



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/18/2022

ITEM NO: 11

DATE: October 13, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss the Housing Element Process and the Next Steps for the Referendum of the 2040 General Plan Land Use and Community Design Elements, and Provide Direction on the Preferred Approach for the Referendum

RECOMMENDATION:

Discuss the Housing Element process and next steps for the referendum of the 2040 General Plan Land Use and Community Design Elements, and provide direction on the preferred approach for the Referendum.

BACKGROUND:

In accordance with the State Elections Code, sufficient signatures have been collected on a petition to referend the Land Use and Community Design Elements of the Town's 2040 General Plan. This means that the question of whether or not the Land Use and Community Design Elements of the 2040 General Plan should be adopted has qualified for placement on an upcoming ballot. In accordance with Elections Code Section 9237, the effective date of those two Elements is currently "suspended."

Elections Code Section 9241 provides that, if the Town Council does not repeal the legislation that is being referended, the Town Council shall submit the legislation to the voters at either a special election or a regular municipal election. Either the special election or the regular municipal election must be conducted at least 88 days after the Town Council votes to put the

PREPARED BY: Gabrielle Whelan, Town Attorney

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

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Land Use and Community Design Elements

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BACKGROUND (continued):

legislation on the ballot. The legislation (e.g., the Land Use and Community Design Elements of the 2040 General Plan) would not take effect until approved by a majority of the voters. The options are discussed in more detail later in this report. There is no immediate deadline for the Town Council to decide its preferred approach to address the Referendum.

At the last Council meeting, the Council expressed interest in understanding the relationship between the Referendum and the Housing Element. Regardless of the Referendum option the Town Council ultimately chooses, the Housing Element update process will continue to move forward concurrently.

The public comment period for the Initial Public Review Draft of the Housing Element ended on September 27, 2022. After making some changes to the Draft Housing Element, the Town has submitted it along with a response to comments to the California Department of Housing and Community Development (HCD) for its first preliminary review. The review by HCD can take up to 90 days to complete. Based on the experience of other California communities, the process is expected to include multiple reviews by HCD, and this review is a chance for preliminary feedback to guide future revisions.

Initiating this first review by HCD is critical, both because of the tight timeline available for this process, and so the Town Council, Planning Commission, and Housing Element Advisory Board (HEAB) have input from HCD for their future discussions. The Town has a legal obligation to adopt the final Housing Element within 120 days of the statutory deadline of January 31, 2023.

Staff has included two implementation programs in the Draft Housing Element submitted to HCD that require updates to the 2020 General Plan Land Use Element and Zoning Regulations. These implementation measures would affect the regulations in the 2020 General Plan Land Use Element while it is in effect during the suspension period imposed by the referendum, and the Zoning Regulations for those sites included in the Site Inventory of the Draft Housing Element.

DISCUSSION:

The Town Council's options in response to the Referendum are:

A. Hold a Special Election for Consideration of the Ballot Measure

The Town Council could vote to place the measure on the ballot at a special election in 2023.

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DISCUSSION (continued):

The established Special Election dates for 2023 are March 7, May 2 (mail-in ballot only), August 29 (mail-in ballot only), and November 7. Following are the dates between which a resolution can be submitted to the Registrar of Voters to place a measure on the ballot and call a Special Election:

- March 7, 2023 election: November 24 – December 9, 2022
- May 2, 2023 election: January 19 – February 3, 2023
- August 29, 2023 election: May 18 – June 2, 2023
- November 7, 2023 election: July 27 – August 11, 2023

The estimated cost for a stand-alone Special Election is approximately \$900,000 - \$1,000,000 and the estimated cost for a stand-alone mail in ballot only Special Election is approximately \$600,000 - \$700,000.

B. Place the Measure on the Ballot at the November 2024 General Municipal Election

The Town Council could vote to place the measure on the ballot for the General Municipal Election in November of 2024.

The deadline for placing a measure on the November 5, 2024, General Election has not yet been posted on the Registrar of Voters website. Typically, the deadline to submit a resolution placing a measure on the ballot is 88 days before the Election Day, which would be August 9, 2024.

The estimated cost for placing a measure on the November 5, 2024 ballot is approximately \$145,000.

C. Rescind the Land Use and Community Design Elements of the 2040 General Plan and Adopt Revised Elements

The Town Council could vote to rescind its adoption of the Land Use and Community Design Elements of the 2040 General Plan and adopt revised Land Use and Community Design Elements. This option could be completed at any time prior to the November 2024 general municipal election. Doing so no later than three months prior to the election would give the referendum proponents an opportunity to remove the ballot measure from the ballot.

If the Town Council wishes to place a competing ballot measure on the ballot, the competing ballot measure should be submitted no later than six months before the election in order to meet the deadline for providing ballot materials to the County

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DISCUSSION (continued):

Registrar. Development of revised Land Use and Community Design Elements would include review by the General Plan Committee (GPC) and the Planning Commission (PC) prior to Town Council consideration and adoption.

Please note that regardless of the Referendum option the Town Council chooses, the Housing Element update process will continue to move forward concurrently.

CEQA:

The Town Council's decision with regard to next steps is not a project subject to the California Environmental Quality Act (CEQA). The environmental impacts of any revisions to the Land Use and Community Design Elements will undergo CEQA review.

CONCLUSION AND NEXT STEPS:

Staff looks forward to the Town Council's discussion and direction. To structure the Council conversation, the Council may wish to follow the organization of this report by first discussing the Housing Element and then each Referendum option.

If the Council decides to move forward with one of the election options, staff will bring forward the appropriate resolution during the required timeframe for the preferred election date. If the Council prefers to rescind the two Elements, a resolution for the rescission will be brought forward at a later date and at that time, the Council may provide additional direction for the preparation of new Land Use and Community Design Elements.

COORDINATION:

This report was coordinated with the Town Attorney, Town Clerk, and Community Development Director.

FISCAL IMPACT:

The fiscal impacts are outlined above.