

From: Respicio, Maryknol <mrespicio@rutan.com>
Sent: Tuesday, August 22, 2023 12:39 PM
To: Joel Paulson <jpaulson@losgatosca.gov>
Cc: Phil Koen ([REDACTED]) <[REDACTED]>; Town Manager <Manager@losgatosca.gov>; Attorney <Attorney@losgatosca.gov>; Paul.McDougall@hcd.ca.gov; jose.jauregui@hca.ca.gov; Francois, Matthew <MFrancois@rutan.com>
Subject: Los Gatos 2023-2031 Housing Element

Dear Mr. Paulson:

Attached please find a letter regarding Los Gatos 2023-2031 Housing Element issues.

Please let Matt Francois if you have any questions.

Thank you.

Maryknol Respicio

Assistant to Matthew D. Francois

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August 22, 2023

VIA E-MAIL - jpaulson@losgatosca.gov

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

Re: Los Gatos 2023-2031 Housing Element

Dear Mr. Paulson:

We write on behalf of the Los Gatos Community Alliance (“LGCA”), a group of concerned citizens, in regard to the Los Gatos 2023-2031 Housing Element (the “Housing Element”). In previous correspondence to the Town of Los Gatos (the “Town”), LGCA expressed concern that the Housing Element Sites Inventory overstated the development potential on two key sites—Los Gatos Lodge and North 40 Phase II—in light of SB 330 Preliminary Applications submitted for both sites which vest development rights at overall lower densities with far fewer affordable units than assumed by the Sites Inventory. LGCA also expressed concerns with the reasonableness of development capacity on North 40 Phase II given that the site is more than 10 acres and a comparable development (the adjacent North 40 Phase I) was developed at an overall lower density with less affordable units than assumed by the prior housing element. The reductions are significant enough that the Town would not meet its Regional Housing Needs Allocation (“RHNA”) for very low and moderate income units. As the Town prepares its fourth revision to the Housing Element, LGCA writes to request that the Town update the Sites Inventory and make other changes to the Housing Element so as to comply with State Housing Element Law.

1. Background

Faced with a January 31, 2023 deadline to adopt a compliant Housing Element, the Town submitted its first draft Housing Element to the State Department of Housing & Community Development (“HCD”) on October 14, 2022. In its January 12, 2023 comment letter HCD found that this first submittal was not compliant with State Housing Element Law. The Town Council nonetheless proceeded to adopt a slightly revised version of the Housing Element and submitted it to HCD on February 13, 2023. HCD responded to this second submittal on April 14, 2023 indicating that it too was not compliant with State Housing Element Law. On March 31, 2023, the Town sent its third submittal to HCD on March 31, 2023.

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After the third submittal had been sent to HCD, the Town received two SB 330 Preliminary Applications for two key sites on the Sites Inventory—Los Gatos Lodge (Site B1) and North 40 Phase II (Site D1)—on which the Housing Element proposes to accommodate more than 50 percent of the Town’s low and very low RHNA.¹ As illustrated by the chart below, the SB 330 Preliminary Applications include a greatly reduced number of affordable housing units from that assumed in the Sites Inventory. The reductions are significant enough that the Town would not meet its RHNA for very low and moderate income units. The Town’s RHNA for very low units is 537 units and for moderate units is 320. With the reductions associated with the SB 330 Preliminary Applications, the Town only has 396 very low units and 253 moderate units.

Project	Housing Element Sites Inventory	SB 330 Preliminary Applications Submitted
Los Gatos Lodge (Site B-1)	Very Low: 86 Low: 86 Moderate: 62 Above-Moderate: 30 Total: 264	Very Low: 0 Low: 32 Moderate: 0 Above-Moderate: 126 Total: 158
North 40-Phase II (Site D-1)	Very Low: 184 Low: 89 Moderate: 92 Above-Moderate: 96 Total: 461	Very Low: 0 Low: 88 Moderate: 0 Above-Moderate: 349 Total: 437

In its May 30, 2023 letter, HCD again found that the Town’s third submittal of the Housing Element to be non-compliant with State Housing Element Law. In pertinent part, HCD stated that the Housing Element needed to be revised to, among others, contain an accurate Sites Inventory accounting for: (1) the likelihood of 100 percent nonresidential development in zones allowing 100 percent nonresidential uses and (2) the realistic potential for additional development on non-vacant sites. As to the first point, HCD indicated that the Town should consider the development activity of 100 percent nonresidential uses, stating the element should analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. As to the second point, HCD stated that the element should address “the extent to which existing uses may constitute an impediment to additional residential development, the Town’s past experience with converting existing uses to higher density residential development,

¹ True and correct copies of these applications for Site B1 and Site D1 are attached hereto as Exhibit A and Exhibit B, respectively.

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the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.”

2. Housing Element Law Requires A Sites Inventory That Reflects Realistic Capacity And Properly Accounts For Large And Nonvacant Sites.

Government Code Section 65583 requires that a housing element “identify adequate sites for housing” and “make adequate provision for the existing and projected needs of all economic segments of the community.” Specifically, a housing element must contain “[a]n inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality’s housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction’s duty to affirmatively further fair housing.” (Gov. Code § 65583(a)(3).)

The sites inventory shall be used to identify sites throughout the community that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels. (Gov. Code § 65583.2(a).) An agency is required to determine whether each site in its inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period. (Gov. Code § 65583.2(c).) A local agency must demonstrate how the number of units determined for a particular site in the inventory will be accommodated. (Gov. Code § 65583.2(c)(1).) The number of units shall be adjusted as necessary based on land use controls and site improvements, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in the jurisdiction, and the current and planned availability and accessibility of sufficient water, sewer, and dry utilities. (Gov. Code § 65583.2(c)(2).)

Parcels larger than 10 acres are considered inadequate to accommodate housing affordable to lower income households, unless the local agency demonstrates that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site, or there is other evidence that the site is realistic and feasible for lower income housing.² (Gov. Code § 65583.2(c)(2)(B).) “A site

² Such evidence may include developer interest, proposed specific-plan development, potential for subdivision, the jurisdiction’s role or track record in facilitating lot splits, or other information that can demonstrate to HCD the feasibility of the site for development. (HCD’s Housing Element Site Inventory Guidebook (May 2020), p. 17.)

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may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.” (Gov. Code § 65583.2(c)(2)(C).)

When a housing element relies on nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households, it must demonstrate that existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code § 65583.2(g)(2).) Absent findings based on substantial evidence, the existing uses will be presumed to impede additional residential development and cannot be used to demonstrate adequate sites to accommodate the agency’s RHNA. (*Id.*)

3. The Housing Element Does Not Comply with State Housing Element Law.

The Sites Inventory has not been revised to reflect the SB 330 Preliminary Applications for Los Gatos Lodge and North Forty Phase II. The inventory assumes that these two sites will provide more than 50 percent of the RHNA for low and very low income units. But since these two sites can legally be developed in accordance with their SB 330 Preliminary Applications, the Town would have a shortfall of 141 very low units and 67 moderate units.³ The Sites Inventory does not meet the Town’s RHNA obligations and the capacity assumed for Sites B-1 and D-1 is not realistic.

Los Gatos Lodge (Site B-1) is comprised of three parcels totaling 8.81 acres and identified as having a realistic capacity of 264 units. Of these 264 units, 86 are identified as very low, 86 as low, 62 as moderate, and 30 as above-moderate. The Los Gatos Lodge site is occupied by an existing motel and thus nonvacant. It has a proposed General Plan designation of Mixed Use Commercial and a proposed Zoning designation of CH-PD HEOZ, which would allow minimum densities of 30 units per acre. The Housing Element incorrectly refers to this site as already containing these designations. (Housing Element, Appendix D, p. D-15.)⁴

A SB 330 Preliminary Application was submitted for Los Gatos Lodge on June 30, 2023. Because the Town does not have a certified Housing Element, the project is subject to the “builder’s remedy” and can proceed irrespective of its non-conformity with current planning and zoning designations. (Gov. Code § 65589.5(d).) Any subsequently enacted planning or zoning

³ Where there would still be a nominal surplus of 58 low income units, this would only be 8 percent above the Town’s RHNA allocation, falling far short of HCD’s recommended 15-30 percent buffer. (HCD’s Housing Element Site Inventory Guidebook (May 2020), p. 22.)

⁴ References herein to the Housing Element are to the Interim Working Draft Revised Housing Element dated July 2023.

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changes would not legally apply to the project proposed on Site B-1.⁵ The Preliminary Application includes a total of 158 units. Of these 158 units, 126 are identified as market rate (or above-moderate) units and 32 are identified as low income units. Thus, Site B-1 is subject to a vested development application for 106 overall fewer units and 86 less very low, 54 less low, and 62 less moderate units than assumed by the Sites Inventory.

North 40 Phase II (Site D-1) is comprised of seven parcels totaling 15.39 acres and identified as having a realistic capacity of 461 units. Of these 461 units, 184 are identified as very low, 89 as low, 92 as moderate, and 96 as above-moderate. The North 40 Phase II site is occupied by single-family residences and agricultural uses and thus nonvacant. It is planned and zoned North Forty Specific Plan. The Specific Plan currently allows for a maximum of 270 units. (Specific Plan, Table 2-2 and Section 2.7.3.) Phase I was developed with 270 above-moderate units, 1 moderate unit, and 49 very low units.

A SB 330 Preliminary Application was submitted for North 40 Phase II on April 17, 2023. Because the Town does not have a certified Housing Element, the project is subject to the “builder’s remedy” and can proceed irrespective of its non-conformity with current planning and zoning designations. (Gov. Code § 65589.5(d).) Any subsequently enacted planning or zoning changes would not legally apply to the project proposed on Site D-1. The Preliminary Application includes a total of 437 units. Of these 437 units, 349 are identified as market rate (or above-moderate) units and 88 are identified as low income units. Thus, Site B-1 is subject to a vested development application for 24 overall fewer units and 184 less very low, 1 less low, and 92 less moderate units than assumed by the Sites Inventory.

Town Staff has indicated that these are just preliminary applications and do not need to be factored into the analysis as to whether the capacity is realistic. Such a response significantly downplays the legal significance of the SB 330 Preliminary Applications submitted. Moreover, the Town itself used such an application for Site I-1 (405 Alberto Way) as the basis for the overall density and number of affordable units in its Sites Inventory. Also, other agencies with certified Housing Elements, such as the City of Campbell, considered SB 330 Preliminary Applications when preparing their Housing Sites Inventory.⁶

In addition, Site D-1 is 15.39 acres. Per State Housing Element Law, such a large site is considered inadequate to accommodate housing affordable to lower income households, unless

⁵ A Preliminary Application allows a developer to “freeze” the applicable ordinances, policies, and standards in place at the time of submittal thus preventing later changes to development requirements that could impact the project. (Gov. Code §§ 65589.5(o), 65941.1.)

⁶ Specifically, Campbell’s Housing Element included a discussion of requests to develop housing below identified densities as a non-government constraint to housing. (Campbell Housing Element, p. H.II-172.)

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the Town demonstrates that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site. (Gov. Code § 65583.2(c)(2)(B).) The Housing Element contains no such supporting analysis. The reality is that there is no such supporting evidence. For instance, while North 40 Phase I was planned for 270 units (156 very low, 84 low, 30 moderate, and 0 above-moderate), what was actually built was 270 above-moderate units, 49 very low units, and 1 moderate unit.

Further, the Town's Housing Element relies almost exclusively on nonvacant sites to accommodate its RHNA for lower income households.⁷ By law, the existing uses on these sites are deemed to be an impediment to residential development absent substantial evidence to the contrary. (Gov. Code § 65583.2(g)(2).) Most of the projects the Town relies on to support its claim that the existing uses are not an impediment are in other jurisdictions. The Housing Element states that development in those other jurisdictions provide examples of "the type of development that could be projected to be developed in the Town based on the proposed Housing Element Overlay Zone." (Housing Element, Appendix D, p. D-3.) But there is no evidence to support this statement nor is there any indication that the proposed overlay zone would pass legal muster.⁸ As to the few sites in Los Gatos, most appear to be lower density, single-family developments. (*Id.* at pp. D-3 to D-4.) Further, the Housing Element cites to property interest forms without including or detailing the information on those forms, as HCD previously requested. (*Id.* at pp. D-4 to D-5.) Absent findings based on substantial evidence, the existing uses will be presumed to impede additional residential development and cannot be used to demonstrate adequate sites to accommodate the RHNA. (*Id.*)

Finally, it is unclear whether the Housing Element complies with Government Code Section 65583.2(h). That section requires that at least 50 percent of the very low income and low income housing be located on sites designated for residential use only except that an agency may accommodate all of its very low and low income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed use project. Of the 50 housing opportunity sites, only 11 are designated to allow residential units only; the remaining 39 are designed to allow for commercial and mixed-use opportunities. (Housing Element, Appendix D, p. D-5.) Citing a mere two previously entitled commercial development projects for which residential development projects have since been proposed, the Housing Element state that the likelihood that commercial or mixed-use sites would redevelop without some residential component is "clearly low." (*Id.* at p. D-6.) The law requires more than this. The planning and zoning

⁷ The only exception appears to be for two very low income units on one vacant parcel: APN 424-06-116.

⁸ (*See Martinez v. City of Clovis* (2023) 90 Cal. App.5th 193 [housing element's reliance on a regional housing need overlay zone district failed to comply with State Housing Element Law because the base zoning allowed development at a density lower than the statutory minimum].)

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designations for those sites must allow 100 percent residential use and require at least 50 percent residential floor area in a mixed-use development.

We understand that the Town is in the process of preparing its fourth submittal to HCD and plans to do so by early October 2023. We also understand that a meeting between HCD Staff and Town Staff is scheduled for early September 2023 on the fourth submittal. We wish to see the fourth submittal be successful and along those lines provide what we hope are constructive comments on the Housing Element. Given that state funding, rezoning deadlines, and/or development approval authority are at stake, we urge the Town to take these comments seriously and undertake all necessary actions to ensure that its Housing Element conforms with State Housing Element law.

Thank you for your consideration of LGCA's views on these important matters. Please do not hesitate to contact me with any questions concerning this correspondence.

Very truly yours,

RUTAN & TUCKER, LLP



Matthew D. Francois

MDF:mtr

cc: Phil Koen
Laurel Prevetti, Town Manager
Gabrielle Whelan, Town Attorney
Paul McDougall, Senior Program Manager, State HCD
Jose Armando Jauregui, Housing Policy Analyst, State HCD

EXHIBIT A

SB 330 PRELIMINARY APPLICATION SUBMITTAL CHECKLIST

California Government Code Section §65941.1 (a): An applicant for a housing development project, as defined in paragraph (2) of subdivision (h) of Section §65589.5, shall be deemed to have submitted a Preliminary Application upon providing all of the following information about the proposed project to the city, county, or city and county from which approval for the project is being sought and upon payment of the permit processing fee:

- ✓ The specific location, including parcel numbers, a legal description, and site address.
- ✓ The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.
- ✓ A site plan showing the building location(s) on the property; elevations of each building showing design, color, and material; and the massing, height, and approximate square footage, of each building that is to be occupied.
- ✓ The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.
- ✓ The proposed number of parking spaces.
- ✓ Any proposed point sources of air or water pollutants.
- ✓ Any species of special concern known to occur on the property.
- ✓ Any historic or cultural resources known to exist on the property.
- ✓ The number of proposed below market price units and their affordability levels.
- ✓ The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section §65915.
- ✓ Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
- ✓ The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.
- ✓ The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.
- ✓ A site plan showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section §1600) of Division 2 of the Fish and Game Code and an aerial photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

SB 330 PRELIMINARY APPLICATION SUBMITTAL CHECKLIST

- ✓ The location of any recorded public easement, such as easements for utilities, storm drains, water lines, and other public rights-of-way.

- ✓ Whether a portion of the property is located within any of the following:

Yes No

- ✓ A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section §51178.
- ✓ Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
- ✓ A hazardous waste site that is listed pursuant to Section §65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section §25356 of the Health and Safety Code.
- ✓ A special flood hazard area subject to inundation by the one (1) percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
- ✓ A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law [Part 2.5 (commencing with Section §18901) of Division 13 of the Health and Safety Code], and by any local building department under Chapter 12.2 (commencing with Section §8875) of Division 1 of Title 2.
- ✓ A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section §1600) of Division 2 of the Fish and Game Code.

SENATE BILL 330 PRELIMINARY APPLICATION

PURPOSE

This form serves as the Preliminary Application for housing development projects seeking vesting rights pursuant to SB 330, the Housing Crisis Act of 2019.

GENERAL INFORMATION

An applicant for a housing development project that includes (1) residential units (2) a mix of commercial and residential uses with two-thirds of the project's square footage used for residential purposes; or (3) transitional or supportive housing, shall be deemed to have submitted a Preliminary Application upon provision of all of the information listed in this Preliminary Application form and payment of the permit processing fee to the agency from which approval for the project is being sought.

After submitting this Preliminary Application to the local agency, an applicant has 180 days to submit a full application or the Preliminary Application will expire.

Notes:

1. California Environmental Quality Act (CEQA) and Coastal Act standards apply.
2. After submittal of all of the information required, if the development proponent revises the project to change the number of residential units or square footage of construction changes by 20 percent or more, excluding any increase resulting from Density Bonus Law, the development proponent must resubmit the required information so that it reflects the revisions.
3. Submittal of all the information listed and payment of the permit processing fee freezes fees and development standards as of the date that the Preliminary Application is "deemed submitted," unless exceptions per Government Code § 65889.5(o) are triggered.
4. Record keeping pertaining to which standards and fees apply at date of submittal is imperative, as penalties may apply for imposing incorrect standards.

SITE INFORMATION

1. **PROJECT LOCATION** – The specific location, including parcel numbers, a legal description, and site address, if applicable.

Street Address 50 Los Gatos-Saratoga Road, Los Gatos, et al. Unit/Space Number _____

Legal Description (Lot, Block, Tract)

Attached? YES ☒ NO

See Attachment 2, Exhibit A.

Assessor Parcel Number(s) 529-24-001, 529-24-003, 529-24-032

2. **EXISTING USES** – The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located (if you have attached a site plan that clearly depicts all existing uses and proposed physical alterations, please enter “See Attached Plan” below).

The Project site is currently occupied by Los Gatos Lodge, a hotel/motel. Onsite operations consist of temporary (less than 30 days) lodging of hotel guests, meeting and event rooms, recreational areas, dining areas, routine facility maintenance, accessory office uses and a duplex dwelling unit for hotel staff. In addition to the buildings and other structures, the Project site is improved with asphalt-paved parking/drive areas, concrete-paved patios and walkways, a swimming pool, and landscaped areas. (See also Attachment 3.) With the exception of the duplex dwelling unit, all existing structures and improvements will be removed for the Project.

3. **SITE PLAN** – A site plan showing the building(s) location on the property and approximate square footage of each building that is to be occupied.

Attached? YES ☒ NO

4. **ELEVATIONS** – All elevations of all buildings showing design, color, material, and the massing and height of each building that is to be occupied.

Attached? YES ☒ NO

5. **PROPOSED USES** – The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the Zoning Ordinance.

SummerHill proposes to develop 158 new three-story for-sale attached townhouses in 28 buildings (multiple-family dwellings) on a portion of an approximately 8.81-acre tract of land, with associated amenities, landscaping, private streets, utilities and other infrastructure improvements. The living area of the townhouses will range from approximately 1,270 to 2,230 square feet, with a total living area of approximately 282,931 square feet and a total gross floor area of approximately 352,919 square feet. Each townhome will have assigned parking, either in an attached garage or in a shared parking area. The boundaries of the individual townhomes will be established through a condominium plan, and the community will be governed by a professionally managed homeowners association.

a. **RESIDENTIAL DWELLING UNIT COUNT:**

Please indicate the number of dwelling units proposed, including a breakdown of levels by affordability, set by each income category.

	Number of Units
Market Rate	126 Units
Manager Unit(s) - Market Rate	0
Extremely Low Income (%)	0
Very Low Income (%)	0
Low Income (%)	32 Units (20.3%)
Moderate Income (%)	0
Total Number of Units	158 Units
Total Number of Affordable Units	32 Units
Total Number of Density Bonus Units	5 Units

Other notes on units:

SummerHill will use a density bonus to achieve 158 units, if necessary. The existing duplex dwelling unit is not included in the unit counts listed above.

6. **FLOOR AREA** – Provide the proposed floor area and square footage of residential and nonresidential development, by building. (Attach relevant information by building and totals here. If more space is needed, enter “See Attached,” and attach a modified table.):

	Residential	Nonresidential	Total
Floor Area (Zoning)	352,919 SF	0	352,919 SF
Square Footage of Construction	352,919 SF	0	352,919 SF

7. **PARKING** – The proposed number of automobile parking spaces:

Residential	Nonresidential	Total Automobile Parking
351 spaces	0	351 spaces

8. **AFFORDABLE HOUSING INCENTIVES, WAIVERS, CONCESSIONS AND PARKING REDUCTIONS** – Will the project proponent seek Density Bonus incentives, waivers, concessions, or parking reductions pursuant to California Government Code Section 65915?

YES ✓ NO

If “YES,” please describe:

SummerHill may utilize: (1) a density bonus, if necessary to achieve 158 units; (2) a concession or waiver to eliminate mixed-use requirements, if necessary; (3) parking reductions; and/or (4) waivers or reductions of development standards necessary for the development of the project, potentially including, without limitation: an increase in the height limit to 45 feet, a reduction of the required private open space and community recreation open space, a modification of set-to requirements, and/or a waiver of the requirement to provide a primary entrance for each building. SummerHill reserves the right to request additional concessions, waivers or reductions pursuant to Gov. Code section 65915.

9. **SUBDIVISION** – Will the project proponent seek any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a vesting or tentative map, a condominium map?

YES ✓ NO

If “YES,” please describe:

SummerHill will seek approval of a vesting tentative map and a final map and will record a condominium map.

10. **POLLUTANTS** – Are there any proposed point sources of air or water pollutants?

YES NO ✓

If “YES,” please describe:

11. **EXISTING SITE CONDITIONS** – Provide the number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied. Provide attachment, if needed.

	Occupied Residential Units	Unoccupied Residential Units	Total Residential Units
Existing	2 Units	0	2 Units
To Be Demolished	0	0	0

12. ADDITIONAL SITE CONDITIONS –

a. Whether a portion of the property is located within any of the following:

- i. A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, pursuant to Section 51178?

YES NO ✓

- ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)?

YES NO ✓

- iii. A hazardous waste site that is listed pursuant to Section 65962.5, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code?

YES NO ✓

- iv. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by any official maps published by the Federal Emergency Management Agency?

YES NO ✓

- v. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2?

YES NO ✓

- vi. A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code?

YES NO ✓

IF YOU CHECKED "YES" FOR ITEM (vi), ATTACH A SITE MAP SHOWING THE LOCATION OF ANY SUCH STREAM OR OTHER RESOURCE. REGARDLESS OF WHETHER YOU CHECKED "YES," PROVIDE AN AERIAL PHOTOGRAPH SHOWING EXISTING ENVIRONMENTAL SITE FEATURES SUBJECT TO REGULATIONS BY A PUBLIC AGENCY, INCLUDING CREEKS AND WETLANDS.

Check here to indicate you have read this statement and have attached the required materials ✓

If "YES" to any, please describe:

None known at this time.

- b. Does the project site contain historic and/or cultural resources?

YES NO ✓

If "YES," please describe:

None known at this time. Some of the existing structures are more than 50 years old but none have been identified as historically or culturally significant.

- c. Does the project site contain any species of special concern, such as special status flora or fauna, protected trees, or wildlife?

YES NO ✓

If "YES," please describe:

None known at this time.

- d. Does the project site contain any recorded public easement, such as easements for storm drains, water lines, electricity, and other public rights-of-way?

YES NO ✓

If "YES," please describe:

The Project site does not contain any recorded public easements such as easements for storm drains, water lines, electricity and other public rights-of-way. However, the Project site contains public restrictions and private and/or utility easements for water, road and sewer purposes. See Attachments 2 & 5.

IF "YES," PROVIDE A SITE PLAN SHOWING THE LOCATION OF ANY SUCH EASEMENTS. Check here to indicate you have read this statement and, if applicable, have attached the required materials ✓

13. **PROJECT TEAM INFORMATION** – The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

APPLICANT:

Name John Hickey, Vice President of Development Company/Firm SummerHill Homes LLC

Address 777 S. California Ave. Unit/Space Number _____

City Palo Alto State CA Zip Code 94304

Telephone 650-842-2360 Email jhickey@shhomes.com

Are you in Escrow To Purchase The Property? YES NO ☒

PROPERTY OWNER: Same as applicant ☒ Different from applicant

Name Keet Nerhan

Company/Firm Los Gatos Lodge, LLC

Address 210 San Mateo Road Unit/Space Number 201

City Half Moon Bay State CA Zip Code 94019

Telephone 650-726-4457 Email _____

OPTIONAL: Agent/Representative

Name _____ Company/Firm _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

OPTIONAL: Other

Name David J. Bugatto Company/Firm The Bugatto Group, Inc.

Address 300 University Avenue Unit/Space Number Suite 230

City Sacramento State CA Zip Code 95825

Telephone 916-648-7718 Email david@thebugattogroup.com

Primary Contact for Project: Owner ☒ Applicant ☐ Agent/Representative ☐ Other ☐

PROPERTY OWNER AFFIDAVIT

Before the application can be accepted, the owner of each property involved must provide a signature to verify the Preliminary Application is being filed with their knowledge. Staff will confirm ownership based on the records of the County Assessor. In the case of partnerships, corporations, LLCs or trusts, the agent for service of process or an officer of the ownership entity so authorized may sign as stipulated below.

- **Ownership Disclosure.** If the property is owned by a partnership, corporation, LLC or trust, a disclosure identifying the agent for service of process or an officer of the ownership entity must be submitted. The disclosure must list the names and addresses of the principal owners (25 percent interest or greater). The signatory must appear in this list of names. A letter of authorization, as described below, may be submitted provided the signatory of the letter is included in the Ownership Disclosure. Include a copy of the current partnership agreement, corporate articles, or trust document as applicable.
 - **Letter of Authorization (LOA).** A LOA from a property owner granting someone else permission to sign the Preliminary Application form may be provided if the property is owned by a partnership, corporation, LLC or trust, or in rare circumstances when an individual property owner is unable to sign the Preliminary Application form. To be considered for acceptance, the LOA must indicate the name of the person being authorized to file, their relationship to the owner or project, the site address, a general description of the type of application being filed and must also include the language in items 1-3 below. In the case of partnerships, corporations, LLCs or trusts, the LOA must be signed by the authorized signatory as shown on the Ownership Disclosure or in the case of private ownership by the property owner. Proof of Ownership for the signatory of the LOA must be submitted with said letter.
 - **Grant Deed.** Provide Copy of the Grant Deed if the ownership of the property does not match local records. The Deed must correspond exactly with the ownership listed on the application.
 - **Multiple Owners.** If the property is owned by more than one individual (e.g., John and Jane Doe, or Mary Smith and Mark Jones) signatures are required of all owners.
1. I hereby certify that I am the owner of record of the herein previously described property located in the Town of Los Gatos which is involved in this Preliminary Application, or have been empowered to sign as the owner on behalf of a partnership, corporation, LLC, or trust as evidenced by the documents attached hereto.
 2. I hereby consent to the filing of this Preliminary Application on my property for processing by the Town of Los Gatos Community Development Department for the sole purpose of vesting the proposed housing project subject to the Planning and Zoning ordinances, policies, and standards adopted and in effect on the date that this Preliminary Application is deemed submitted.
 3. Further, I understand that this Preliminary Application will be terminated and vesting will be forfeited if the housing development project is revised such that the number of residential units or square footage of construction increases or decreases by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, and/or an application requesting approval of an entitlement is not filed with Town of Los Gatos Community Development Department within 180 days of the date that the Preliminary Application is deemed complete.
 4. By my signature below, I certify that the foregoing statements are true and correct.

Signature _____ Signature _____

Printed Name _____ Printed Name _____

Date _____ Date _____

SIGNATURES ON FOLLOWING PAGE

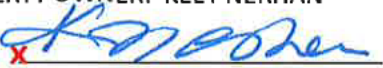
PROPERTY OWNER AFFIDAVIT

SIGNATURE PAGE

PROPERTY: Parcel One of Tract One, as more particularly described in Exhibit A to Attachment 2.

PROPERTY OWNER: KEET NERHAN

By:



Name: Keet Nerhan

Date:



PROPERTY: Parcels Two, Three and Four of Tract One, as more particularly described in Exhibit A to Attachment 2.

PROPERTY OWNER: LOS GATOS LODGE, LLC

By:



Name: Keet Nerhan, its Managing Member

Date:



PROPERTY: Tract Two, as more particularly described in Exhibit A to Attachment 2.

PROPERTY OWNER: KEET S. NERHAN

By:



Name: Keet S. Nerhan

Date:



Attachment 1 to SB 330 Preliminary Application

50 Los Gatos-Saratoga Road, Los Gatos

PROPERTY LOCATION: Parcel One of Tract One, as more particularly described in Exhibit A to Attachment 2.

PROPERTY OWNER: Keet Nerhan, a married man as his sole and separate property

Street Address: 210 San Mateo Road #201

City: Half Moon Bay State: CA Zip Code: 94019

Phone Number: (650) 726-4457

I hereby certify that I am the owner of record of the property described in "Property Location" above, and that I approve of the action requested in the Preliminary Application to which this Attachment 1 is attached.

x  _____

Keet Nerhan

Date: x 6-27-23

PROPERTY LOCATION: Parcels Two, Three and Four of Tract One, as more particularly described in Exhibit A to Attachment 2.

PROPERTY OWNER: Los Gatos Lodge, LLC

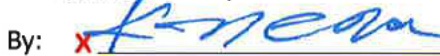
Street Address: 210 San Mateo Road #201

City: Half Moon Bay State: CA Zip Code: 94019

Phone Number: (650) 726-4457

I hereby certify that I am the owner of record of the property described in "Property Location" above, and that I approve of the action requested in the Preliminary Application to which this Attachment 1 is attached.

LOS GATOS LODGE, LLC

By: x  _____

Keet Nerhan, its Managing Member

Date: x 6-27-23

PROPERTY LOCATION: Tract Two, as more particularly described in Exhibit A to Attachment 2.

PROPERTY OWNER: Keet S. Nerhan, a married man, as his sole and separate property

Street Address: 210 San Mateo Road #201

City: Half Moon Bay State: CA Zip Code: 94019

Phone Number: (650) 726-4457

I hereby certify that I am the owner of record of the property described in "Property Location" above, and that I approve of the action requested in the Preliminary Application to which this Attachment 1 is attached.

x  _____

Keet S. Nerhan

Date: x 

Attachment 2 to SB 330 Preliminary Application

50 Los Gatos-Saratoga Road, Los Gatos

SUPPLEMENTAL RESPONSES

- 1. Project Location** – The specific location of the Project, including parcel numbers, a legal description, and site address:

Primary Address: 50 Los Gatos-Saratoga Road, Los Gatos, California

Other Addresses:

- 92 Los Gatos-Saratoga Road¹
- 96 Los Gatos-Saratoga Road²
- 225 Bella Vista Avenue
- 227 Bella Vista Avenue

APNs:

- 529-24-001
- 529-24-003
- 529-24-032

Legal Description:

- See Exhibit A (Legal Description of Project Site).

- 2. Existing Uses** – The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located:

The Project site is currently occupied by Los Gatos Lodge, a hotel/motel. Onsite operations consist of temporary (less than 30 days) lodging of hotel guests, meeting and event rooms, recreational areas, dining areas, routine facility maintenance, accessory office uses and a duplex dwelling unit for hotel staff. In addition to the buildings and other structures, the Project site is improved with asphalt-paved parking/drive areas, concrete-paved patios and walkways, a swimming pool, and landscaped areas. With the exception of the duplex dwelling unit, all existing structures and improvements will be removed for the Project. See also Attachment 3 (ALTA/ACSM Land Title Survey).

- 3. Site Plan** – A site plan showing the building location(s) on the property and approximate square footage of each building that is to be occupied:

See Attachment 4 (Site Plan & Elevations).

¹ See <https://tlggis.losgatosca.gov/>. Address not used.

² See <https://tlggis.losgatosca.gov/>. Address not used.

4. Elevations – Elevations of each building showing design, color, material, and the massing and height of each building that is to be occupied:

See Attachment 4 (Site Plan & Elevations). SummerHill welcomes comments from the Town of Los Gatos regarding the proposed architectural style. SummerHill is open to the possibility of a more traditional architectural style if that would be preferred.

12.a.iv. Special Flood Hazard Area – Is the site in a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by any official maps published by the Federal Emergency Management Agency?

No, the site is not in a Special Flood Hazard Area. However, as with a substantial portion of Los Gatos between Los Gatos Boulevard and N. Santa Cruz Avenue, the site is in an area of potential flooding due to dam failure.

12.a.v. Earthquake Fault Zone – Is the site in a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist?

No, the site is not in a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist.

According to the Geology Chapter of the General Plan Background Report, fault traces belonging to numerous faults, including the Shannon and Monte Vista Faults, are located in the vicinity of Los Gatos. As a result, significant bands of both high and moderate fault rupture hazard cover most of the Town of Los Gatos. These zones are generally northwest/southeast running, in conformance with the direction of the surrounding San Andreas and Monte Vista Fault systems. Nearly the entire southern portion of the Town is an area of high fault rupture hazard. Smaller portions of central Los Gatos are of moderate rupture hazard, while a large zone of high rupture hazard intersects the northern portion of Town. The Public Record indicates only small portions of northern, central and southern Los Gatos lie outside of fault rupture areas.

The project will comply with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the Town of Los Gatos under Chapter 12.2 of Division 1 of Title 2 of the Government Code.

12.a.vi. Aerial Photograph – Provide an aerial photograph showing existing environmental site features subject to regulation by a public agency, including creeks and wetlands.

See Attachment 5 (Record Boundary Exhibit & Aerial Photograph). The Project site does not contain any creeks, wetlands or other environmental site features subject to regulation by a public agency.

12.d. Recorded Public Easements – Does the project site contain any recorded public easements, such as easements for storm drains, water lines, electricity, and other public rights-of-way?

The Project site does not contain any recorded public easements such as easements for storm drains, water lines, electricity and other public rights-of-way. However, the Project site contains the following public restrictions and private easements for water, road and sewer purposes:

1. An easement for water pipe lines and aqueducts and incidental purposes, recorded May 25, 1870 in Book 18 of Deeds, Page 88, between John Goldsworthy et al. and San Jose Water Company.
2. The fact that the ownership of said land does not include any right of ingress or egress to or from the highway contiguous thereto, said rights have been condemned by final decree of condemnation, a certified copy of which was recorded March 08, 1955 in Book 3108, Page 322, of Official Records.
3. A waiver of any claims for damages by reason of the location, construction, landscaping or maintenance of a contiguous freeway, highway, roadway or transit facility as contained in the document recorded March 17, 1955 as Book 3117, Page 135 of Official Records.
4. The terms and provisions contained in the document entitled "Agreement" for road and sewer purposes, recorded November 05, 1957 as Book 3930, Page 579 of Official Records, between Joseph Moucressey et al. and Milton K. Lepetich et al.
5. The fact that the land lies within the boundaries of the Central Los Gatos Redevelopment Project Area, as disclosed by the document recorded December 05, 1991 as Book L955, Page 1734 in Instrument No. 11155292 of Official Records.
6. The terms, provisions and easement(s) contained in the document entitled "Grant of Easement" recorded November 07, 2012 as Document No. 21942580 of Official Records, by and between Los Gatos Lodge LLC and San Jose Water Company.

For further detail, please see Attachment 5 (Record Boundary Exhibit and Aerial Photograph).



June 30, 2023

VIA ELECTRONIC MAIL

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

Re: SB 330 Preliminary Application
50 Los Gatos-Saratoga Road, Los Gatos
APN 529-24-001, -003 & -032

Dear Mr. Paulson:

Thank you for the collaboration the Town of Los Gatos has extended to us through your Department regarding our inquiries in connection with our proposed development project at 50 Los Gatos-Saratoga Road.

SummerHill Homes hereby submits a Preliminary Application for a proposed housing development project at 50 Los Gatos-Saratoga Road. This letter and the enclosed information constitute the submittal materials required to satisfy the application checklist for a Preliminary Application under Government Code section 65941.1(a). We have been told by the Planning Department that no permit processing fee is due for Preliminary Applications submitted on or before June 30, 2023.

SummerHill proposes to develop 158 new three-story for-sale townhouses on a portion of an approximately 8.81-acre tract of land (APN 529-24-001, -003 & -032), with associated amenities, landscaping, private streets, utilities and other infrastructure improvements. The living area of the townhouses will range from approximately 1,270 to 2,230 square feet, with a total living area of approximately 282,930 square feet. Each townhome will have assigned parking, either in an attached garage or in a shared parking area. The boundaries of the individual townhomes will be established through a condominium plan, and the community will be governed by a professionally managed homeowners association. SummerHill will work with the Town to modify or refine the proposed architectural style through the design review process.

SummerHill intends to designate 20 percent of the townhomes in the Project for lower income households. As a result, the Project is a housing development project protected by the provisions of the Housing Accountability Act (Gov. Code § 65589.5), including without limitation the provisions of Section 65589.5(d)(5). (The Project does not fall within the provisions of Section 65589.5(d)(1) through (4).) The Project is also entitled to the benefits of the State Density Bonus Law (Gov. Code § 65915 *et seq.*).

The Project site is designated as Mixed Use in the Town's currently applicable 2020 General Plan and is zoned CH (Restricted Commercial Highway) with a PD (Planned Development) overlay. SummerHill anticipates that the Project may require City approval of a vesting tentative subdivision map, a conditional use permit, and architecture and site approval, with review generally limited to compliance with applicable objective development standards in effect as of the date of this Preliminary Application and applicable state and federal law. SummerHill also may use the benefits available under the State Density Bonus Law, as preliminarily outlined in the enclosed materials (subject to refinement as the Project application proceeds). SummerHill intends to submit a full application for all required entitlements within 180 days of this Preliminary Application.

SummerHill is excited to work with the Town to provide much needed housing for the community. We have met individually with members of the Town Council about the Project, and we appreciate the comments and observations that we've received. We would be happy to discuss the Project with you further. Please let us know if you have any questions.

Sincerely,



John Hickey
Vice President of Development

cc: Los Gatos Planning Department (planning@losgatosca.gov)
Kevin Ebrahimi, Senior Vice President of Development
Keet Nerhan, Los Gatos Lodge, LLC
David J. Bugatto, The Bugatto Group, Inc.

Attachments:

- SB 330 Preliminary Application Checklist & Form
- 1. Property Owner Information and Consent
- 2. Supplemental Responses
- 3. ALTA/ACSM Land Title Survey
- 4. Site Plan & Elevations
- 5. Record Boundary Exhibit & Aerial Photograph



TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

July 6, 2023

John Hickey, Vice President of Development
SummerHill Homes LLC
777 California Avenue
Palo Alto, CA 94304-1179
Via email

RE: 50 Los Gatos-Saratoga Road
Senate Bill 330 Preliminary Application PRE23-00824
Preliminary Application Under Senate Bill (SB) 330 for Construction of a Residential Development (158 Residential Units) on Property Zoned CH:PD. APNs 529-24-001, -003, and -032.
PROPERTY OWNER: Keet Nerhan. APPLICANT: John Hickey, SummerHill Homes LLC.

Thank you for submitting your SB 330 preliminary application for a proposed project at 50 Los Gatos-Saratoga Road. The preliminary application materials were received on June 30, 2023. The preliminary application has been determined to be compliant with the submittal requirements of California Government Code §65941.1 (a) and is deemed submitted as of July 6, 2023. Your submittal invokes Government Code Section 65589.5(d)(5). Please note that the Town adopted its Housing Element on January 30, 2023.

Pursuant to California Code §65941.1 (d)(1), a formal application for development must be submitted within 180 calendar days after submitting a preliminary application with all the required information. The formal application must be received no later than **January 2, 2024**. If a formal application is not received within 180 days, this preliminary application is considered expired.

The Town looks forward to receiving your formal application.

Best regards,

Jennifer Armer, AICP
Planning Manager
JARmer@losgatosca.gov
(408) 399-5706

cc: David Bugatto, The Bugatto Group, Inc., Owner Representative

EXHIBIT B

HOUSING CRISIS ACT of 2019 – SB 330

PRELIMINARY APPLICATION FORM

PURPOSE

This form serves as the preliminary application for housing development projects seeking vesting rights pursuant to SB 330, the Housing Crisis Act of 2019.

GENERAL INFORMATION

An applicant for a housing development project that includes (1) residential units (2) a mix of commercial and residential uses with two-thirds of the project's square footage used for residential purposes; or (3) transitional or supportive housing, shall be deemed to have submitted a preliminary application upon provision of all of the information listed in this Preliminary Application form and payment of the permit processing fee to the agency from which approval for the project is being sought.

After submitting this Preliminary Application to the local agency, an applicant has 180 days to submit a full application or the Preliminary Application will expire.

Submittal Date Stamp^{*1,2}:

^{*1}Submittal of all the information listed and payment of the permit processing fee freezes fees and development standards as of this date, unless exceptions per Government Code § 65889.5(o) are triggered.

^{*2}Note: Record keeping pertaining to which standards and fees apply at date of submittal is imperative, as **penalties may apply for imposing incorrect standards**

Notes:

1. California Environmental Quality Act (CEQA) and Coastal Act standards apply.
2. After submittal of all of the information required, if the development proponent revises the project to change the number of residential units or square footage of construction changes by 20 percent or more, excluding any increase resulting from Density Bonus Law, the development proponent must resubmit the required information so that it reflects the revisions.

SITE INFORMATION

1. **PROJECT LOCATION** - The specific location, including parcel numbers, a legal description, and site address, if applicable.

Street Address 14859 Los Gatos Blvd., et al. Unit/Space Number _____

Legal Description (Lot, Block, Tract) _____ Attached? YES ☒ NO ☐

See legal description on page 11 of the attached Preliminary Title Report

Assessor Parcel Number(s) 424-07-009/053/095/094/081/115/116

2. **EXISTING USES** - The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.

There are a total of 8 occupied rental residential units on site. There is also a two-story barn which will be re-purposed.

3. **SITE PLAN** - A site plan showing the building(s) location on the property and approximate square footage of each building that is to be occupied.

Attached? YES ☒ NO ☐

4. **ELEVATIONS** - Elevations showing design, color, material, and the massing and height of each building that is to be occupied.

Attached? YES ☒ NO ☐

5. **PROPOSED USES** - The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

PROGRAM AREA	FLOOR AREA (ZONING)	SQUARE FOOTAGE OF CONSTRUCTION	UNITS
Multi-Family Housing	290,166	441,360	250
Eden Affordable Housing	74,817	75,696	68
Townhome	232,363	319,112	119
Commercial/Retail	14,868	14,868	
Community/Civic	4,340	4,340	
Total Residential Use	597,346	836,168	437
Total Commercial Use	19,208	19,208	

*20% Affordable Housing in Eden Housing plus a portion of Multi-Family Housing

a. **RESIDENTIAL DWELLING UNIT COUNT:**

Please indicate the number of dwelling units proposed, including a breakdown of levels by affordability, set by each income category.

	Number of Units
Market Rate	348
Managers Unit(s) – Market Rate	1
Extremely Low Income	
Very Low Income	
Low Income	88 (portion may be VLI)
Moderate Income	
Total No. of Units	437
Total No. of Affordable Units	88
Total No. of Density Bonus Units	44

Other notes on units:

20 percent of the total units will be rented to lower income households as defined in Section 50079.5 of the Health and Safety Code at a monthly cost that does not exceed 30 percent of 60 percent of area median income. Very Low Income affordability may be achieved on some units but number will be determined at later date.

6. **FLOOR AREA** - Provide the proposed floor area and square footage of residential and nonresidential development, by building (attach relevant information by building and totals here):

	Residential	Nonresidential	Total
Floor Area (Zoning)	597,346	19,208	616,554
Square Footage of Construction	836,168	19,208	855,376

7. **PARKING** - The proposed number of parking spaces:

492 plus 238 garage spaces within Townhomes for a total of 730 parking spaces.

8. **AFFORDABLE HOUSING INCENTIVES, WAIVERS, CONCESSIONS and PARKING REDUCTIONS** - Will the project proponent seek Density Bonus incentives, waivers, concessions, or parking reductions pursuant to California Government Code Section 65915?

YES ☒ NO ☐

If "YES," please describe:

Please see separate attachment

9. **SUBDIVISION** – Will the project proponent seek any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a vesting or tentative map, or a condominium map?

YES ☒ NO ☐

If "YES," please describe:

Project will seek a Vesting Tentative Map

10. **POLLUTANTS** – Are there any proposed point sources of air or water pollutants?

YES ☐ NO ☒

If "YES," please describe:

11. **EXISTING SITE CONDITIONS** – Provide the number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied. Provide attachment, if needed.

	Occupied Residential Units	Unoccupied Residential Units	Total Residential Units
Existing	8	0	8
To Be Demolished	8	0	8

12. **ADDITIONAL SITE CONDITIONS** –

- a. Whether a portion of the property is located within any of the following:

- i. A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, pursuant to Section 51178?

YES ☐ NO ☒

- ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)?

YES ☐ NO ☒

- iii. A hazardous waste site that is listed pursuant to Section 65962.5, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code?

YES ☐ NO ☒

- iv. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by any official maps published by the Federal Emergency Management Agency?

YES ☐ NO ☒

- v. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2?

YES ☐ NO ☒

- vi. A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code?

YES ☐ NO ☒

If "YES" to any, please describe:

- b. Does the project site contain historic and/or cultural resources?

YES ☐ NO ☒

If "YES," please describe:

There are no Federal or State existing historical resources on site. Although not a formally designated resource, the project site contains a Barn that is of particular interest to the community. The Barn will be re-purposed consistent with the treatment called for in the North 40 Specific Plan.

- c. Does the project site contain any species of special concern?

YES ☐ NO ☒

If "YES," please describe:

- d. Does the project site contain any recorded public easement, such as easements for storm drains, water lines, and other public rights of way?

YES ☒ NO ☐

If "YES," please describe:

Please see attached Preliminary Title Report for description of easements.

- e. Does the project site contain a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code? Provide an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

YES ☐ NO ☒

If "YES," please describe and depict in attached site map:

13. COASTAL ZONE - For housing development projects proposed to be located within the coastal zone, whether any portion of the property contains any of the following: Does not apply

- a. Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.

YES ☐ NO ☐

- b. Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.

YES ☐ NO ☐

- c. A tsunami run-up zone.

YES ☐ NO ☐

- d. Use of the site for public access to or along the coast.

YES ☐ NO ☐

14. PROJECT TEAM INFORMATION - The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

Applicant's Name Steve Buster

Company/Firm Grosvenor USA Limited

Address One California Street **Unit/Space Number** 3000

City San Francisco **State** CA **Zip Code** 94111

Telephone (415) 434-0175 **Email** steve.buster@grosvenor.com

Are you in escrow to purchase the property?

YES ☐ NO ☒

Property Owner of Record ☐ Same as applicant ☒ Different from applicant

Name (if different from applicant) Yuki Farms, LLC

Address 15495 Los Gatos Blvd. Unit/Space Number 11

City Los Gatos State CA Zip Code 95032

Telephone _____ Email _____

Optional: Agent/Representative Name Don Capobres

Company/Firm Harmonie Park Development Group LLC

Address 221 Bachman Avenue Unit/Space Number _____

City Los Gatos State CA Zip Code 95030

Telephone 415-710-7640 Email don@harmoniepark.com

Optional: Other (Specify Architect, Engineer, CEQA Consultant, etc.) _____

Name _____

Company/Firm _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Primary Contact for Project: ☐ Owner ☐ Applicant ☒ Agent/Representative ☐ Other

PROPERTY OWNER AFFIDAVIT

Before the application can be accepted, the owner of each property involved must provide a signature to verify the Preliminary Application is being filed with their knowledge. Staff will confirm ownership based on the records of the City Engineer or County Assessor. In the case of partnerships, corporations, LLCs or trusts, the agent for service of process or an officer of the ownership entity so authorized may sign as stipulated below.

- **Ownership Disclosure.** If the property is owned by a partnership, corporation, LLC or trust, a disclosure identifying the agent for service of process or an officer of the ownership entity must be submitted. The disclosure must list the names and addresses of the principal owners (25 percent interest or greater). The signatory must appear in this list of names. A letter of authorization, as described below, may be submitted provided the signatory of the letter is included in the Ownership Disclosure. Include a copy of the current partnership agreement, corporate articles, or trust document as applicable.
 - **Letter of Authorization (LOA).** A LOA from a property owner granting someone else permission to sign the Preliminary Application form may be provided if the property is owned by a partnership, corporation, LLC or trust, or in rare circumstances when an individual property owner is unable to sign the Preliminary Application form. To be considered for acceptance, the LOA must indicate the name of the person being authorized to file, their relationship to the owner or project, the site address, a general description of the type of application being filed and must also include the language in items 1-3 below. In the case of partnerships, corporations, LLCs or trusts, the LOA must be signed by the authorized signatory as shown on the Ownership Disclosure or in the case of private ownership by the property owner. Proof of Ownership for the signatory of the LOA must be submitted with said letter.
 - **Grant Deed.** Provide Copy of the Grant Deed if the ownership of the property does not match local records. The Deed must correspond exactly with the ownership listed on the application.
 - **Multiple Owners.** If the property is owned by more than one individual (e.g., John and Jane Doe, or Mary Smith and Mark Jones) signatures are required of all owners.
1. I hereby certify that I am the owner of record of the herein previously described property located in Primary address as 14925 Los Gatos Blvd. Los Gatos, CA which is involved in this Preliminary Application, or have been empowered to sign as the owner on behalf of a partnership, corporation, LLC, or trust as evidenced by the documents attached hereto.
 2. I hereby consent to the filing of this Preliminary Application on my property for processing by the Department of Los Gatos Community Development for the sole purpose of vesting the proposed housing project subject to the Planning and Zoning ordinances, policies, and standards adopted and in effect on the date that this Preliminary Application is deemed complete.
 3. Further, I understand that this Preliminary Application will be terminated and vesting will be forfeited if the housing development project is revised such that the number of residential units or square footage of construction increases or decreases by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, and/or an application requesting approval of an entitlement is not filed with The Town of Los Gatos within 180 days of the date that the Preliminary Application is deemed complete.
 4. By my signature below, I certify that the foregoing statements are true and correct.

Signature 
Printed Name Edward Morimoto
Date April 10, 2023

Signature _____
Printed Name _____
Date _____

North 40 Phase II – SB 330 Pre-Application

8. Affordable Housing Incentives, Waivers, Concessions and Parking Reductions – Will the project proponent seek Density Bonus incentives, waivers, concessions, or parking reductions pursuant to California Government Code Section 65915?

The Project proponent will seek bonus units, incentives or concessions, waivers, and parking reductions pursuant to the State Density Bonus Law (Gov. Code § 65915). The Project is designated for 461 units in the Town’s adopted Housing Element, which equates to a density of approximately 30 dwelling units per acre (du/ac). The Project is consistent with the density specified in the Housing Element, as it proposes 437 units on the 15.3-acre project site for a gross density of 28.6 du/ac and a net density of 33.36 du/ac, assuming a 13.1 acres developable site after removing area for roadway widths. With the bonus units the Project is eligible for under the State Density Bonus Law, the Project is consistent the Town’s density limit established in the Housing Element.

As explained elsewhere in this Preliminary Application, the Project will dedicate 88 of its 437 units, twenty percent of the total, as units that will be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code at a monthly cost that does not exceed 30 percent of 60 percent of the area median income. By providing this level of affordability, the Project is entitled to the following benefits under State Density Bonus Law:

- A density bonus of 35% 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 paring provided in uncovered or tandem spaces, that do not exceed the following ratios:
 - Zero to one bedroom: one onsite parking space
 - Two to three bedrooms: one and one-half onsite parking spaces
 - Four and more bedrooms: two and one-half parking spaces (Gov. Code § 65915(p)).

As detailed below, the Project proponent will request to use the State Density Bonus Law’s bonus units, concessions, waivers, and parking reduction benefits to allow the development of the Project as proposed. The discussion below is intended to identify anticipated State Density Bonus Law requests in connection with the Preliminary Application; further discussion and analysis will be provided in connection with the Project’s formal development application. In addition, although the discussion below is complete for purposes of the anticipated State Density Bonus Law requests at this time, the Project proponent reserves the right to modify the request to include different or additional concessions and waivers if needed to address additional, applicable development standards.

Bonus Units

The Housing Element establishes a base density of approximately 30 du/ac. Applied to the 13.1 net acres of the Project site, this would result in 393 units. The 35% density bonus entitles the Project to up to 530 units. The Project proposes 437 units, well within the density permitted by the Housing Element and State Density Bonus Law.

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 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 in 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.
2. Relief from Intersection Improvement Standards. Section 4.6 of the North 40 Specific Plan calls for the first developer in the Northern District of the Specific Plan Area to improve the Los Gatos Boulevard/Samaritan Drive/Burton Road intersection by converting the existing eastbound lane on Burton Road to a through/left turn lane, adding one dedicated eastbound left turn lane and one eastbound right turn lane on Burton Road at Los Gatos Boulevard (including widening Burton Road for about 200 feet west from Los Gatos Boulevard), and making Burton Road a through road. Although the Project proponent would be the first developer in the Northern District of the Specific Plan Area, the improvements require expanding the right-of-way over property that the Project proponent does not own or control, and the Project proponent proposes to limit Burton Road to emergency vehicle access only. Accordingly, eliminating this development standard will result in cost savings by removing the need to acquire additional land for intersection improvements; moreover, by limiting Burton Road to EV access, there is no longer a need to implement the intersection improvements previously identified.

Waivers

1. Increased Maximum Height. Section 2.5.2 of the North 40 Specific Plan sets a maximum building height of 30 feet across the Project site. The Project requires a waiver to allow the Affordable Multifamily units to achieve a maximum height of 60 feet, the Townhome units to achieve a maximum height of 37 feet, and the Mixed-Income Multifamily units to achieve a maximum height of 94 feet. The Specific Plan's development standards do not accommodate the Project's proposed density of 28.6 du/ac, 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. 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 Town adopted "Objective Design Standards for Qualifying Multi-Family and Mixed-Use Residential Development" that applies to multi-family and residential mixed-use developments. The Standards provide that these standards are only to be used for review of qualifying projects where Town review, approval, and/or denial is limited to only objective design standards. For projects that will proceed through the standard review process, the objective design standards would not apply. 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. Short-Term Bicycle Parking requirements cannot be accommodated for residential uses while maintaining adequate space for buildings and open space.
 - 3.4.e: dimensions of long-term bicycle spaces are proposed to be accommodated with stacked parking to save space for residential units.
 - A.11.1.b: The Affordable Multifamily building cannot accommodate balconies and cannot meet the private open space requirements while maintaining the unit count; the Mixed-Income Multifamily building can accommodate balconies on only 50% of the units
 - A.12.1: The Townhomes deviate from the continuous frontage requirement
 - B.1.2: Upper story setbacks reduce the residential unit count
 - B.4.3: The Affordable Multifamily Building cannot reach 16 points through street-facing façade plan variation while maintaining its unit count
 - B.4.5: The Townhomes do not change materials at the inside corners
 - B.4.11: The Mixed-Income Multifamily Building's balconies extend into the airspace beyond the building footprint

Parking Reduction

Based on the bedroom count for the proposed residential units, Section (p)(1) of the State Density Bonus Law requires 592 parking spaces for the Project's 437 units. Section 2.5.8 of the North 40 Specific Plan requires 50 additional spaces for the Project's commercial uses, for a total of 642 spaces. The Project proposes 730 parking spaces, which satisfies the applicable parking requirements.



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April 18, 2023

Steve Buster
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Via email

RE: 14859 Los Gatos Boulevard
Senate Bill 330 Preliminary Application PRE23-00472

Preliminary Application Under Senate Bill (SB) 330 for Construction of a Mixed-Use Development (437 Residential Units) on Property Zoned North Forty Specific Plan. APN 424-07-009, -053, -081, -094, -095, -115, and -116.

PROPERTY OWNER: Yuki Farms, LLC

APPLICANT: Steve Buster, Grosvenor USA Limited

Thank you for submitting your SB 330 preliminary application for a proposed project at 14859 Los Gatos Boulevard. The preliminary application materials were received on April 17, 2023. The preliminary application has been determined to be compliant with the submittal requirements of California Government Code §65941.1 (a) and is deemed submitted as of April 18, 2023.

Pursuant to California Code §65941.1 (d)(1), a formal application for development must be submitted within 180 calendar days after submitting a preliminary application with all the required information. The formal application must be received no later than **October 15, 2023**. If a formal application is not received within 180 days, this preliminary application is considered expired.

The Town looks forward to receiving your formal application.

Best regards,

Jennifer Armer, AICP
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