorporates and mitigates the harsh realities and lessons from the tragic LA wildfires, as well area the large area of the community identified as being located within a severe wildfire risk zone.

If Los Gatos does not act independently and immediately, it will take years for the administrative process to collaborate and develop a new statewide firefighting building code to incorporate the recent lessons learned. Los Gatos needs to immediately take the leash of this beast, and on an emergency basis, in light of the imminent clear and present threat to public health and safety adopt a new Fire Building Code that all new construction projects in Los Gatos must satisfy in order to obtain necessary permits before any construction can commence.

I make note that it from my review of some of the revised development plans submitted for some of the taller projects (6-13 story towers), to supply only that towers fire suppression needs, will significantly lower the water pressure available to the surrounding neighborhood!. The plans also indicate the specifics on their Fire suppression plans will be “deferred” until the time of submittal of the permits.. This appears to be an obfuscation and misleading the Town and Central Fire of the wildfire and firefighting risks addressed in this correspondence.

There is no requirement under state law that existing homeowners and neighborhoods should have their emergency water pressure reduced in order to facilitate these SB 330 projects. In fact, the underlying guidance in SB 330 is that these projects should proceed only where consistent with insuring the general health and safety of current residents.

While these residential towers with their fully sprinkled fire suppression systems and metal facades may be immune from wildfire risks, they accomplish same only by compromising the water pressure and water supply available for firefighters to suppress fire in the surrounding neighborhoods.

I urge the Town Council to immediately address this issue. From my limited research and without any specific expertise, can advise that the following measures must be incorporated into Los Gatos' new Fire Building Code

- Every new construction over 35' in height located within, or within one-half mile of any severe risk wildfire zone, must have an independent water supply system on site such that its fire suppression system is independent of the existing urban water system and will not affect either the available water supply or water pressure to any of the surrounding area. Such on site water supply system shall include dual gravity fed tanks and dual mechanically supplied water for its internal firefighting needs sufficient to suppress fire for 2 hours.
- Every new construction over 55' in height, more than one-half mile away from any severe wildfire risk zone, must have an independent water supply system on site such that its fire suppression system is independent of the existing urban water system and will not affect either the available water supply or water pressure to any of the surrounding area. Such on site water supply system shall include dual gravity fed tanks and dual mechanically supplied water for its internal firefighting needs sufficient to suppress fire for 2 hours.

Thank you for your courteous consideration of this matter.

Respectfully submitted,


BRENT N. VENTURA

BNV/bt

From: Gopi Ayer <[REDACTED]>
Sent: Sunday, May 4, 2025 4:50 PM
To: Planning <Planning@losgatosca.gov>
Subject: Public comment, Project North 40, reservation of units for IDD

[EXTERNAL SENDER]

Subject: April 30, 2025, Public Comment Item #1

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). As a resident and advocate who cares deeply about housing equity and community inclusion, I believe this project is an essential step forward for Los Gatos.

The proposal delivers on Los Gatos' commitment to affordable housing.

After years of market-rate development, it is refreshing to see meaningful progress toward housing for all income levels. This project directly responds to the town's long-standing necessity of creating more inclusive and accessible housing opportunities.

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.

As the parent of an adult with IDD, I have seen him and his small group of friends thrive in Los Gatos, intimate with its geography and comfortable with the choices offered. It is imperative that we find appropriate housing for these people who are a part of the fabric of Los Gatos community.

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).

Advancing this project reduces the risk of state intervention, such as the imposition of the builder's remedy, and strengthens the Town's position in maintaining local land use authority while aligning with state priorities for fair, inclusive, and accessible housing.

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 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,

Gopi Ayer

Mandeep Ayer

From: Noa Sklar [REDACTED]
Sent: Saturday, May 3, 2025 5:33 PM
To: Planning <Planning@losgatosca.gov>
Cc: Gia Pham [REDACTED]
Subject: From the mother of Romi

[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). As a resident and advocate who cares deeply about housing equity and community inclusion, I believe this project is an essential step forward for Los Gatos.

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My daughter Romi is 22 y/o native to Los Gatos , she is on the autism spectrum. It's been a lifelong of struggle, but she made the best out of it - she is even graduating college and hoping to become a productive member of society. (She already is). With that being said, it's time for her to move out of my house to begin and independent life yet I would still like to keep her nearby in Los Gatos for obvious reasons, but the prices are ridiculous! We must have affordable living options for our special kids as a priority ! By the way - 16 units is not enough! It should be at least double as there are many kids with different kind of disabilities in Los Gatos.

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). Advancing this project reduces the risk of state intervention, such as the imposition of the builder's remedy, and strengthens the Town's position in maintaining local land use authority while aligning with state priorities for fair, inclusive, and accessible housing.

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 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,

Noa and Abraham Sklar

[REDACTED] Los Gatos
[REDACTED]

Sent from my iPhone

LAW OFFICES OF
BRENT N. VENTURA
Inactive



May 12, 2025

Mayor Matthew Hudes and
Honorable Town Council Members
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

Re: Every SB330 Builders Remedy Projects Currently Pending Approval in Los Gatos:

101 S Santa Cruz Ave.
14288 Capri Dr.
15300- 15330 Los Gatos Blvd.
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178 Twin Oaks Rd.
14789 Oka Rd.

Dear Mayor Hudes and Honorable Council Members,

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The Town should insist that an EIR be conducted to identify all the impacts posed by these projects, rather than reviewing each individual application, especially the more massive developments. Or at a minimum, preparation of an EIR to

review the cumulative impacts all these projects will impose on a community such as ours with very limited resources.

Some of the impacts that are not being reviewed in any depth at all, during the current review process, include: the impacts on the Town's ability to fight urban wildfire, wildfire evacuation ability, building beyond the capacity of our urban waters supply system (to sustain fire fighting against wildfire), building beyond the capacity of our sewage system, building in known flood zones, cumulative impacts on our the capacities and service levels that can be sustained by our educational, roadway, emergency responders, and capital improvement systems.

These items address Health and Safety issues directly affecting current residents and the Town as a whole. Health and Safety issues should be a Town wide objective review standard. These are not issues affecting design or building standards. Health and Safety issues are protected review issues under the language of SB330. That statutory language recited protects the Town in taking action to gain information to promote public health and safety through the environmental review process.

SB 330 does not preclude a California jurisdiction from requiring EIRs for builder remedy projects. I have completed some research and I am unaware of any subsequent legislation that has been adopted by the State that specifically prevents jurisdictions from requiring Environmental Impact Reports on any SB 330 development application. If I am misinformed here, I apologize. But what I have heard is that the Governor's Emergency Declaration relating solely to the affected LA wildfire area, somehow, now prohibits agencies demanding EIRs be prepared for any Builders Remedy Projects. I strongly disagree. I believe the legal representatives of these applicants are attempting to intimidate and threaten our elected officials by claiming legal rights that have not yet been granted.

So unless there is specific legislation changing the original scope and rights specified in SB 330, this Council should and must proceed to demand EIRs to protect public health and safety. I firmly believe whatever financial risks you fear, will be acceptable to your constituents. The people of this community want to protect our unique quality of life and ensure the ongoing health and safety of all residents. The very people you represent would rather the Town fight these projects undermining public health and safety, then have its elected leaders throw its hand into the air and say, "There is nothing we can do."

It is a time for strong leadership and accepting some risks for the future well being of all. Courage not fear. The people of this community will rally behind you!

Respectfully submitted,

BRENT N. VENTURA

From: Brent Ventura [REDACTED]
Sent: Monday, May 19, 2025 2:57 PM
To: Council <Council@losgatosca.gov>
Subject: Attached Letter on need for Town to Consider adopting New Fire Building Code for projects exceeding 35; and 55'

[EXTERNAL SENDER]

Different code requirements depending upon building height and proximity to wildfire severity zone as determined by CalFire earlier this year.

--

Law Offices of BRENT N. VENTURA
[REDACTED]

[CONFIDENTIALITY NOTICE: THIS E-MAIL IS INTENDED ONLY FOR THE USE OF THE PERSON TO WHOM IT IS ADDRESSED. IT MAY CONTAIN INFORMATION THAT IS CONFIDENTIAL, PRIVILEGED OR EXEMPT FROM DISCLOSURE. ANY UNAUTHORIZED DISCLOSURE OR DISSEMINATION OF THIS E-MAIL IS PROHIBITED. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY RETURN E-MAIL OR PHONE.]

LAW OFFICES OF
BRENT N. VENTURA
Inactive

[REDACTED]
May 13, 2025

Mayor Matthew Hudes and
Honorable Town Council Members
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

**Re: Every SB 330 Builders Remedy Projects Currently Pending
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Dear Mayor Hudes and Honorable Council Members,

Since the filing period for SB 330 projects has expired and the review process has first of which was two urban wildfires in the Los Angeles metropolitan area that manifested current fire codes and standards that identified inadequacies for emergency responders to save life and property. Firefighting resources proved woefully inadequate and the urban/municipal water supply was exhausted briefly after the conflagration commenced. The extreme risk of wildfire spreading in wildfire risk zones can be seen in the rapid spread of wildfire in the urbanized and densely populated areas that occurred in quarter-mile leaps by windblown embers. These areas, once thought completely safe from the threat, helped with the

consideration of community development by illustrating entirely new threats to health and safety issues.

The second critical change after 1/1/25 that occurred was when CALFIRE finalized its zone maps, identifying Los Gatos zones to be at severe wildfire risk. As you are well aware, the land area of Los Gatos indicated to be at risk for severe wildfire has greatly increased from what previous analysis had predicted. There are some SB 330 projects proposed that are either within, adjacent to, or within a half mile of a severe wildfire risk zone. The idea of greatly intensifying residential densities in areas identified as subject to severe wildfire risk is objective grounds to question the health and safety of proceeding with these projects. commenced, there have been two critically significant changes to the health and safety and the sustainability of residential habitation in identified portions of Los Gatos. Both of these critically significant public health and safety changes occurred after January 1, 2025.

Whether these facts alone give the Town valid legal grounds to deny these projects is an open legal question, but it does seem prudent for the Town to make inquiry and require the State and/or HCD to issue clear guidance to jurisdictions reviewing these projects. It must be brought into question and consideration whether public health and safety is protected and satisfied by allowing the construction of high density residential towers immediately adjacent to or within a half mile of severe wildfire risk zones.

If the State mandates these projects despite the patent and severe risks, then the Town should be indemnified from liability at least. The State should immunize jurisdictions for compelling them to approve high-density residential projects under SB 330 when doing so clearly raises very significant health and safety risks to both current and future residents of the community.

Regardless, Los Gatos as an independent government entity in California can proceed independently, without any prior authorization, to act on an Emergency basis and immediately protect the health and safety of its current residents by enacting a new Fire Building Code.

My legal research indicates that the Town, as its own independent legal government entity in California, has the right to enact and adopt its own specific Fire Building Codes that reflect the specific risks- geography, climate, and topography- of our jurisdiction. Los Gatos is not obligated to adopt and implement any national or Statewide Fire Code. The Town has the legal authority to draft, adopt, and implement its own Fire Code reflecting the very specific firefighting risks facing a hillside community with 3 different severe wildfire risk zones within its borders.

The Town is currently endangering the health and safety of its citizens, to whom they have a sworn duty to protect, by delegating the Building Fire Permit authority to a Central Fire Clerk working with an outdated Fire Code that was drafted and implemented without absolutely any consideration of the health and safety issues pertaining to:

- The severe wildfire risk zones coming down from the hillsides directly into Downtown Los Gatos;

- The LA wildfires that showed the urban water supply system failure, leaving firefighters without sufficient water pressure and adequate water supply to fight the wildfire;

-The emergency evacuation Notice failure and first responders being unsuccessful in evacuating the region exposed to fire, thus resulting in extremely high deaths and injuries;

- That the Los Angeles conflagration spread, burning areas up to a half a mile away that were uninvolves in the initial firestorm by windblown burning embers, which firefighters had no ability to contain;

- That building very high density high rise residential towers within, adjacent to, or within a half mile of severe wildfire risk zones presents an imminent, clear and present danger to public health and safety.

Los Gatos needs to immediately adopt a new Fire Building Code that incorporates and mitigates the harsh realities and lessons from the tragic LA wildfires. It must also account for the large area of the community identified to be located within a severe wildfire risk zone.

If Los Gatos does not act independently and immediately, it will take years for the administrative process to collaborate and develop a new statewide Firefighting Building Code to incorporate the recent lessons learned. Los Gatos needs to immediately take the lead of this beast on an emergency basis. In light of the imminent, clear, and present threat to public health and safety, Los Gatos should adopt a new Fire Building Code that all new construction projects in Los Gatos must satisfy in order to obtain necessary permits before any construction can commence.

From my review of some of the revised development plans submitted for some of the taller projects that are 6-13 story towers, they indicate that the supply of water is only to that tower's fire suppression needs and will significantly lower the water pressure available to the surrounding neighborhood. The plans also indicate the specifics on their Fire Suppression Plans will be "deferred" until the time of submission of the permits. This appears to be an obfuscation and is misleading the Town and Central Fire of the wildfire and firefighting risks addressed in this correspondence.

There is no need or requirement under state law that existing homeowners and neighborhoods should have their emergency water pressure reduced in order to facilitate these SB 330 projects. In fact, the underlying guidance in SB 330 is that these projects should proceed only where consistent with insuring the general health and safety of current residents.

While these residential towers, with their sprinkler fire suppression systems and metal facades may be less prone to wildfire risks, they compromise the water pressure and water supply available for firefighters to suppress fire in the surrounding neighborhoods.

I urge the Town Council to immediately address this issue. From my limited research and without any specific expertise, I can advise that the following measures must be incorporated into Los Gatos' new Fire Building Code:

- Every new construction over 35' in height, located within a half mile of any severe risk wildfire zone must have an independent water supply system on site. Its fire suppression system must be independent of the existing urban water system and will not affect either the available water supply or water pressure to any of the surrounding area. Such on-site water supply system shall include dual gravity fed tanks and dual mechanically supplied water for its internal firefighting needs sufficient to suppress fire for 2 hours.
- Every new construction over 55' in height, more than a half mile away from any severe wildfire risk zone must have an independent water supply system on site, such that its fire suppression system is independent of the existing urban water system and will not affect either the available water supply or water pressure to any of the surrounding area. Such on site water supply system shall include dual gravity fed tanks and dual mechanically supplied water for its internal firefighting needs sufficient to suppress fire for 2 hours.

Thank you for your courteous consideration of this matter.

Respectfully submitted,

BRENT N. VENTURA

BNV/bt

From: [REDACTED]
To: [Joel Paulson](#)
Cc: [Town Manager](#); [Gabrielle Whelan](#)
Subject: Fwd: Legal and Policy Issues Related to Grosvenor N40 Phase II
Date: Sunday, May 4, 2025 10:10:38 PM
Attachments: [image.png](#)

[EXTERNAL SENDER]



To: Joel Paulson, Director of Community Development
From: Los Gatos Community Alliance
Date: May 5, 2025 EMAIL 2

Subject: Summary of Legal and Policy Issues Related to Grosvenor N40 Phase II Project
This memorandum outlines critical legal and planning concerns regarding the Grosvenor N40 Phase II project, which purports to comply with objective development standards under SB 330 and the Town's Housing Element. Based on our analysis, the project raises significant inconsistencies with applicable zoning, density, and affordability requirements and merits clarification from the California Department of Housing and Community Development (HCD).

1. Vesting Under a Non-Certified Housing Element

The applicant claims the project vested on April 18, 2023, based on the Housing Element adopted by the Town on January 30, 2023. However, HCD issued a formal determination on April 14, 2023, finding that the element did not comply with State Housing Law. Under Government Code § 65589.5(o), a housing element must be legally "in effect" to vest development standards. Because the January 30, 2023 element lacked HCD certification, it was not in effect at the time of vesting and cannot serve as a valid basis for entitlement. Importantly, self-certification of a housing element contravenes state law and carries no legal effect under the Housing Element Law.

2. Applicable Zoning Standards at Time of Vesting

As of April 18, 2023, the operative zoning was that established under the 2020 General Plan Land Use Element, which capped residential density at 20 dwelling units per gross acre. The project proposes 28.75 DU/acre and therefore exceeded the applicable density standard. As a result, the project was not compliant with objective zoning on the vesting date and is not entitled to SB 330's five-hearing limit (Gov. Code § 65905.5(a)).

3. Inconsistency with the Certified 2040 Housing Element

The applicant ambiguously refers to compliance with "the Housing Element" without clarifying whether it means the uncertified January 2023 version or the certified 2040 Housing Element adopted July 10, 2024. The certified element designates the site for a minimum density of 30 DU/acre and assumes 464 units. The proposed 450 units at 28.75 DU/acre fall short of this minimum and are therefore inconsistent with adopted policy.

4. Affordable Housing Commitments

The certified Housing Element allocates 273 very low- and low-income units to the project site. The applicant proposes only 77 such units. Moreover, the Planning Director acknowledged on April 30, 2025, that affordability targets for other parcels are unlikely to be met. Under Gov. Code §§ 65863(b)(2)(B) and 65863(e), the Town may require the project to meet full affordability allocations or amend the site inventory to maintain RHNA compliance.

5. Separate Projects for BMP Compliance

Of the 77 affordable units proposed, 67 units are being transferred to Eden Housing, which will separately finance, construct, and manage them. The two components will proceed on independent timelines with distinct contractors and funding mechanisms. Eden Housing must obtain approximately \$45 million from various federal, state, and local sources in order to finance construction of the 67 units. There are no guarantees that such funding will be secured. This arrangement constitutes two separate projects. Under the Town's BMP ordinance, the Grosvenor portion must independently meet its affordability obligations. However, it includes only 10 affordable units out of 383 market-rate units—well below the 20% requirement (75 units).

6. CEQA Compliance and Need for New EIR

The project cannot legally tier from the 2040 General Plan EIR due to substantial new information and changes in policy. The Town Council has formally repealed the Land Use and Community Design elements of the 2040 General Plan—two foundational components of the EIR's analysis. Additionally, multiple Builder's Remedy projects have emerged that were not studied in the original EIR. Under CEQA Guidelines §§ 15162 and 15163, these constitute significant new information requiring a full project-specific Environmental Impact Report (EIR) to evaluate cumulative impacts including traffic, GHG emissions, infrastructure, and community character.

7. Builder's Remedy Eligibility

The applicant claims the project is eligible for the Builder's Remedy but argues it need not invoke it due to compliance with the Housing Element. This is misleading. As noted in Comment 1, the January 30, 2023 Housing Element was not certified by HCD and cannot serve as a legal basis for compliance, meaning the project is, in substance, a Builder's Remedy proposal. However, its eligibility is also questionable. If the project is correctly viewed as two separate developments—one by Grosvenor and the other by Eden Housing—then the Grosvenor portion alone does not meet the 13% very low-income affordability threshold required to qualify under the Builder's Remedy. Absent this threshold, the project cannot lawfully claim Builder's Remedy protections under Government Code § 65589.5(d).

Conclusion and Request for HCD Technical Assistance:

Given the unresolved issues related to vesting, zoning consistency, Housing Element compliance, CEQA, and potential misapplication of the Builder's Remedy, we strongly urge the Town of Los Gatos to request formal technical assistance from HCD. This review should clarify which standards applied as of the vesting date, confirm whether the Builder's Remedy is properly invoked, and assess whether affordability and density commitments align with state housing law. Seeking HCD guidance will help ensure the Town's decisions are legally sound and transparent to the public.

Los Gatos Community Alliance

Facts Matter; Transparency Matters; Honesty Matters

www.lgca.town

Info@lgca.town

From: [REDACTED]
To: [Joel Paulson](#)
Cc: [Town Manager](#); [Gabrielle Whelan](#); [REDACTED]; [Bridgette Falconio](#); [REDACTED]
Subject: Los Gatos North Forty - Phase II (HCD reference number HAU0001928)
Date: Sunday, June 29, 2025 12:42:19 PM
Attachments: [image.png](#)

[EXTERNAL SENDER]



**Los GATOS
COMMUNITY
ALLIANCE**

Mr. Joel Paulson
Director of Community Planning
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Subject: Classification of Eden Housing Component as a Separate Project under HAA and SDBL

Dear Mr. Paulson,

On behalf of the Los Gatos Community Alliance, I respectfully request that the Town of Los Gatos classify the 1.25-acre affordable housing component, to be developed by Eden Housing within the 450-unit Grosvenor project (North 40 Phase II) in the North 40 Specific Plan area, as a separate project under California's Housing Accountability Act (HAA) (Government Code § 65589.5) and State Density Bonus Law (SDBL) (Government Code § 65915). The following arguments, supported by the 9 separate APN parcels listed in the housing element site inventory, demonstrate that the Eden Housing component is a distinct project, despite the single application and CEQA review. Grosvenor's claim of a single integrated project appears motivated to meet the Below Market Price (BMP) ordinance (20% of market-rate units) by including the 67 Eden Housing units ($77 \div 373 = 20.6\%$), avoiding additional affordable units on the 14.4-acre parcels.

Legal Subdivision via Deeded Land Transfer and 9-Parcel Structure

The 1.25-acre parcel will be deeded to Eden Housing with a separate title, constituting a legal subdivision under the Subdivision Map Act (Government Code § 66410 et seq.). The North 40 Phase II site's division into 9 separate APN parcels, listed individually in the housing element site inventory, confirms the 1.25 acres as a distinct parcel, enabling Eden Housing to independently own, develop, and manage the 67 affordable units (plus one manager unit).

Summary: The deeded title and 9-parcel structure establish legal subdivision, supporting a separate project.

Non-SDBL Donation Enhances Separation

The donation of the 1.25-acre parcel, not under SDBL (§ 65915), is a contribution of land value for Eden Housing's expertise, reducing regulatory linkage to the Grosvenor project. This independent transaction allows Eden Housing to operate without SDBL-related coordination, aligning with HCD's recognition of parcel-specific evaluations (*HCD Housing Element Site Inventory Guidebook*, 2023).

Summary: The non-SDBL donation positions the 1.25 acres as a standalone partnership, reinforcing

separation.

Independent Financing Structure

Eden Housing will finance the 67 units separately, likely through Low-Income Housing Tax Credits (LIHTC) and conventional financing, distinct from the Grosvenor project's funding for the 383 units. TCAC Regulations (§ 10325(c)(1)) and HCD's Multifamily Housing Program Guidelines (§ 7304) prioritize fee title ownership, which the deeded parcel satisfies, establishing a distinct operational scope.

Summary: Independent financing supports the 1.25 acres as a separate project with its own funding.

Separate Development Timeline

The 1.25-acre component will follow a distinct timeline driven by LIHTC cycles, differing from the Grosvenor project's schedule. The non-SDBL donation reinforces this temporal separation, aligning with HAA and SDBL's recognition of independent projects.

Summary: A separate timeline establishes the 1.25 acres as a distinct project with independent execution.

Independent Management

Eden Housing will manage the 67 units independently, with distinct affordability restrictions and tenant protocols, separate from the Grosvenor project's components. This operational independence supports the standalone status under HAA (§ 65589.5(d)(5)(A)).

Summary: Independent management positions the 1.25 acres as a separate project with distinct operations.

Compliance with Housing Element Density Requirements

The 1.25-acre parcel achieves 53.6 du/ac (67 units ÷ 1.25 acres), exceeding the housing element's 30 du/ac minimum (per the December 15, 2022, HCD letter to Watsonville). The 9-parcel structure indicates HCD recognizes the 1.25 acres as a distinct RHNA site, fulfilling lower-income housing obligations (Health and Safety Code § 50079.5), unlike the 14.4 acres (26.6 du/ac).

Summary: Density compliance and 9-parcel recognition support the 1.25 acres as a separate RHNA project.

Addressing Unified Application and CEQA Review

The single application and North 40 EIR reflect coordination, but the deeded title, non-SDBL donation, and 9-parcel structure enable separate entitlements. CEQA allows distinct reviews for subdivided parcels (Guidelines § 15378), outweighing the unified process.

Summary: The unified application is outweighed by factors enabling separate entitlements.

Grosvenor's Motivation to Claim Integration

Grosvenor's claim of integration aims to meet the BMP ordinance's 20% affordability requirement for market-rate units (77 ÷ 373 = 20.6%) by including the 67 Eden units. If separated, the Grosvenor parcels (10 ÷ 373 = 2.68%) require ~75 additional affordable units, supporting separate evaluation to uphold BMP compliance.

Summary: Grosvenor's BMP motivation reinforces the need to treat the 1.25 acres as a separate project.

Conclusion and Request

The deeded title, non-SDBL donation, independent financing, separate timeline, independent management, density compliance, and 9-parcel structure demonstrate that the Eden Housing component is a separate project under HAA and SDBL. Grosvenor's BMP strategy underscores the need for separate evaluation. We request the Town assess the 1.25-acre parcel independently, potentially approving it apart from the non-compliant Grosvenor project (28.75 du/ac). Please provide the housing element site inventory, parcel map, donation agreement, entitlement records, financing details, and timeline to confirm this structure. We appreciate your consideration and are available to discuss further.

Sincerely,

*Jak Van Nada on behalf of the
Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters*
www.lgca.tow

[Redacted]

From: [REDACTED]
To: [Joel Paulson](#)
Cc: [Town Manager](#); [Gabrielle Whelan](#); [REDACTED]
Subject: North 40, Phase II
Date: Sunday, July 20, 2025 7:50:50 PM
Attachments: [image.png](#)

[EXTERNAL SENDER]



September 20, 2025

Dear Mr. Paulson,

On behalf of the Los Gatos Community Alliance, we urge the Town to require Grosvenor to provide reasonable documentation supporting its request for two concessions under the State Density Bonus Law (SDBL) for the North 40 Phase II project. These 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.

Under Government Code § 65915, subdivisions (d)(1)(A) and (k), concessions must result in identifiable and actual cost reductions necessary to provide affordable housing. Concessions that merely increase profitability or reduce the cost of market-rate development do not meet this statutory requirement. In this case, Grosvenor has not demonstrated how the requested concessions materially reduce costs associated with the affordable units, particularly when those units are in separately financed and developed buildings.

Grosvenor has cited HCD's October 12, 2022, letter to the City of Elk Grove. However, the facts of that case involved a single integrated building—the Oak Rose Apartments—containing both affordable and market-rate units. HCD found that the City had improperly denied a concession for ground-floor residential use by failing to consider construction costs and foregone rental income. That situation differs materially from North 40 Phase II, where the affordable and market-rate components are physically, financially, and operationally separate.

The Elk Grove letter does not waive the statutory requirement that concessions produce actual cost savings tied to affordability. Nor does it alter the legal burden on developers to present documentation justifying such concessions. As confirmed by *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549, local governments may reject concessions not supported by evidence of cost reductions for affordable units, provided their denial is based on substantial evidence.

We respectfully request that the Town uphold the integrity of the SDBL by requiring Grosvenor to substantiate its concession requests with documentation showing direct cost savings associated with the affordable housing components. Doing so ensures transparency, compliance, and the effective implementation of the SDBL's affordability objectives.

Please feel free to contact us should you have questions or wish to discuss this further.

Sincerely,

*Jak Van Nada - on behalf of,
Los Gatos Community Alliance*

Facts Matter; Transparency Matters; Honesty Matters

www.lgca.town



From: [REDACTED]
To: [Joel Paulson](#)
Cc: [Town Manager](#); [Gabrielle Whelan](#); [REDACTED]
Subject: RE: Inapplicability of Prior CEQA Documents to the North 40 Phase II Final Transportation Study (Hexagon, February 18, 2025)
Date: Tuesday, June 24, 2025 4:30:58 PM
Attachments: [image.png](#)

[EXTERNAL SENDER]



June 24, 2025

Joel Paulson
Director of Community Development
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

RE: Inapplicability of Prior CEQA Documents to the North 40 Phase II Final Transportation Study (Hexagon, February 18, 2025)

Dear Mr. Paulson:

On behalf of the Los Gatos Community Alliance, we submit the following comments regarding the North 40 Phase II Final Transportation Study, prepared by Hexagon Transportation Consultants and dated February 18, 2025. We respectfully challenge the conclusion that no further environmental review under the California Environmental Quality Act (CEQA) is required for the proposed development based on outdated and legally insufficient environmental documents.

Specifically, the transportation study improperly relies on the 2040 General Plan Environmental Impact Report (EIR) and the North 40 Specific Plan EIR, both of which no longer reflect the current land use policy framework, CEQA transportation standards, or the actual development conditions within the Town. Our concerns are outlined below.

1. The 2040 General Plan EIR Is No Longer a Valid Tiering Document

The 2040 General Plan EIR cannot lawfully serve as a tiering document for CEQA purposes because the 2040 Land Use Element on which it was based has been repealed. In November 2023, the Town Council formally rescinded the 2040 Land Use and Community Design Elements and adopted the 2020 General Plan Land Use Element, which introduced significantly different development patterns, densities, and land use designations. Moreover, at the time the 2040 General Plan EIR was prepared, the 2023–2031 Housing Element had not yet been drafted, let alone adopted or certified by the California Department of Housing and Community Development (HCD). Consequently, the Housing Element—and the Housing Element Overlay Zone (HEOZ) that was created to meet the Town's RHNA obligations—was not analyzed in the 2040 General Plan EIR.

The HEOZ materially increased allowable residential densities in specific, concentrated locations, including areas along Los Gatos Boulevard, in order to accommodate the Town's RHNA obligations. This pattern of focused high-density development is fundamentally different from the more evenly distributed, town-wide growth pattern assumed and

analyzed in the 2040 General Plan EIR.

CEQA Guidelines §§ 15152 and 15168 permit tiering only when the subsequent project remains within the scope of a valid prior EIR. When the foundational planning assumptions are no longer in effect—and where a major new planning program such as the HEOZ was not evaluated—the associated EIR becomes legally and factually inapplicable. Therefore, the Town may not rely on the 2040 General Plan EIR to satisfy CEQA for the North 40 Phase II project.

[2. The North 40 Specific Plan EIR Is Outdated and Noncompliant with Current CEQA Standards](#) [The North 40 Specific Plan EIR is similarly outdated and legally deficient.](#)

It was prepared prior to the enactment of CEQA Guidelines § 15064.3, which mandates the use of Vehicle Miles Traveled (VMT)—not Level of Service (LOS)—as the metric for analyzing transportation impacts under CEQA.

Because the North 40 EIR does not evaluate VMT impacts, it fails to meet current CEQA requirements. Additionally, the transportation assumptions in the North 40 EIR no longer reflect existing or reasonably foreseeable development in the area, rendering its trip projections and mitigation measures obsolete.

[3. The Town’s Failure to Adopt a Certified Housing Element Triggered Builder’s Remedy](#) The Town failed to adopt a state-certified Housing Element by January 31, 2023, as required by state law. This triggered the Builder’s Remedy under the Housing Accountability Act, which limits the Town’s ability to deny or condition qualifying housing proposals.

As a result, the Town has received multiple Builder’s Remedy applications proposing significantly higher residential densities than those analyzed in either the 2040 General Plan EIR or the North 40 Specific Plan EIR. These applications are clustered primarily along Los Gatos Boulevard, including in proximity to the North 40 project area. The Phase II transportation study fails to account for this fundamental change in development intensity and pattern.

[4. The Cumulative Impacts of Builder’s Remedy Projects Have Not Been Analyzed](#) CEQA requires a cumulative impacts analysis under Guidelines § 15130 to evaluate whether a proposed project, when considered together with other foreseeable development, would cause significant environmental effects. The Phase II study fails to analyze or even acknowledge the cumulative impacts of high-density Builder’s Remedy projects now pending along Los Gatos Boulevard.

Given the proximity of these projects to North 40 Phase II, their combined impacts on VMT, traffic congestion, and circulation conditions are both foreseeable and substantial. Without this analysis, the Town lacks a legally adequate basis to conclude that the Phase II project will not result in new or more severe transportation impacts than those previously analyzed.

[5. Actual Development Exceeds Prior Assumptions and Maximums Established by the North 40 Specific Plan and General Plan EIRs](#)

The actual and proposed development within the North 40 area now substantially exceeds both the assumptions analyzed in the North 40 Specific Plan EIR and 2040 General Plan EIR, as well as the development caps established by the North 40 Specific Plan itself.

The adopted North 40 Specific Plan allows for a maximum of 270 residential units, along with up to 250,000 square feet of office or hotel uses and 400,000 square feet of other commercial uses.

Notably, even the two higher-density alternatives studied in the North 40 Specific Plan EIR evaluated a maximum of only 364 residential units. The current scale of development significantly exceeds the scope of any scenario considered in the environmental review.

Specifically:

Phase I has already delivered 320 residential units and approximately 57,500 square feet of commercial space;

- **Phase II proposes an additional 450 residential units, along with approximately 15,000 square feet of retail and 3,000 square feet of civic space;**
- **A Builder's Remedy application for 14849 Los Gatos Boulevard proposes 117 additional units; and**
- **The remaining undeveloped parcels within the Specific Plan Area, as identified in the Housing Element** site inventory, are assumed to accommodate another 103 units.

This results in a cumulative total of 990 residential units proposed or constructed—nearly three times the amount allowed under the Specific Plan and far beyond what was studied in any of the project alternatives.

Neither the North 40 Specific Plan EIR nor the 2040 General Plan EIR evaluated the environmental impacts, particularly transportation and Vehicle Miles Traveled (VMT), of this scale or intensity of development. Because this level of development materially exceeds prior planning assumptions, the Town is required to prepare a subsequent or supplemental EIR under CEQA Guidelines § 15162, with a specific focus on cumulative impacts from nearly 1,000 residential units now planned for the area.

Conclusion:

The Town of Los Gatos cannot rely on either the 2040 General Plan EIR or the North 40 Specific Plan EIR to satisfy its CEQA obligations for the North 40 Phase II project. The repeal of the 2040 Land Use Element; the outdated transportation metrics in the North 40 EIR; the unexamined impacts of the HEOZ; and the pending high-density Builder's Remedy applications clustered along Los Gatos Boulevard each independently necessitate preparation of a subsequent or supplemental EIR under CEQA Guidelines § 15162.

We urge the Town to revise its CEQA approach to ensure full compliance with legal requirements for environmental analysis, transparency, and public review.

Sincerely,

Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters
www.lgca.town

From: [REDACTED]
To: [Gabrielle Whelan](#)
Cc: [Town Manager](#); [Joel Paulson](#); [REDACTED]
Subject: Re: Legal Effect of Non-Compliant Housing Element Adopted January 30, 2023
Date: Monday, July 14, 2025 9:04:31 AM
Attachments: [image.png](#)

[EXTERNAL SENDER]



MEMORANDUM

To: Gabrielle Whelan, Town Attorney

From: Los Gatos Community Alliance

Date: July 13, 2025

Re: Legal Effect of Non-Compliant Housing Element Adopted January 30, 2023, on Development Applications Deemed Complete April 18, 2023, Including Applicability of Government Code § 65589.5(o)

I. Issue

Can a development application deemed complete on April 18, 2023, lawfully rely on the Town's January 30, 2023, adopted housing element, which HCD determined to be out of compliance on April 14, 2023—including through any vesting claims under Government Code § 65589.5(o)?

II. Short Answer

No. A housing element deemed non-compliant by HCD lacks legal effect for purposes of vesting or development consistency. Government Code § 65589.5(o) only permits vesting in "valid" standards—those that were in effect and legally enforceable at the time of application. The April 14, 2023, HCD determination renders the January 30, 2023, element presumptively invalid, barring reliance on it. Under AB 1886 and existing law, this invalidity triggers the builder's remedy, not vested zoning rights based on the defective housing element.

III. Key Facts

- The Town adopted a new housing element on January 30, 2023.
- On April 14, 2023, HCD issued a formal determination that the element was not in substantial compliance with Housing Element Law.
- The development application was deemed complete on April 18, 2023.
- The applicant asserts a vested right based on the adopted but non-compliant element's provisions, presumably citing Government Code § 65589.5(o).

IV. Legal Analysis

A. HCD Compliance is Determinative Under State Law

Under California law, an adopted housing element has no legal effect unless it is in substantial compliance with the Housing Element Law. That compliance must be affirmatively determined by HCD. (Gov. Code § 65585(f); see also *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1182.) The courts have consistently rejected the doctrine of "self-certification." (See also *La Cañada Flintridge v. HCD*, 2023.)

Moreover, AB 2023 (effective Jan. 1, 2024) codifies a rebuttable presumption that a non-compliant housing element is invalid for all legal purposes, including zoning consistency and CEQA tiering. This presumption applies retroactively to pending applications that seek to rely on elements found out of compliance by HCD.

B. Vesting Requires a Valid Legal Framework at Time of Application

Under Government Code § 65589.5(o), applicants vest in the "standards and criteria" in effect at the time a complete application is submitted. However, those standards must be lawfully enforceable. The Town's general plan—of which the housing element is a mandatory component—was legally deficient as of April 14, 2023. That deficiency renders the entire general plan internally inconsistent and legally inadequate. (See *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 544.)

C. Government Code § 65589.55 (AB 1886) Clarifies Applicable Vesting Law

AB 1886, enacted as Government Code § 65589.55, provides: "A housing element or amendment shall be considered in substantial compliance... only if the element or amendment was in substantial compliance, as determined by the department or a court of competent jurisdiction, when a preliminary application... was submitted." (§ 65589.55(a))

"This section does not constitute a change in, but is declaratory of, existing law." (§65589.55(b))

This confirms that a developer cannot rely on a non-compliant housing element to assert vested rights under § 65589.5(o). Because HCD's April 14, 2023, finding applies retroactively to the date of preliminary application, no legal vesting occurred. The correct consequence is that the project qualifies under the builder's remedy, not under the terms of the invalid element.

D. Zoning in Effect at Time of Application Controls Base Density

Given that the Housing Element cannot be relied upon, the Town must fall back on the zoning regulations in effect as of April 18, 2023—which permitted a maximum of 20 dwelling units per acre. This figure governs both consistency determinations and calculations of base density under the State Density Bonus Law (Gov. Code § 65915(f)). Courts and HCD technical assistance letters confirm that density bonus calculations must be grounded in lawfully adopted and enforceable zoning.

E. Conclusion and Recommendations

Because the January 30, 2023, Housing Element was not in substantial compliance at the time of application, it cannot form the basis for vesting, project consistency, or density bonus calculations. The Town must evaluate the application against the prior zoning standards—namely, 20 units per acre—and not any provisions of the invalid element.

Accordingly:

1. The applicant cannot claim vested rights under § 65589.5(o) based on the January 2023 Housing Element.
2. The application should be analyzed under zoning in effect as of April 18, 2023.
3. The applicable base density for the purposes of any density bonus is 20 du/acre.
4. The builder's remedy, rather than vested rights, governs any entitlement claims arising from the Town's lapse in Housing Element compliance.

We respectfully urge the Town to withhold any discretionary action until HCD responds to the pending Technical Assistance Request submitted by the Los Gatos Community Alliance.

We remain available to provide further analysis or assistance as needed.

Sincerely,

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

From: [REDACTED]
To: [Gabrielle Whelan](#)
Cc: [Town Manager](#); [Joel Paulson](#); [REDACTED]; [Matthew Hudes](#); [Mary Badame](#); [Town Council](#); [Rob Rennie](#); [Rob Moore](#); [Maria Ristow](#); [REDACTED]
Subject: Rebuttal's to: "FAQs for Alliance questions re Housing Element and North 40 Phase 2"
Date: Friday, August 1, 2025 6:32:21 PM
Attachments: [image.png](#)

[EXTERNAL SENDER]



To: Gabrielle Whelan, Town Attorney
Cc: Chris Constantin, Town Manager
Members of the Los Gatos Town Council
California Department of Housing and Community Development (HCD)

Rebuttal to FAQ Response 1 – Applicability of the January 30, 2023 Housing Element

The assertion that the January 30, 2023 Housing Element became effective on March 1, 2023, and governs applications submitted thereafter fails to account for critical limitations under state law. A housing element must be in substantial compliance with Housing Element Law to serve as the legal basis for development standards under SB 330 or to rebut a Builder's Remedy application. The California Department of Housing and Community Development (HCD) expressly notified the Town on April 14, 2023—before the North 40 application was deemed complete on April 18—that the Housing Element did not substantially comply with state law.

While Government Code § 65589.5(o) allows vesting based on the general plan and zoning in effect at the time of preliminary application, this presupposes that those standards were legally enforceable. The Town's Housing Element lacked legal effect under Government Code § 65585(f) because it had not been certified and was found noncompliant. Courts and HCD have repeatedly emphasized that noncompliant elements are unenforceable for purposes of denying or regulating Builder's Remedy projects. Accordingly, the North 40 application cannot vest to the increased density in the uncertified January 2023 element and defaults to the baseline of 20 dwelling units per acre.

Rebuttal to FAQ Response 2 – Use of Net Acreage in Density Calculations

The Town's assertion that "gross lot area" means "lot area," which excludes public dedications, contradicts both the plain meaning of the Housing Element and established statutory interpretation principles. The Housing Element defines residential density as based on gross lot area, a term distinct from "lot area" under Town Code § 29.10.020. By conflating these terms, the Town nullifies its own adopted language and improperly reduces the site's capacity.

Moreover, Government Code § 65915(f) defines density in terms of gross residential acreage, not net buildable area, and HCD has confirmed in multiple technical assistance letters (e.g., Watsonville 2022) that gross acreage includes the full legal parcel, without deductions for roads or dedications. State law preempts local definitions where they conflict with Housing Element Law or Density Bonus Law. The Town's reinterpretation undermines the Housing Element's site inventory and artificially suppresses the density allowed under state law.

Rebuttal to FAQ Response 3 – Differing Definitions of Density

The Town’s position that different standards apply for Housing Element compliance (“gross lot area”) versus state Density Bonus Law (“gross acreage”) introduces an unnecessary and impermissible duality. Both statutory frameworks—Housing Element Law and the Density Bonus Law—share a common goal of maximizing residential production. Artificially reducing site capacity in the Housing Element by using a narrower, undefined metric such as “gross lot area” directly contradicts the state’s intent and may invalidate the Housing Element inventory under HCD review.

HCD guidance repeatedly emphasizes that methodological consistency is necessary across density calculations to ensure transparent and enforceable RHNA compliance. Deviating from the statewide standard frustrates these objectives and potentially results in site inventories being rejected for undercounting development potential.

Rebuttal to FAQ Response 4 – RHNA and “No Net Loss” Compliance

The FAQ fails to acknowledge the significant shortfall in affordable housing units proposed in the North 40 Phase II project relative to the site’s assumptions in the certified Housing Element. The Housing Element assumed 474 total units, including 365 affordable units across all income categories. In contrast, the proposed project includes only approximately 77 affordable units, a reduction of nearly 80% in low- and moderate-income capacity. Under Government Code § 65863 (“No Net Loss”), the Town bears the burden of demonstrating that adequate capacity remains across all income levels. General assertions of adequate sites are insufficient. The Town must specifically identify developable parcels, by income category, that can accommodate the lost capacity within the 6th cycle. If it cannot, it must rezone equivalent sites within 180 days or risk enforcement by HCD or the Attorney General. The Town’s failure to assess or disclose these shortfalls in the FAQ undermines the credibility of its RHNA compliance.

Rebuttal to FAQ Response 5 – Vesting to an Uncertified Housing Element

The suggestion that the North 40 project vested to the January 30, 2023 Housing Element simply because it was “adopted” misstates the law. Vesting under SB 330 and Government Code § 65589.5(o) depends not just on timing, but on legal enforceability. A Housing Element that has not been found in substantial compliance with state law by HCD or a court is not enforceable for purposes of denying or regulating Builder’s Remedy projects. The Town cannot pick and choose when to treat the element as enforceable. If the element was noncompliant for Builder’s Remedy purposes, it is likewise invalid for vesting development standards under SB 330. To hold otherwise creates a legal contradiction and invites litigation challenging the Town’s selective enforcement.

Rebuttal to FAQ Response 6 – Inadequate CEQA Review

While the FAQ acknowledges that an Initial Study is being prepared under CEQA, this step alone is inadequate given the project’s scale, policy implications, and departure from what was analyzed in the 2040 General Plan EIR. CEQA requires a Subsequent or Supplemental EIR when new information or substantial changes—such as density changes, increased environmental impacts, or cumulative effects—arise that were not addressed in the prior analysis.

Given the concentration of SB 330 and Builder’s Remedy projects in Los Gatos and the Town Council’s own admission that cumulative impacts must be studied, the Initial Study should be followed by a full EIR to comply with CEQA and avoid piecemealing.

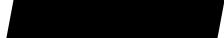
Conclusion

The Town’s FAQ attempts to rationalize inconsistencies in how it interprets and applies state housing law, density calculations, and RHNA compliance. However, those interpretations fall short under scrutiny of statutory language, HCD guidance, and legal

precedent. To resolve these disputes, it is essential that the Town seek formal technical assistance from HCD and refrain from advancing or approving development projects that rest on legally questionable assumptions.

Let's not lose site of one of the most important objectives of the Housing Element was to increase the number of affordable units in Los Gatos. Unfortunately, it seems that we are being met with resistance from the Town. We are perplexed in that we seem to be arguing against the very parties whom all wanted more affordable housing early on in the process.

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





June 8, 2025

California Department of Housing and Community Development
Attn: Housing Accountability Unit
2020 W. El Camino Avenue
Sacramento, CA 95833

Re: Request for Technical Assistance – North 40 Phase II Project in Town of Los Gatos

Dear Housing Accountability Unit:

On behalf of concerned stakeholders and community members, we respectfully request technical assistance from the California Department of Housing and Community Development (HCD) regarding the proposed North 40 Phase II development project (Architecture and Site Application S-23-031, Subdivision Application M-23-005) located at 14859 Los Gatos Blvd and 16270 Burton Road in the Town of Los Gatos, Santa Clara County.

The North 40 Phase II project is currently under review by the Town, and the first public hearing before the Planning Commission occurred on April 30, 2025. We are requesting this technical assistance to aid the Town in its timely decision-making and ensure proper application of state housing laws.

This request arises due to unresolved legal and policy questions about the project's compliance with state housing laws, including the Housing Accountability Act (HAA), State Density Bonus Law (SDBL), and Government Code Section 65589.5(o). Specifically, we seek clarification on the following six issues:

1. Applicability of the January 31, 2023 Housing Element

The applicant contends that the Town's January 31, 2023 Housing Element governs this project because it was formally adopted and in effect when the applicant submitted its preliminary application on April 18, 2023. The applicant cites Government Code § 65589.5(o), which allows housing projects to vest under the ordinances, policies, and standards in effect on the date of the preliminary application.

However, we request HCD's guidance on whether a housing element that had been adopted by the Town but already found noncompliant by HCD prior to the preliminary application date qualifies as an "ordinance, policy, or standard" under Government Code § 65589.5(o) for vesting purposes.

Specifically:

- On April 14, 2023, HCD issued a letter stating that the Town's January 31, 2023 Housing Element did not substantially comply with State Housing Element Law and required revisions.
- The Town submitted multiple revisions in response to HCD's comments.
- On May 3, 2024, HCD issued a letter indicating it would certify the Town's revised Housing Element once adopted.
- The Town adopted a revised Housing Element on June 4, 2024.
- HCD certified the Housing Element on July 10, 2024.

HCD has emphasized that jurisdictions do not have the authority to "self-certify" Housing Elements; state certification is required for legal effect. Because the January 31, 2023 element had already been deemed noncompliant before the preliminary application was submitted, it is unclear whether the project may lawfully rely upon it for purposes of vesting rights.

We therefore request HCD's guidance as to whether the applicant may rely on the noncompliant January 2023 Housing Element, or whether the project must be reviewed under Builder's Remedy provisions due to the lack of a certified element at the time of application.

2. Applicable Zoning at Time of Application

The preliminary application was deemed complete on April 18, 2023. At that time, the zoning for the project site was governed by the North 40 Specific Plan (NF-SP), which allowed a maximum density of 20 dwelling units per acre.

In December 2023, the Town adopted a zoning ordinance that amended the Town Code to replace the Affordable Housing Overlay Zone (AHOZ) with a new Housing Element Overlay Zone (HEOZ). The HEOZ included the North 40 Specific Plan area and implemented Housing Element site inventory assumptions allowing higher residential densities.

We seek HCD's technical assistance to determine whether the project may rely on the subsequently adopted HEOZ, or whether Government Code § 65589.5(o) limits the project to the development standards—including density limits—in effect at the time the preliminary application was filed.

3. Status as a Single or Separate Housing Development Under State Law

The project proposes 450 units, but these are divided between two distinct components:

- Grosvenor proposes to develop 383 units (373 market rate and 10 affordable).
- Eden Housing, a separate nonprofit developer, is proposed to construct 67 affordable units on a 1.25-acre parcel that will be donated by Grosvenor.

There is no enforceable agreement between the developers to carry out these projects as a single development. The Eden Housing component is contingent upon securing separate financing and would be independently managed. We request HCD's guidance on whether this constitutes a single integrated housing development under the HAA and SDBL, or whether these must be treated as two separate developments.

This distinction is important because Grosvenor's portion alone falls below the 13% affordability threshold for Builder's Remedy and below the minimum affordability needed for SDBL incentives.

4. Use of Net Acreage to Satisfy Minimum Density and Site Capacity

The applicant claims the project meets the Housing Element's minimum density requirement of 30 dwelling units per acre by proposing 450 units on a net acreage of 14.47 acres, which excludes public streets and infrastructure. This results in a claimed density of 31.1 du/ac. However, the actual gross acreage of the site is 15.65 acres, which yields a density of only 28.8 du/ac—below the minimum required.

The adopted Housing Element includes a specific definition of residential density:

- Density. Residential developments are regulated by an allowed density range (minimum and maximum) measured in "dwelling units per acre." Residential density is calculated by dividing the number of housing units on the site (excluding accessory units) by the gross lot area.

This definition mandates the use of gross acreage, not net, for calculating consistency with minimum and maximum density limits.

State law is equally clear. Government Code § 65915(f) provides that base density under the State Density Bonus Law must be calculated using gross acreage. HCD's December 2022 letter to the City of Watsonville further clarifies:

- Gross acreage includes all land owned in fee, including land encumbered by easements for public roads, utilities, or rights-of-way.
- Areas set aside for future infrastructure, easements, slopes, wetlands, or dedications must still be included in the gross acreage calculation.
- Assessor parcel maps are not reliable for this purpose; legal land surveys must be used to capture the full gross parcel.
- Government Code § 65915(r) requires that the SDBL be interpreted liberally in favor of producing the maximum number of housing units.

Applied here:

- Grosvenor proposes 383 units on 14.40 acres = 26.6 du/ac
- Eden Housing proposes 67 units on 1.25 acres = 53.6 du/ac
- Total project = 450 units on 15.65 acres = 28.8 du/ac

The project does not meet the 30 du/ac minimum required by the Housing Element when using the correct gross acreage. We request HCD's determination as to whether the project qualifies as consistent with the Housing Element site inventory and minimum density requirements under applicable law.

5. Compliance with the Town's BMP Ordinance

The applicant claims that it satisfies the Town's Below Market Price (BMP) Ordinance by providing 77 affordable units—67 from Eden Housing and 10 in Grosvenor's portion. However, if the two developments are treated separately, Grosvenor's 373 market-rate units would require 75 BMP units (20%), and only 10 are proposed.

We request HCD's guidance on whether the BMP requirement can be satisfied through off-site or third-party projects not controlled by the applicant, or whether Grosvenor must provide sufficient BMP units within its own development.

6. Land Transfer to Eden Housing and Application of Government Code § 65915(g)

The applicant proposes to donate 1.25 acres to Eden Housing. Government Code § 65915(g) provides a 15% density bonus when land is donated to a city, county, or city and county, under certain conditions. The applicant has not indicated whether the transfer is compliant with § 65915(g), nor has it claimed any bonus under this provision.

We request HCD's interpretation of whether any density bonus is available when land is donated to a nonprofit developer, rather than to a public agency as outlined in § 65915(g).

We respectfully request HCD's assistance in clarifying these points to ensure the Town's review of the project complies with all applicable state housing laws and policies.

Sincerely,

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


Attachment Below: Supplemental Material for 14859 Los Gatos Blvd and 16270 Burton Road, Los Gatos, Ca. on behalf of Grosvenor Property Americas ("Applicant")

March 6, 2025

Jocelyn Shoopman
Senior Planner
Town of Los Gatos
Community Development Department
110 E. Main Street
Los Gatos, CA 95030

**Re: Supplemental Material for 14859 Los Gatos Blvd and 16270 Burton Road
(APN 424-07-009, -053, -081, -094, -095, -115, -116, and -052)
Architecture and Site Application S-23-031
Subdivision Application M-23-005**

Dear Ms. Shoopman:

On behalf of Grosvenor Property Americas (“**Applicant**”), we are pleased to submit further updates to our complete application 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, 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 Applicant submitted a complete preliminary application for the Project on April 18, 2023, and followed with its formal development application on September 18, 2023. The Town ~~found the application complete on April 17, 2024. The Town’s completeness determination~~ ~~included~~ numerous substantive comments regarding the Project. The Applicant ~~supplemented its~~ complete application in May of 2024, and the Town issued a series of written consistency evaluation letters on July 17, 2024. The Applicant submitted additional information on October 3, 2024, which triggered further comments from the Town on October 30, 2024. The Applicant responded with revisions on November 23, 2024, and the Town provided additional written comments on December 23, 2024. Since then, the Applicant team and the Town staff have had ongoing meetings and exchanged written comments. Based on those discussions we believe that this submittal fully responds to the comments raised by the Town in its December 23, 2024 letters.

March 6, 2025

I. Updated Project Description.

The Applicant proposes the construction of the Project, a mixed-use housing development project that includes 450 homes, 15,000 square feet of retail, over 3,000 square feet of commercial and civic space, and associated on- and off-site improvements located in the North 40 Specific Plan area of the Town.

The Project Site is 15.65 total acres, which includes unbuildable areas, areas planned for open space, and all of the land that will be dedicated to the public for access to the Project's circulation system and public utilities. Excluding the primary backbone public infrastructure and circulation portions of the Project Site that will be dedicated by easement for public use results in a lot area of 14.47 acres, which conservatively includes alleys, open space, and undevelopable land on the Project Site.

The Project Site currently includes eight (8) single family homes, which would be demolished (as anticipated in the previously certified North 40 Specific Plan Environmental Impact Report) and replaced by the Project.

The Town's Housing Element includes the Project Site in its inventory of sites available for housing development that will be affordable to lower income households to accommodate the Town's RHNA. The Housing Element designates the Project Site for residential development at a minimum density of at least 30 dwelling units per acre, and it assumed a development capacity of up to 461 units. The Project proposes 450 dwelling units on a site area of 14.47 acres, resulting in a gross density of 31.1 du/ac, which is consistent with the Housing Element's use and density designations.

The Project's residential program will provide a total of 450 new rental apartments and for-sale and/or rental town homes. Of the 450 total units, the Project will dedicate 77 units as units that will be rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code as affordable rents, as defined in Section 50053 of the Health and Safety Code. [REDACTED] 7 dedicated units will include 67 affordable rental homes available to low [REDACTED] income households (in addition to one unit reserved for a manager) on approximately 1.25 acres that will be transferred to an affordable housing developer. Ten additional units dedicated to low-income households will be made available in the Project's mixed-income multi-family building.

The 450 homes are complemented by various resident amenities and community-serving ground floor commercial spaces within the multi-family rental building. The new buildings are arranged around a generously sized central public open space (the "**Meadow**"), open to all and visible from Los Gatos Boulevard along a pedestrian "**Paseo**". The Meadow will feature active uses, landscaping, and an interpretive display that features the existing red barn, that collectively celebrate the Property's agricultural heritage. The Meadow will also include a new public

March 6, 2025

pavilion, which is designed to be adaptable for a variety of civic, community and/or retail uses for future flexibility.

Adjacent to the public open space, a 2,400 square foot barn-inspired commercial space, Building J, is proposed and envisioned to complement both the Meadow's agrarian theme and the retail uses in Building I. A new 4,800 square foot retail building (Building I) is located closer to Los Gatos Boulevard and is designed to be sub-dividable for multiple tenants and includes generous outdoor dining areas. Building J and Building I are part of approximately 15,000 square feet of commercial space that helps create vibrancy and a sense of place.

The Project includes all necessary access, circulation, streetscape, and landscaping to complement and service the new buildings and to complete relevant sections of the bicycle and pedestrian routes through and around the site. On-site streets will be connected to existing North 40 Phase I streets. The Applicant will dedicate land to the Town to accommodate the future widening of Burton Road and a through-connection between Burton Road and the Project to complete the internal circulation system as anticipated in the North 40 Specific Plan.

II. The Project is Consistent with Applicable Objective Development Standards.

On January 31, 2023, the Town adopted its first version of the Sixth Cycle Housing Element Update, which was adopted and in effect when the Applicant submitted its complete preliminary application. The California Department of Housing and Community Development (“HCD”) found that the Town’s January 31, 2023 Housing Element did not substantially comply with the requirements of state Housing Element law. The Town made numerous revisions to its Housing Element in response to HCD’s findings before adopting a substantially compliant Housing Element that HCD certified on July 10, 2024. However, because the Project has a vested right to proceed under the ordinances, policies, and standards in place at the time the Applicant submitted the preliminary application, the January 31, 2023 Housing Element applies. (See Gov. Code § 65589.5(o).)

The Project proposes to provide 77 of its 450 dwelling units at rents affordable to 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 Housing Accountability Act. (Gov. Code § 65589.5(h)(3).) In addition, as discussed above, the Project is consistent with the Housing Element’s land use and density designations. 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 North 40 Specific Plan’s requirement as applied to the Project.

March 6, 2025

Because the Project provides 77 of its 450 dwelling units as affordable to lower income households, it is eligible for benefits under the State Density Bonus Law, including two concessions/incentives that result in cost reductions and unlimited waivers of development standards necessary to accommodate the Project as proposed. (Gov. Code § 65915(d)(2)(B), (e).) Attachment A to this letter includes a complete enumeration of all requested incentives/concessions and waivers, and the updated Objective Design Standards checklist references such modifications where appropriate.

Finally, the Project complies with the Town's affordability requirements as adopted in the BMP Ordinance (Division 6 of Chapter 29 of the Town Code). Of the Project's 450 total units, 373 units would be rented or sold at market rate. The Town's BMP Ordinance requires that 20 percent of the 373 market rate units – or 75 units – be reserved as affordable housing. The Project exceeds this requirement and will dedicate 77 units (21 percent of the market rate units) as units dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code as affordable rents, as defined in Section 50053 of the Health and Safety Code.

Note that because the Project's complete preliminary application was submitted before the Town adopted a Housing Element certified by HCD, the Project is eligible for the Builder's Remedy. This means that Town would be forbidden from denying the Project, even if the Project were not consistent with the Town's standards. Although the Project is eligible for the Builder's Remedy, it is not necessary to invoke the Builder's Remedy here, because the Project complies with the Housing Element and applicable, objective standards as modified via the State Density Bonus Law.

III. Conclusion

With this submittal, the Applicant has responded to each of the Town's substantive, applicable comments provided on December 23, 2024, and during subsequent conversations and meetings with Town staff. Accordingly, we look forward to the Project's Planning Commission hearing in April.

Sincerely,



Eric S. Phillips

Encls.

ATTACHMENT A

**14859 Los Gatos Blvd and 16270 Burton Road
(APN 424-07-009, -053, -081, -094, -095, -115, -116, and -052)
Architecture and Site Application S-23-031
Subdivision Application M-23-005**

Proposed Density Bonus Concessions, Waivers, and Parking Reductions

Although the Project meets many of the General Plan policies, including the land use and density designated in the Housing Element, and the guidelines of the North 40 Specific Plan, the Applicant seeks incentives or concessions, waivers, and parking reductions pursuant to the State Density Bonus Law (Gov. Code § 65915).

The Project will dedicate 77 of its 450 units to be rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code at a monthly cost that is an affordable rent, as defined in Section 50053 of the Health and Safety Code. Note that this level of affordability equals 21 percent of the Project's market rate units, which exceeds the affordability requirements in the Town's BMP Ordinance. In addition, by providing this level of affordability, the Project is entitled to the following benefits under State Density Bonus Law:

- A density bonus of 30.5% above the otherwise maximum allowable residential density (Gov. Code § 65915(f)(1));
- Two incentives or concessions (Gov. Code § 65915(d)(2)(B); for purposes of the State Density Bonus Law, the terms “incentives” and “concessions” are interchangeable, and this summary will use “concession” going forward);
- Waivers or reductions for “any development standard that will have the effect of physically precluding the construction of a development” that provides enough affordable housing to qualify for the State Bonus Law (Gov. Code § 65915(e)); and
- Minimum parking requirements, inclusive of guest parking and including parking provided in uncovered or tandem spaces, that do not exceed specified ratios. (Gov. Code § 65915(p).)

As detailed below, the Applicant proposes to use the State Density Bonus Law's concessions, [REDACTED] and parking reduction benefits to allow the development of the Project [REDACTED]. In addition, the Applicant reserves the right to modify the request to include different or additional concessions and waivers if needed to address additional applicable development standards.

Concessions

1. *Allow residential uses on the ground floor of buildings.* Section 2.5.10c of the North 40 Specific Plan prohibits residential uses on the ground floor of buildings in the Northern District, which covers the Project site. Because the Housing Element designates the Project site as a site that is suitable for very low, low-, or moderate-income households at a residential density of at least 30 du/ac, inconsistency with this zoning standard is not a basis to deny the Project under Government Code section 65589.5(d)(5)(A). Accordingly, we do not believe that this standard is

applicable to the Project. However, to the extent it applies, the Project proponent requests a concession to allow residential uses on the ground floor of buildings.

Although portions of the Project incorporate commercial elements, it is not financially feasible to develop commercial spaces on the ground floor of all the buildings on the Project site. Therefore, eliminating this development standard will result in cost savings to help provide the level of affordability proposed.¹

2. Potential Reduction in Private Open Space. (Townhomes only) The Town adopted “Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development” that applies to multi-family and residential mixed-use developments. Objective Design Standard A.11.1.b requires each ground floor dwelling unit to have a minimum of 120 square feet of usable private recreation space. As currently designed, the Townhomes satisfy this requirement through the provision of private roof decks. However, to reduce construction costs, it may be necessary for the Project to remove some or all of the roof decks before submitting for building permits, which would cause the Project to fall short of the open space standard. Therefore, the Project requests a concession to remove private roof decks from the design at the Applicant’s election to result in cost savings to help provide the level of affordability proposed.

Waivers

When considering the following proposed waivers, it is important to remember that “[i]n no case may [the Town] apply any development standard that will have the effect of physically precluding the construction of a development [that qualifies for the State Density Bonus Law] at the densities” allowed and with the requested concessions. (See Gov. Code, § 65915(e)(1).) Cases have confirmed that once a project qualifies for a density bonus, “the law provides a developer with broad discretion to design projects with additional amenities even if doing so would conflict with local development standards.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 774-75; see also *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1346–1347 [waivers must be granted even though redesigning the project to decrease amenities would reduce the need for waivers].)

1. Increased Maximum Height. Section 2.5.2 of the North 40 Specific Plan and referenced in Policy LU5 sets a maximum building height of 30 feet across the Project site and Section 2.5.7(b) sets a maximum building height of 25 feet for buildings located within 50 feet of Los Gatos Boulevard. The Project requires a waiver to allow the Affordable Multifamily (Building G) units to achieve a maximum height of 63 feet measured from the lowest natural grade to highest roof surface or 61 feet when measured from the proposed grade, and the town home units to achieve a maximum height of 49 feet when measured from the lowest natural grade or 44 feet when measured from lowest proposed grade, and the Mixed-Income Multifamily (Building E) units to achieve a maximum height of 100 feet from when measured from the lowest natural grade to the highest roof surface or approximately 94 feet when measured from the lowest

¹ See HCD Notice of Violation to City of Elk Grove (October 12, 2022), which concludes that allowing residential ground floor development in mixed use areas that otherwise require ground floor commercial uses results in actual and identifiable cost reductions such that refusal to approve a concession would violate the State Density Bonus Law.

proposed grade. It should be noted that Building E is approximately 89 feet when measured from Los Gatos Boulevard and that detailed measurements are included in the updated architectural sheets in the attached revised drawings (Planning Comments 18, 27 and 29). The Specific Plan's ~~development~~ standards do not accommodate the Project's proposed density, which is allowed pursuant to the adopted Housing Element. Increased height is necessary for each proposed building typology to accommodate the proposed unit count and necessary parking facilities across the Project site.^{2, 3}

2. Modified Street Sections. Section 4.13.3 of the North 40 Specific Plan defines a 40' road section for Section 6d of North A Street with two 12' drive lanes and two 8' parking lanes. The Project proposes wider sidewalks, bicycle lanes, and reduced lane widths; accommodating all of the proposed facilities in the street would require additional right of way that would reduce the amount of developable area for buildings, resulting in a lower unit count. Therefore, the Project proponent requests a waiver from the required street section dimensions.

3. Deviations from Objective Design Standards. The Project has been designed to comply with as many of the Objective Design Standards as feasible while meeting the unit count called for in the Housing Element; however, to physically fit the Project as designed at the density allowed, the following standards must be waived:

- A.2.1. (100% affordable multifamily housing, townhomes, and commercial buildings only) Short-term bicycle parking cannot be accommodated within 50' of each building entry while maintaining adequate space for residential density and proposed open space. In the alternative, the project distributes bike parking throughout the site to balance even distribution and convenience, while also supporting active community use.
- A.2.2. (100% affordable multifamily housing, mixed-use multifamily, and townhomes) Long-term bicycle parking is provided at one space per unit. To maintain adequate space for residential density and proposed open space, short-term bicycle parking is provided at a ratio of one space per 2,000 square feet of non-residential floor area.
- A.3.4.e. (100% affordable multifamily housing and mixed-use multifamily only) To maintain adequate space for residential density and proposed open space, long-term bicycle spaces are proposed to be accommodated with stacked parking. Although the proposed bicycle racks would not meet the Objective Design Standards' dimensions, a reduction is necessary to provide adequate long-term bicycle parking without reducing the Project's residential density.
- A.5.1. (Commercial building only) The project is designed to prioritize the pedestrian experience and active ground-floor retail uses where the buildings have frontage on C1 Street, D4 Street, and the Pedestrian Paseo, which is proposed as a Project amenity serving the public and future Project residents. It is necessary to locate surface parking

² In some cases, the height waivers proposed may exceed the more precise heights shown on the architectural plans. We propose rounding the height up to nearest foot to allow for some variance between the current plans and final construction plans.

³ See HCD Notice of Violation to City and County of San Francisco (December 29, 2022), which concludes that it is a violation of the State Density Bonus Law to approve a project subject to a condition of approval that the applicant reduce the height proposed as a waiver.

between the buildings and Los Gatos Boulevard, otherwise the Project would need to be redesigned to remove the proposed amenity or reduce its residential density.

- A.6.3. (Mixed-use multifamily only) The multifamily building has a parking structure, and a pedestrian access gate cannot be provided without redesigning the Project, affecting its density. Pedestrians can access the exterior by using an elevator, corridor or stairs.
- A.10.2. (Mixed-use multifamily and townhomes only) The Project requires a new unbroken retaining wall between C5 Street and the neighboring property so long as the adjacent grade remains lower than the Project Site's grade to support development at the permitted density.
- A.11.1.b. (100% affordable multifamily housing and mixed-use multifamily only) The 100% affordable multifamily building cannot accommodate balconies and cannot meet the private open space requirements while maintaining the unit count. The mixed-use multifamily building can accommodate balconies on only 49% of the units (126 units) without reducing Project density.
- A.12.1. (Mixed-use multifamily and commercial buildings only) The Project proposes a Paseo to connect Los Gatos Boulevard to the Meadow, which would house the ground floor retail consistent with the Project's first concession request and serve as a Project amenity serving the public and future Project residents. Providing 75 percent of any street-facing façade would require a Project redesign to remove the proposed amenity and conflict with its concession request.
- B.1.1. (Townhomes only) The primary street-facing façade of the townhomes complies with B1.1.1b, c, and f. However, since each facade of the townhomes faces a street, depending on siting, it is not possible for the townhomes to comply with the requirement that all street-facing facades incorporate three of the identified design solutions.
- B.1.2. (100% affordable multifamily housing and mixed-use multifamily only) An upper-story setback would reduce the density of the Project.
- B.3.1. (Mixed-use multifamily only) The mixed-use multifamily building (E1) cannot comply with the requirement to install horizontal eave breaks every 40 feet of building façade without redesigning the Project and reducing its density.
- B.4.1. (Townhomes only) Townhomes comply at Front Facade of each building, but redesigning the Project to differentiate the base of the buildings at the Rear/Garage or Side Facades would affect the overall residential capacity by reducing the building form and floor area for the Project's residential uses.
- B.4.3. (100% affordable multifamily housing and townhomes only) The 100% affordable multifamily building (6 points) and the townhomes (14 points) cannot reach 16 points through street-facing façade plan variation while maintaining the unit count.
- B.4.4. (Townhomes only) The Project proposes the Meadow as an amenity serving the public and future Project residents. Townhomes H1 and H2 are designed to face the Meadow rather than the street to activate this project amenity. As a result, the garage doors on these two townhomes exceed 40 percent of the length of the façade; otherwise, the Project would need to be designed to modify the proposed amenity or reduce its residential density.
- B.4.6.b. (Commercial building only) The Project proposes a Paseo to connect Los Gatos Boulevard to the Meadow, which would house the ground floor retail consistent with the Project's first concession request and serve as a Project amenity serving the public and

future Project residents. To activate the Paseo and accommodate the design of this Project amenity consistent with the Project's concession request, the commercial buildings deviate from the façade requirements.

██████████ B.4.10. (Townhome F3 only) Townhome B3 is adjacent to a single-family ██████████ be designed to set back five additional feet from the façade plan of the lower floor without reducing the project's residential development capacity.

- B.4.11. (Mixed-use multifamily building and townhomes only) The mixed-use multifamily building's balconies extend into the airspace beyond the building footprint, as does the balcony for Townhome F3. This encroachment must be allowed to accommodate the project's residential density and open space amenities.
- B.4.13. (Mixed-use multifamily building only) The mixed-use multifamily building (E1) cannot comply with the façade requirement without redesigning the Project and reducing its density.

4. **BMP Program Standards.** As noted above, because the Project is consistent with the Housing Element's designated density for the Property and because it reserves 77 of its units as affordable to lower income households, the Housing Accountability Act prohibits the Town from denying the Project based on inconsistencies with zoning standards, including the Town's BMP Program. However, to the extent applicable, we request a 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. Because the Project would involve a partnership with a non-profit developer to provide affordable housing units using tax credits and other financing mechanisms that require the affordable units be consolidated, compliance with the BMP Program requirements would physically preclude development of the Project. Likewise, requiring larger affordable units would result in few units per building, reducing the Project's density.

Parking Reductions

Consistent with the standards established in subdivision (p) of Government Code section 65915, the Applicant proposes that the mixed-use multifamily housing building and the townhomes be subject to the following minimum parking ratios, inclusive of guest parking:

- Zero to one bedroom: one onsite parking space;
- Two to three bedrooms: one and one-half onsite parking spaces; and
- Four and more bedrooms: two and one-half parking spaces.

Note that the 100% affordable multifamily housing building complies with the Town's parking standards, which require less parking than the State Density Bonus Law. Therefore, this portion of the request is not applicable to the affordable housing component of the Project.

From: [REDACTED]
To: [Town Manager](#)
Cc: [Matthew Hudes](#); [Gabrielle Whelan](#); [Joel Paulson](#)
Subject: Requesting Technical Assistance from HCD
Date: Monday, June 9, 2025 4:44:15 PM
Attachments: [Request for Technical Assistance - North 40 Phase II Project Final to HCD June 9 2025.pdf](#)

[EXTERNAL SENDER]

Today we filed a request for technical assistance from HCD regarding a number of outstanding policy and legal issues arising from the North 40 Phase II development application. We have previously suggested the Town seek technical assistance from HCD for a number of these issues but to our knowledge no requests have been made. Additionally we have asked the Town for clarification regarding these issues but never received a reply. Given the importance of this development application, asking HCD for technical assistance seemed extremely prudent.

We are providing you a copy of the request for your files.

Thank you

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

From: [REDACTED]
To: [Gabrielle Whelan](#)
Cc: [Town Manager](#); [Joel Paulson](#); [REDACTED]
Subject: Subject: Urgent Clarification Required on Critical Issues from Our 7/8/25 Meeting
Date: Monday, July 14, 2025 8:40:58 AM
Attachments: [image.png](#)

[EXTERNAL SENDER]



**Los GATOS
COMMUNITY
ALLIANCE**

Dear Gabrielle,

We appreciate the opportunity to engage in a productive discussion during our recent meeting. However, significant unresolved concerns regarding legal compliance and procedural integrity necessitate further clarification to prevent serious risks to the Town's housing obligations and potential legal challenges.

We respectfully request your prompt attention to the following issues raised during our meeting, each of which carries substantial implications for the Town's compliance with state housing law and the integrity of the current project.

1. Use of Net Acreage in Housing Element (HE) Compliance

You indicated that, despite the HE explicitly defining "density" based on "gross lot area," the Town's zoning code permits the use of "net lot area" to determine HE compliance. This apparent prioritization of the zoning code over the HE's clear definition raises serious concerns about legal consistency. Could you provide the precise statutory or legal authority justifying this deviation from the HE's defined term? Additionally, please identify the specific zoning code section governing this calculation. The HE's unambiguous reliance on "gross lot area" suggests that using "net lot area" undermines the HE's intent and may expose the Town to legal scrutiny for non-compliance with state housing requirements.

2. Inconsistency in Density Computation Between HE and SDBL

A glaring inconsistency exists in the applicant's approach to density calculations, which threatens the project's compliance with both the HE and the State Density Bonus Law (SDBL). The applicant proposes using "net acreage" for HE compliance, aligning with the Town's zoning code, while relying on "gross acreage" for SDBL calculations, as permitted under Government Code Section 65915(f)(1). This contradictory methodology directly conflicts with guidance from the California Department of Housing and Community Development (HCD). Specifically, HCD's technical assistance letter to the City of Agoura Hills dated July 26, 2023, unequivocally mandates the use of "gross acreage" for determining base density. By adopting divergent metrics—net acreage for HE and gross acreage for SDBL—the Town risks establishing a legally indefensible framework that could invalidate project approvals and invite litigation. Could you explain the Town's rationale for tolerating this inconsistency and its divergence from HCD's clear directive? To safeguard compliance and avoid legal jeopardy, must density not be uniformly calculated using gross acreage, as HCD recommends, for both HE and SDBL purposes?

3. Impact on HE Site Inventory and RHNA Obligations

The use of "net lot area" for HE compliance significantly reduces the developable land in the HE site inventory, jeopardizing the Town's ability to meet its 6th Cycle Regional Housing Needs Allocation (RHNA). This approach may trigger "net loss" provisions under state law, as outlined in Government Code Section 65583.2, due to insufficient land capacity to accommodate required housing units. Could you confirm whether this methodology jeopardizes RHNA compliance and, if so, detail the potential consequences for the certified HE, including decertification or mandatory corrective actions? Failure to address this issue could undermine

the Town's housing obligations and erode public trust in its planning process.

4. Reliance on the January 31, 2023 Housing Element

The Town's continued reliance on the January 31, 2023 HE is deeply problematic and exposes the project to significant legal risks. HCD's letter dated April 14, 2023, explicitly found the HE non-compliant with state housing law, highlighting that Program D of the North 40 Specific Plan fails to commit to a minimum density. The determination of the N 40 Phase II minimum density is central to our concern. Furthermore, the Town Council's adoption findings lack substantial evidence and appear flawed, while HCD's March 16, 2023 memo prohibits local jurisdictions from self-certifying their housing elements. Notably, HCD's April 14, 2023 findings predate the N40 application's completion on April 18, 2023, amplifying their relevance. Approving development under this non-compliant HE, which has undergone material subsequent changes, invites third-party legal challenges that could halt the project and incur significant costs. To mitigate these risks, we strongly urge the Town to suspend action until HCD provides technical assistance to resolve these deficiencies.

5. CEQA Review Approach

Substantial changes in circumstances and new information, unaddressed in the 2040 General Plan EIR or the N40 Specific Plan EIR, cast doubt on the validity of relying on these documents for CEQA compliance. This gap risks violating CEQA's requirement for a thorough environmental review, potentially exposing the project to further legal challenges. Could you detail the Town's strategy for ensuring full CEQA compliance, including whether a supplemental or subsequent EIR will be prepared to address these new conditions?

We value your expertise and commitment to addressing these concerns. To avert third-party legal challenges, project delays, and potential non-compliance with state housing mandates, we strongly urge the Town to refrain from taking action until HCD provides technical assistance to resolve these critical issues.

Jak Van Nada In Behalf Of:
Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters
www.lgca.town



From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]; [Town Manager](#); [Gabrielle Whelan](#); [Joel Paulson](#); [REDACTED]; [Matthew Hudes](#)
Subject: Subject: Urgent Request for Technical Assistance – North 40 Phase II (Los Gatos)
Date: Monday, July 28, 2025 8:38:59 PM
Attachments: [image.png](#)

[EXTERNAL SENDER]



To: [REDACTED]
From: Jak Vannada, Los Gatos Community Alliance
Date: July 28, 2025

Email – Urgent Request for Technical Assistance

Dear Mr. Ying,

On behalf of the Los Gatos Community Alliance (LGCA), I write to urgently follow up on our June 24, 2025 request for technical assistance regarding the North 40 Phase II project—a proposed 450-unit mixed-use development currently pending before the Town of Los Gatos. Our request raises critical legal questions under the Housing Accountability Act (HAA), State Density Bonus Law (SDBL), and the Permit Streamlining Act (PSA). These issues are essential for ensuring lawful and informed decision-making by the Town's Planning Commission.

HCD's Consolidation of LGCA's Request

We understand from HCD's June 26, 2025 response that our request was consolidated into Case No. HAU 1928, which was initiated by Grosvenor Property Americas through its attorney, Eric Phillips. While we appreciate the acknowledgment, we are concerned that:

- - HCD's own response admits "the subject matter... is not exactly the same,"
- - Yet no direct response has been issued to LGCA's specific legal concerns, and
- - Without a written reply, critical guidance is being withheld from both the community and
- - the Planning Commission.

Timing Concerns

We have learned that HCD does not plan to respond to LGCA's request until after the Planning Commission's next meeting, currently expected in late August. This raises serious questions:

How can the Planning Commission fairly and lawfully evaluate the application if HCD withholds technical guidance until after a vote is taken?

Proceeding without state-level clarification risks a legally flawed decision and increases the likelihood of litigation, which in turn would delay housing production—contrary to HCD's mission.

Hearing Limit and Process Breakdown

Per Government Code § 65905.5, the Town is limited to five public hearings for this project. One hearing has already occurred, even though:

- - The staff report was incomplete,
- - The independent nature of the Eden Housing component was not adequately addressed, and
- - The report contained non-CEQA-compliant analysis.

Holding a second hearing without full legal clarity from HCD imposes an unnecessary burden on both the Commission and the public.

Apparent Inequity in HCD Response Times

By contrast, we note that HCD responded promptly and in detail to a technical assistance request submitted by Arielle Harris (Cox Castle) on behalf of SummerHill Homes for the Saratoga Road Project—a smaller, 155-unit development. That response was issued just over four months after the request and addressed narrower PSA and SDBL questions. LGCA's request is similarly grounded, timely, and highly relevant. It deserves the same level of attention and transparency.

Our Request

We respectfully urge HCD to issue a separate, written response to LGCA's June 24, 2025 request in advance of the next Planning Commission hearing.

This is essential to:

- - Ensure legal compliance with state housing laws
- - Promote transparent and informed public review
- - Avoid unnecessary litigation and delays in housing production

Sincerely,

Jak Van Nada
Los Gatos Community Alliance

From: [REDACTED]
To: [Gabrielle Whelan](#)
Cc: [REDACTED]; [Town Manager](#); [Matthew Hudes](#); [REDACTED] [Joel Paulson](#)
Subject: Unequal Treatment of North 40 Phase II Projects – Luxe vs. Grosvenor
Date: Sunday, September 14, 2025 9:03:59 AM
Attachments: [image.png](#)

[EXTERNAL SENDER]



September 13, 2025

Re: Unequal Treatment of North 40 Phase II Projects – Luxe vs. Grosvenor

Dear Ms. Whelan:

The Los Gatos Community Alliance (LGCA) is concerned about the inconsistent treatment of two housing projects in the North 40 Phase II Specific Plan Area:

1. The Luxe Builder's Remedy project at 14849 Los Gatos Boulevard; and
2. The Grosvenor project at 14859 Los Gatos Boulevard and 16270 Burton Road.

This disparity involves differing baseline density standards and uneven application of the Builder's Remedy, risking non-compliance with state law and public trust in the planning process.

1. Application Timing and Housing Element Status

Preliminary application dates determine vesting rights and Builder's Remedy eligibility:

- Luxe Project: Preliminary application submitted September 13, 2023, invoking Builder's Remedy.
- Grosvenor Project: Preliminary application deemed submitted April 17, 2023, under SB 330; formal application submitted September 18, 2023, and deemed complete April 17, 2024.

Both applications preceded the Housing Element's certification on July 10, 2024. As the January 30, 2023, Housing Element was uncertified (per HCD's April 14, 2023, letter), it lacked legal effect under Government Code §§ 65589.5(d)(5) and 65589.5(o), as affirmed in *California Renters Legal Advocacy and Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820. Thus, both projects vested under the North 40 Specific Plan's baseline zoning during non-compliance.

1. Inconsistent Baseline Density and Acreage Calculations

The Town has applied divergent standards:

- Luxe Project: Correctly evaluated at 20 dwelling units per acre (du/ac) per Town Code § 29.80.510(6)(b), Table 1B, for C1-HEOZ zoning, using gross acreage consistent with the Housing Element site inventory
- Grosvenor Project: Claims a 30 du/ac baseline, citing the uncertified Housing Element, and uses net acreage

(14.47 acres) to calculate 31.1 du/ac for 450 units. The proper density is 28.7 du/ac when using gross acreage (450 ÷ 15.65) as called for by the certified Housing Element.

As both projects vested during non-certification, the baseline must be 20 du/ac. While net acreage may be permissible under local zoning, HCD's site inventory methodology requires gross acreage for consistency. Grosvenor's reliance on a higher baseline and net acreage creates unequal treatment.

1. Builder's Remedy Application

The Town recognizes Luxe as a Builder's Remedy project, allowing zoning flexibility for qualifying affordable projects under Government Code § 65589.5. Grosvenor, however, proceeds under the North 40 Plan without invoking Builder's Remedy, relying on an inapplicable Housing Element density. This disparity is arbitrary, as both projects vested during non-compliance and must adhere to the same zoning baseline unless qualifying for Builder's Remedy or density bonuses under Government Code § 65915.

1. Requested Action

To ensure compliance with state law, LGCA requests that the Town:

1. Confirm both projects use the 20 du/ac baseline under Town Code § 29.80.510(6)(b), Table 1B, and gross acreage for density calculations, consistent with HCD methodology.
2. Apply Builder's Remedy uniformly to qualifying projects, per Government Code § 65589.5.

Addressing these inconsistencies will mitigate risks of HCD enforcement or litigation and uphold fair planning processes. LGCA requests a written response clarifying the Town's position before further project advancement.

Respectfully submitted,

Jak Van Nada -
Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters
[*www.lgca.town*](http://www.lgca.town)

