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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Jeffrey Barnett, Chair Steve Raspe, Vice Chair Susan Burnett Melanie Hanssen Kathryn Janoff Emily Thomas
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
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2 P R O C E E D I N G S:
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4 CHAIR BARNETT: Under Verbal Communications, we're
5 having the public speak only on our Agenda Item 1 tonight
6 in which we are asked to consider and make a recommendation
7 to the Town Council on the Draft Revised 2023-2031 Housing
8 Element. Location is Town-wide, General Plan Amendment
9 Application is GP-22-003, and we'll start with a request to
10 Staff for a presentation.

11 ERIN WALTERS: Good evening. The primary purpose
12 of this item this evening is to ask questions of Staff and
13 the Town's housing consultant, Veronica Tam, who is
14 available on Zoom this evening, on the revised Draft
15 Housing Element that was submitted to HCD on October 2nd.
16 Then also to discuss potential modifications based on the
17 preliminary feedback that was provided by the Town's HCD
18 reviewer and provided in the addendum report.
19

20 In parallel with this discussion this evening
21 Town Staff and the consultant continue to work on
22 implementing the modifications based on the preliminary
23 draft comments and matrix that also is provided in the
24 addendum.
25

1 Staff expects to have the Draft Revised Housing
2 Element and additional modifications completed for a future
3 special Planning Commission, which at that time the
4 Planning Commission will review, deliberate, and make
5 recommendations to Town Council on whether to adopt the
6 Draft Revised Housing Element with additional
7 modifications.

8 As required by Assembly Bill 215 the Draft
9 Revised Housing Element must be available to the public for
10 a seven-day review period prior to resubmittal to HCD.
11 Staff does expect this seven-day period to start on Friday,
12 November 17th, and it will run through Monday, November 27th.
13 The Town expects to receive a comment letter from HCD on
14 the Draft Revised Housing Element on December 1st.

15 That completes Staff's presentation. We are
16 available for questions, and as I stated, the Town's
17 housing consultant, Veronica Tam, is available for
18 questions as well. Thank you.

19 CHAIR BARNETT: Thank you for that, Ms. Walters,
20 and I wanted to commence the meeting by thanking the Staff
21 and the consultant for their hard work on this difficult
22 project.
23
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25

1 I'm going to begin by asking Staff to provide us
2 some guidance regarding the method of proceeding with the
3 meeting tonight. Thank you.

4 JENNIFER ARMER: Thank you for that question,
5 Chair.

6 As presented by the project planner, the intent
7 of this evening's meeting really is going to be to discuss
8 the Housing Element, ask questions of Staff and the
9 consultant, and hear public comment.

10 Because we did receive those preliminary comments
11 from HCD last week and are in the process of putting
12 together some revisions in response, we do recommend that
13 today's discussion really be a discussion and asking
14 questions, that a future meeting would be the time then to
15 go through how the Town is responding to each of those
16 questions one at a time, so it wouldn't necessarily be the
17 organized kind of topic-by-topic discussion that, for
18 example, the Housing Element Advisory Board has had in the
19 past when we were looking at responses to comments from the
20 State.

21
22 Hopefully that is helpful for understanding the
23 purpose of the meeting, but we'd be happy to answer any
24 more questions.
25

1 CHAIR BARNETT: Thank you. Are there any
2 questions of Staff by Commissioners at this time?
3 Commissioner Hanssen.

4 COMMISSIONER HANSSEN: I understand that we're
5 supposed to be talking about the topics in the Housing
6 Element, but I did have a general question about timing,
7 and I did receive the letter that we received from the Town
8 Attorney trying to explain this whole timing thing.

9
10 I understand HCD is going to respond formerly on
11 December 1st and that this is sort of an evolving document
12 in that you already met with them in the preliminary
13 review, you're making some changes, but they're going to
14 issue their full review on December 1st.

15 I'm just trying to understand what the urgency is
16 of the Planning Commission meeting again on the 29th when
17 it's two days later that we would know exactly where we
18 stand with HCD in terms of their view versus doing it
19 after.

20 JENNIFER ARMER: Thank you for that question. The
21 direction that Staff has been given is to try to make sure
22 that the Housing Element is available to Town Council as
23 soon as possible for them to consider it, and one of the
24 things that are required prior to that is for the Planning
25 Commission to make a recommendation.

1 The thought behind Staff's recommendation that
2 the second special meeting of the Planning Commission be on
3 the 29th is that we will have, with the assistance of our
4 consultant, prepared responses to these preliminary, kind
5 of interim comments. As you could see in that chart a lot
6 of the previous comments have already been addressed, and
7 so this has given us a kind of interim option to respond to
8 the remaining outstanding issues as identified by the
9 preliminary comments.

10
11 Our goal is to be able to provide a revised draft
12 that is substantially in conformance and fully responding
13 to those outstanding issues, while also giving you an
14 opportunity to make a recommendation the Town Council can
15 then review. If there were significant additional comments
16 that were still outstanding, it might be that we would
17 return to Planning Commission to review another draft if
18 needed. This goal really was just to move it forward as
19 quickly as we could.

20 COMMISSIONER HANSSEN: So Staff feels confident
21 with the revisions that you're making that we should be
22 largely there when we meet again on the 29th?

23 JENNIFER ARMER: Correct.

24 COMMISSIONER HANSSEN: Otherwise we will push it
25 out. If you don't mind, Chair, one more follow up question.

1 Playing devil's advocate on this, back in January
2 the Planning Commission made a communication to adopt the
3 Housing Element as it stood then, and so what are we doing
4 on top of that? Since we've already made a recommendation
5 to adopt it, what are we doing now? Adopting this version
6 of it? I would like to clearly understand the timeline.

7 JENNIFER ARMER: Thank you. The discussion
8 tonight will be of the current draft, but we would be
9 coming back recommending that the Planning Commission
10 consider and make a recommendation on a slightly revised
11 draft in the hope that that gets it very close to whatever
12 the final version the State says can be certified.

13 It may be that the Town Attorney has something to
14 add to that as well.

15 ATTORNEY WHELAN: It's very similar, but
16 ultimately we're looking for a recommendation to the Town
17 Council to adopt and amended the Housing Element, and so in
18 a nutshell that's what Staff is recommending.

19 COMMISSIONER HANSSEN: That's what I was looking
20 for. So it's the amended Housing Element, okay.

21 CHAIR BARNETT: Other questions at this time from
22 Commissioners? Otherwise, we'll open the public portion of
23 the meeting and ask if members of the public wish to speak
24
25

1 on Agenda Item 1 for up to three minutes? I don't have any
2 cards, but you're welcome to come forward, please.

3 JIM ZANARDI: My name is Jim Zanardi; I've been a
4 resident in Los Gatos my whole life, 74 years. I have just
5 a couple of questions.

6 According to what I've read, the Town of Los
7 Gatos is above the State requirements in the RHNA numbers
8 of 1,993 and a buffer of 15%. Right now we have 2,700 units
9 with a buffer of 57%. Councilman Hudes in November brought
10 up a question about removing 322 units, Alberto Way, Los
11 Gatos Lodge, etc., from the inventory. By removing these
12 sites we would bring our buffer down from 57% to 48%. It
13 looks to me like we could even remove more sites. The fact
14 is we can always add additional sites, therefore why add
15 more units now for our town to bear? Once you put them on,
16 you can't take them off. Why not put them on as you need
17 them? Common sense says why not do that?

18
19 The second question is a big concern regarding
20 environmental studies for any additional sites. Will this
21 be done?

22 What I've been reading is California has been
23 losing 250,000 to 350,000 people a year leaving the State.
24 What are we doing building so many houses throughout the
25 State? It doesn't make any sense. Common sense would say we

1 don't need the housing. What are we going to do, sell them
2 to the homeless? I don't think so. They're not going to be
3 able to afford any of these, so who is going to be in these
4 houses if people are leaving the State? It doesn't make any
5 sense, not zero. That's all I have to say. Thank you.

6 CHAIR BARNETT: Thank you for the comments. Let's
7 see if any Commissioners have questions for you. I am not
8 seeing any. Thank you for coming down and presenting your
9 comments. Ms. Quintana, whenever you're ready.

10 LEE QUINTANA: Thank you. Before I make a
11 statement, I want to ask a question. Since there's going to
12 be new information provided at the next Planning Commission
13 meeting, will the public be able to comment even if they
14 commented today?

15 ATTORNEY WHELAN: Yes.

16 LEE QUINTANA: Thank you. The only comment I'm
17 going to make today is based on the question of is it
18 better to have an oversupply of identified sites, or
19 eliminate sites and then in the end probably have to add
20 sites? The question I have is that if sites need to be
21 added, does that mean that the whole process of going
22 through HDC is initiated again, or if we have sufficient
23 buffer sites, then that process will not be necessary and
24 it will be a faster, smoother process overall?

1 Can I add that I would like Staff to answer that
2 question, or through the Commission answer that question,
3 now.

4 CHAIR BARNETT: I think that's appropriate, and
5 maybe we can answer Mr. Zanardi's question as well.

6 ERIN WALTERS: We're going to wait until the
7 housing consultant rejoins us on Zoom to answer that
8 question.

9 CHAIR BARNETT: When is that expected?

10 JENNIFER ARMER: It looks like there may be some
11 issues with Zoom with things connecting, so she is working
12 to reconnect; she dropped off for a moment.

13 CHAIR BARNETT: Through the Chair, we might as
14 well see if there are any other public comments, and then
15 we can close the public hearing and come back to answer
16 those questions.

17 CHAIR BARNETT: Right, so does anyone who is
18 present here wish to be heard on the Agenda Item 1? I don't
19 see any. Do we have anyone on Zoom?

20 CHAIR BARNETT: Thank you, Chair. If you're
21 interested in speaking on this item, please raise your hand
22 if you're on Zoom. There are no hands raised, Chair.

23 CHAIR BARNETT: Thank you. I'll now invite
24 discussion by the Commissioners on Agenda Item 1, keeping
25

1 in mind Staff's suggestion as to the scope of our remarks,
2 and we'll begin with someone who raises their hand first.
3 Commissioner Thomas.

4 COMMISSIONER THOMAS: I think that we can start
5 with one of the questions from the first speaker, and that
6 was just like an overview of what types of projects will
7 require environmental review per CEQA? Someone from Staff
8 can probably help with that.

9
10 JOEL PAULSON: I'm happy to jump in on that
11 question.

12 Right now we have the Housing Element. These
13 sites have been in the Housing Element for months. We're
14 not proposing to remove sites for future projects. Most of
15 these projects are by-right projects because they were
16 either in the previous Housing Element and/or they required
17 rezoning, which has been done by Town Council; the adoption
18 will be next week. So those will be by-right, and we can
19 still do Architecture and Site review, but because they are
20 by-right they generally will not require CEQA.
21 Additionally, the number of units that were studied in the
22 General Plan EIR far exceeds the number of units in this
23 study.

24
25 I'll jump into Ms. Quintana's question as well. I
think the goal is to get the Housing Element certified.

1 Once we get to the no net loss issues that we envision down
2 the road, then those sites do have to be approved by HCD.
3 We would use the same methodology for the sites that are
4 currently in the Housing Element, and if any environmental
5 study is necessary at that time, we'll make that
6 determination.

7 CHAIR BARNETT: I might add, if you could comment
8 on the indication that the buffer is in a range of 50%
9 rather than the 15%?

10 JOEL PAULSON: Yes, thank you. The current
11 surplus is 58%. Given the comments that we received from
12 our preliminary review from the reviewer from HCD, we
13 envision that a number of those units are going to be
14 removed, either because of additional information provided
15 by our reviewer that indicates we may not be able to count
16 them, and/or from a timing perspective the analysis for
17 some of those units may take far longer and it's going to
18 be quicker and more expeditious to just remove those units
19 and still maintain the buffer, but the buffer will
20 ultimately be less than it is currently is what we're
21 currently envisioning, and we'll know that for sure by
22 Friday.

23 CHAIR BARNETT: Thank you for that. Commissioner
24 Hanssen.

1 COMMISSIONER HANSSEN: Follow up question on what
2 was just discussed. When we originally put together the
3 site inventory it was intended to be approximately 15% over
4 the buffer, and then there was another version where we
5 added a couple of sites, so we were at I want to say around
6 25% buffer, and then the new consultant came in. I'm just
7 recounting my recollection; there's a question in there.
8 The consultant came in and we were able to count some sites
9 that we didn't know. Is it those sites that might be coming
10 back out, or sites that are actually in the original site
11 inventory?
12

13 JOEL PAULSON: Thank you for that question. Yes,
14 we envision that the majority, if not all, of those
15 permitted entitled sites, which was approximately 250, I
16 believe, most, if not all of those, will be removed. We're
17 still doing the research, but we think the majority of
18 those have already been reported to the Department of
19 Finance, which is a trigger that our reviewer brought up
20 that was not brought up before.
21

22 COMMISSIONER HANSSEN: Thank you.

23 CHAIR BARNETT: Still waiting for the consultant?

24 JENNIFER ARMER: No, we do now have Veronica Tam
25 available if there are questions from the Commission.

CHAIR BARNETT: Commissioner Hannsen.

1 COMMISSIONER HANSSEN: Something that I've been
2 wondering all along, and the three of us have been on the
3 Housing Element the whole time, is about this AFFH, and the
4 lion's share of the preliminary comments were on AFFH, and
5 if I'm reading the matrix that came in the addendum it
6 looks like they're still saying no on a few of the items,
7 even after we had policy research do a lot of additional
8 analysis and we reviewed it at the Housing Element Advisory
9 Board. There clearly was much more detail than was
10 originally provided, but now they're still saying no on
11 some of these items, so I'm just trying to understand where
12 are we really on this and is there some standard that we
13 can hold up to that we know about? Because it seems like
14 they keep pushing back and asking for more details. Is my
15 question making sense? I'm looking for like where is the
16 end of this? Because you can do an infinite amount of
17 analysis on the trends, and they do make some references in
18 here about what are we going to do in reaction to that, but
19 does it ever end that we're in compliance with AFFH? Like
20 where does it end?

22 JENNIFER ARMER: Thank you for that question. I
23 think that is going to be a great first one for our
24 consultant, Veronica Tam, to speak on to talk about how
25 those outstanding comments maybe are different, or what

1 remains on those comments, and what we anticipate doing to
2 respond.

3 VERONICA TAM: Thank you, and I apologize. I was
4 having some computer problems, so I wasn't able to hear the
5 whole conversation. I was able to have video but not audio.

6 My understanding is that certainly the Town is
7 concerned that there are iterations of changes, and this is
8 actually a pretty common process that most jurisdictions
9 have to take in order to get the Housing Element through.
10

11 But I think based on the preliminary comments
12 that we just got from HCD last week, the additional changes
13 are pretty technical in nature, and I think the revisions
14 that we have planned and have done so far will get us very,
15 very close to the Housing Element certification. Now,
16 certainly we cannot guarantee it, but I would say that
17 based on my experience and having worked on probably close
18 to 60 Housing Elements so far in this cycle, that yours is
19 very close to getting there, and I think that is what is
20 indicated to us by the State as well.

21 What is likely going to happen is that when we
22 resubmit the revisions to the State by the end of the week
23 they would be able to incorporate the majority of the
24 revisions that we have made and dismiss most of the
25 concerns. It may have some remnants of comments that we

1 would see on December 1st and when we get the letter. That
2 would maybe give us a little bit of time before we go to
3 Council adoption to make the revisions at that time, but I
4 think you are probably 95% there.

5 CHAIR BARNETT: Does that answer your question?

6 COMMISSIONER HANSSEN: Could you comment
7 specifically on the AFFH? I understand what you're saying
8 about the overall process, but since you've worked on 60
9 Housing Elements, which is quite a bit and we appreciate
10 you doing all this work, could you comment specifically on
11 the AFFH comments? Because this is a new law that we didn't
12 have the last time in the fifth cycle.

14 VERONICA TAM: I think so far the State has looked
15 at the analysis already, and they have provided additional
16 comments, mostly in the area of local knowledge. The State
17 doesn't want us to just primarily rely on data statistics
18 to talk about the Town's fails and issues, but mostly we
19 have to supplement that with local knowledge.

20 My team, Jamie, has been working on that as well
21 with Town Staff to get more about the character, the
22 history, and the constraints that the Town may have
23 regarding housing.

24 Now, the other topic that they want us to beef up
25 on, I believe, is the racially concentrated areas of

1 affluence, because you are a fairly higher-income
2 community, and this is also very typical. When we work with
3 ABAG communities there are some fairly high-income
4 communities that we deal with and we do have to go through
5 all that discussion as well.

6 I think generally what's important to the State
7 is to make sure that you have a range of sites that are
8 distributed throughout the Town, and that you have actions
9 to address existing gaps or discrepancies among
10 neighborhoods. And again, we are working on like making
11 that kind of response more prominent. You do have a lot of
12 actions and programs within your Housing Element that have
13 beneficial impacts to fair housing but is kind of
14 distributed throughout the Housing Element plan section, so
15 as part of the response to the State's comments we are
16 creating a matrix that shows exactly which Housing Element
17 action would respond to fair housing and would have
18 beneficial impacts.

19 I think, like I said, a lot of your housing
20 policies and programs do have beneficial impacts, they're
21 just not labeled as fair housing programs, so what we're
22 trying to do is to provide a summary in matrix of all the
23 actions. I think once we've done that it would be clearer
24 to the State how the Town is responding with their housing.
25

1 COMMISSIONER HANSSEN: Do you think that at this
2 stage we've gone far enough to comply with AFFH in our
3 Housing Element?

4 VERONICA TAM: I think so.

5 COMMISSIONER HANSSEN: I hear what you're saying,
6 taking the individual programs and tying things together,
7 because it seemed like what they're looked for was what are
8 you going to do about it, and since we do have all those
9 implementation programs, but do you feel like we do have
10 the kind of implementation programs that will ultimately
11 satisfy them if you can just put it in front of them the
12 right way?
13

14 VERONICA TAM: I would say that we're almost
15 there. Again, I can't guarantee that you are there yet,
16 particularly with AFFH, because that is an area that the
17 State is very, very picky about, but I think based on our
18 assessment you are really close to getting there, but in
19 the next couple of weeks or maybe before the Council
20 adoption, that's where we're going to probably have to do a
21 little bit of negotiation with the State with what we think
22 is realistic, what we can do, because we also have to make
23 sure that what the State is asking is realistic, what can
24 happen in the Town that is implementable. So I think there
25

1 is maybe some back and forth still on the AFFH, but again,
2 I think we're very close to getting there.

3 COMMISSIONER HANSSEN: Okay, thank you.

4 CHAIR BARNETT: I have a follow up question on
5 that. In the matrix, under AFFH, HCD requires specific
6 information regarding the Town's response to the
7 requirement, and the answer provided by the Town was, "Work
8 is in progress by this Staff and the consultant to
9 determine if additional analysis is required that would
10 result in programs to provide stronger Housing Elements."
11

12 I was concerned about the word if it's required
13 or not? It seemed to be questioning the recommendation by
14 HCD, if you understand my question.

15 VERONICA TAM: From the preliminary comments we
16 got it's not so much about a lot of additional analysis.
17 There is the additional analysis that they did ask for,
18 which is the RCAA racially concentrated areas of affluence,
19 and also on local knowledge.

20 If Jamie is online, maybe she can comment about
21 the additional analysis that you have done.

22 JENNIFER ARMER: No, unfortunately she is not on
23 the Zoom meeting with us this evening.

24 VERONICA TAM: Oh, okay. My apology; I thought she
25 was. Oh, you know what? She is actually in another meeting.

1 But I think the preliminary comments that we got
2 are not so much about a lot of extra analysis. I think we
3 want to make sure that we present our case the best in
4 terms of meaningful actions, and that's why we're
5 developing this matrix that (inaudible) issues and
6 problematic actions that maybe people would not label that
7 as fair housing programs or actions, but they really do
8 have beneficial impacts.

9
10 CHAIR BARNETT: I see. Okay, thank you. Are there
11 other questions? Commissioner Burnett.

12 COMMISSIONER BURNETT: Yes, I have a question,
13 and thank you for answering our questions tonight.

14 I have a question about the ADUs. What is the
15 basis for increasing the very-low-income distribution for
16 ADU to 30% when the ABAG housing technical assistance team
17 actually in September of 2021 reported an affordability of
18 ADUs recommended jurisdictions with fair housing concerns,
19 which Los Gatos does have, to use more conservative
20 assumptions? I noticed our numbers are fairly high
21 considering we should really maybe be only at like 5%;
22 anyway much lower numbers than are showing in our report.

23
24 VERONICA TAM: I think in general what we are
25 trying to do is in fact (inaudible) all ADUs, like more
ADUs in areas that have opportunities for it, which is

1 high-resource, low-density areas. I think in the future one
2 of the actions probably is going to try to get ADUs to be
3 more affordable, more available, to low-income households.
4 That's part of the actions that we talked about in
5 promoting use of housing choice vouchers, promoting the
6 whole idea about renting ADUs to low-income households. The
7 goal is to actually make ADUs more affordable to low- and
8 moderate-income households. I think that's the reason why
9 we switched it.

10
11 COMMISSIONER BURNETT: Thank you for that.

12 CHAIR BARNETT: Commissioner Hanssen.

13 COMMISSIONER HANSSEN: I had a couple questions
14 about the matrix relative to the site inventory. It's on
15 page five.

16 The first one was about the realistic capacity,
17 and they were saying no, their preliminary review said
18 we're not there, and so that seems to be a pretty big deal
19 to me. Then I looked at their notes. It says, "Program VH
20 must clarify by right definition for use sites." It says in
21 Staff Response that program AS identifies the RHNA sites,
22 but work is in progress by Staff and the consultants to
23 include the definition of by right development and program
24 AS.
25

1 So is that something that's going to be submitted
2 this week, or soon? Because that seems like it's pretty
3 material to them being satisfied that our site inventory is
4 developable.

5 JOCELYN SHOOPMAN: Thank you for the question.
6 That is part of the work that Staff is going to be working
7 on and preparing to have go out for the seven-day review
8 starting on Friday.

9 COMMISSIONER HANSSEN: Okay, thank you. Then on
10 SB 9, I don't know if I totally understood it, but it
11 looked like they were looking for specific sites. This is
12 on page seven. It's still pretty new and I think there is
13 education going on. I don't know that we have any sites in
14 the site inventory for SB 9, so what would we do in terms
15 of identifying specific sites?

16 ERIN WALTERS: Thank you for the question.
17 Initially we provided how we were calculating the SB 9
18 number, but we do not have specific sites that are
19 evaluated. Some communities do have that; the Town does
20 not, so that is something Staff is currently reviewing
21 based on this comment.

22 COMMISSIONER HANSSEN: So we're still trying to
23 decide how to respond?
24
25

1 JENNIFER ARMER: Yes, we are finalizing that. One
2 of the discussions that we have had is that the way that SB
3 9 was presented in this current draft is more aligned with
4 the ADUs where we aren't identifying specific locations of
5 where future ADUs are, but that the estimate for number of
6 new housing units is based on past trends, and so we looked
7 at the number of SB 9 permits that have come in since that
8 ordinance was in place and justified it there, as well as
9 additional justification was prepared by Veronica Tam's
10 team that put together an analysis of what sites were
11 available in Town that met certain criteria, and based on
12 past practice our understanding was that that was going to
13 be acceptable to HCD.
14

15 What this preliminary comment indicates is that
16 it may be that they're not willing to accept that
17 alternative, that they want analysis that is more like our
18 sites inventory where we're identifying specific sites, and
19 so we will be looking to see how critical those units
20 numbers are for the overall sites inventory calculation
21 buffer, etc., and looking to see what, at this point to
22 expedite this and keep it moving forward, the best course
23 is going to be.
24

25 COMMISSIONER HANSSEN: A follow up question. My
understanding was that what was done in the most recent

1 submission that you had the preliminary review from is that
2 it was basically a funnel, which made a lot of sense to me.

3 When I went to the Planning Commissioners Academy
4 a year ago in 2022 one of the consultants to the State had
5 done basically a funnel and they looked at all the housing
6 in the State and what could possibly be feasible, and what
7 was financially feasible, and so they came up with what was
8 a very low percentage of the total. I thought that was kind
9 of the direction we were going, and now I'm hearing that
10 HCD actually wants you to treat it like site inventory, and
11 then what I heard you say as a follow up, if I heard it
12 correctly, is that we might be taking those sites out.

14 JOEL PAULSON: Through the Chair. Joel Paulson,
15 Community Development Director. Yes, this current version
16 that was submitted in October did have kind of that funnel
17 of looking at a parcel size that's reasonable for two
18 units, looking at all the parcels in town that would allow
19 SB 9 that fit in that bucket, and then paring that down
20 even further to what I think I recall is less than 1% of
21 those parcels. That's been a method that has been accepted
22 elsewhere previously, but as we're finding as our region as
23 gone through the process, things that might have been
24 accepted in Southern California are not being accepted any
25 longer, so we're weighing how quickly we could do that type

1 of analysis, and if we can't do it quickly enough and if we
2 have enough buffer, then it's just simpler for us to remove
3 those units from the numbers.

4 COMMISSIONER HANSSEN: That makes sense, but it's
5 a little bit scary in the sense that we're hopefully close
6 to being done, but then that's 96 units, but we do have
7 more buffer, so I'm sure you guys will figure that out, but
8 that seems like a bit of a red flag for me, especially
9 since I believe it came from one of our Councilmembers to
10 make sure we included SB 9 sites since that law was put in
11 place.
12

13 CHAIR BARNETT: Is there any comment from Staff
14 before I take Commissioner Janoff's question?

15 JOEL PAULSON: It looks like the consultant has
16 some additional comments.

17 VERONICA TAM: I just want to emphasize that it is
18 not uncommon that even HCD would recommend an approach like
19 that, because we are close to getting a certified Housing
20 Element, but we're not removing the opportunity of SB 9. SB
21 9 is still being discussed in the Housing Element; it's
22 still an opportunity for sites, particularly for moderate-
23 and above-moderate-income type of housing, because SB 9 is
24 not likely going to generate units that are lower income.
25

1 It's still in the Housing Element, it's still an
2 opportunity that the Town will continue to pursue, it's
3 just not being used to count towards the RHNA for adequate
4 site purposes, but when you do build units you do have an
5 SB 9 application processed you do get credits against the
6 RHNA. Getting adequate sites analysis is a little bit
7 different than getting credits for RHNA for
8 accomplishments, so you will get accomplishments when you
9 do have SB 9 applications processed.

10
11 CHAIR BARNETT: Commissioner Janoff.

12 COMMISSIONER JANOFF: Thank you, and thank you
13 for that clarification, Ms. Tam; that was very, very
14 important. I think when Staff said we'll be taking sites
15 off the inventory to expedite the process, it kind of makes
16 us pause a bit, but this makes very, very good sense. If
17 the hurdle to get these sites on the inventory with the
18 type of analysis that's been done is prohibitive in terms
19 of the amount of time and we've got the buffer, take them
20 off. That's a very, very simple and elegant solution, so
21 thank you for that clarification.

22 CHAIR BARNETT: Other questions from
23 Commissioners? Vice Chair Raspe.

24 VICE CHAIR RASPE: Thank you, Chair. I notice one
25 of the open issues on our matrix is the story pole

1 discussion, and I know the Planning Commission had a
2 lengthy hearing on that and provided our comments to Town
3 Council. I'm just curious as to where we are in that
4 process, and if we believe it's going to be resolved in
5 time for this element to get certified? Thank you.

6 JENNIFER ARMER: Thank you for that question; I
7 can provide an update.

8 We are currently scheduled to go back to Town
9 Council on December 5th for them to continue that
10 discussion, however, based on the discussion that was held
11 by Town Council on August 1st we have been able to draft
12 some additional language for the Housing Element to give
13 more specificity about the motions that were made and
14 approved by a majority of Town Council. So we've been able
15 to add that in and draft some language that describes some
16 of the changes that have already been approved by Town
17 Council so that it can provide clarity to the State that
18 that work is already ongoing and that Town Council has
19 already approved some motions for changes.

20 VICE CHAIR RASPE: Thank you so much for that
21 answer.

22 CHAIR BARNETT: I'll jump in with a question. In
23 my review of the matrix it appeared to me that the most
24 recent HCD comments were bringing up new material rather
25

1 than delving further into prior answers. Do you have any
2 sense of that?

3 JENNIFER ARMER: I can jump in, and then we might
4 see if Veronica has something more to add.

5 When we look at the list of comments, these are
6 actually the comments from our last letter, and then there
7 is an additional column that talks about which ones have
8 been resolved and which have not. It appears that almost
9 half of them are marked as resolved, that the work that's
10 been done is already enough, and that it's just there's
11 some more that's needed to fully resolve the remaining 16
12 items on this chart.
13

14 There are some cases where they're asking for
15 more detail than we thought was needed to resolve the
16 question, but that was one of the benefits of this
17 preliminary conversation in the middle of our 60-day
18 review, that we could touch the base with them and find out
19 where we needed to go further.

20 JOEL PAULSON: Through the Chair, as we noted in
21 the Staff responses, we tried to add where we address these
22 comments in the current version. I think this is a pattern
23 that we've seen with all of their letters: we provide
24 information and then they come back and say they want
25 additional information or additional analysis. I think this

1 is just a continuation of that and we're hopeful that we're
2 going to get over the hurdle this round.

3 CHAIR BARNETT: So my layman's analysis that HCD
4 was bringing up new issues doesn't seem to be founded,
5 they're just trying to get the additional information to
6 satisfy previous inquiries.

7 JOEL PAULSON: That's correct. As Ms. Armer
8 mentioned, these are the comments from May that were
9 addressed.

10 CHAIR BARNETT: Okay, thank you. Commissioner
11 Hanssen.

12 COMMISSIONER HANSSEN: I may come back and ask
13 additional questions on the matrix, but could I ask a
14 procedural question? Since we've been at this for several
15 rounds, when we actually get a letter from HCD will it say
16 that we're done, or are they still going to have lingering
17 questions? What would be normal when we are actually done?

18 JENNIFER ARMER: Thank you for that question. We
19 might actually see if Veronica Tam might tell what those
20 look like for the other communities she has worked for, but
21 my understanding is the goal is done, but most likely there
22 will be a few more back and forth as she was mentioning
23 earlier; there may be a little bit of negotiation that
24 needs to be done to really close it out.
25

1 VERONICA TAM: The goal is to get to a letter by
2 December 1st that it would say if adopted as revised the
3 Housing Element would comply with State law. It actually
4 reminds me, we are doing the rezoning soon, or there is no
5 rezoning that needs to be done later on, but if there is
6 any kind of rezoning that needs to be done, then the letter
7 will say the Housing Element will be found to be in
8 compliance once the rezoning is done.

9
10 I would say that in the December 1st letter you
11 will still have some remnants of comments, but I'm
12 confident that with the revisions that we're doing right
13 now we should be able to dismiss the majority of the 16
14 items.

15 The other few items are really a negotiation.
16 It's the art of a review that gives me the reviewing
17 authority to do that type of back and forth, and I think we
18 may have to do a little bit of back and forth, but I think
19 with the revisions that we are working on we should be able
20 to dismiss the majority of the comments because most of
21 them are technical in nature; that shouldn't have a lot of
22 negotiation.

23 COMMISSIONER HANSSEN: Thank you.

24 CHAIR BARNETT: Commissioner Janoff.
25

1 COMMISSIONER JANOFF: Thank you. Could you
2 clarify what that negotiation is? Is that a conversation
3 between you, Staff, and HCD saying no really, it's in
4 there? Could you explain what negotiation means?

5 VERONICA TAM: I'll give some examples and
6 hopefully that's not going to be too frustrating for
7 jurisdictions, and I go through this all the time.

8
9 There will be some times, and our goal is to do
10 50 units and affordable units in over eight years or
11 something for a small community, and a city may come back
12 and say we think that you can do a little higher, and so
13 we'll kind of move back and forth and say realistically we
14 think we can push it up to 80, but that's all we can do.

15 So that kind of "negotiation" is not so much
16 about... I think that's the type of things that we should be
17 expecting.

18 COMMISSIONER JANOFF: If I may? So are you saying
19 that these negotiations happen verbally back and forth, or
20 is this a letter to us and a letter back?

21 VERONICA TAM: It would be verbally. What we try
22 to do also is every time before and after we submit a draft
23 to the State we have a meeting with the State and we talk
24 about what they're looking for, ask them to clarify what
25 exactly are they looking for, and we had that meeting just

1 recently, I think a couple of days ago, just to clarify
2 what they are looking for.

3 So I think after we resubmit, and I don't think
4 we would have an opportunity, given the holidays next week,
5 to have a meeting with them, but if possible we should try
6 to get a meeting with them before they issue the letter.
7 But even after they issue the letter we would arrange a
8 meeting to just go over the remnants of comments and what
9 expectations they have. I think definitely the State is in
10 the position of pushing higher. We are holding our ground
11 to see what we can do realistically as well.

12
13 COMMISSIONER JANOFF: Thank you.

14 CHAIR BARNETT: Commissioner Thomas.

15 COMMISSIONER THOMAS: Just as a follow up, when
16 you refer to "we," you're referring to yourself and some
17 Town Staff, or is it just your office that will do this
18 negotiation?

19 VERONICA TAM: It would not be just me, because I
20 work for you, but the Town Staff is certainly taking the
21 lead and I'm there to facilitate the discussions. I
22 understand a little bit more about where they're coming
23 from and maybe between the lines what they are asking, so
24 I'm trying to facilitate those discussions, but definitely
25

1 Staff takes the lead because only Staff understands the
2 resources and constraints that the Town is facing.

3 COMMISSIONER THOMAS: Okay, perfect. I do have an
4 additional question.

5 CHAIR BARNETT: Please.

6 COMMISSIONER THOMAS: I do think that we had a
7 couple of other questions through public comment that it
8 would be helpful for us to just discuss. I know some of us
9 have sat on the Housing Element Advisory Board for a while,
10 so we're a little bit familiar with this, but can either
11 Town Staff or Ms. Tam explain why the sites inventory looks
12 as it does with the buffer? I know we kind of covered this
13 already.
14

15 In addition to that, why is it important to
16 include all of these sites to get it passed versus adding
17 sites later down the road? And then if sites do need to be
18 added, how does that work?

19 JOCELYN SHOOPMAN: Thank you for the question.
20 There have been no changes to the sites inventory; we have
21 not added or removed sites. The discussion of the surplus
22 increasing really is coming from this new bucket of these
23 entitled finalized or permitted units that we didn't
24 previously include in the January version that was adopted,
25 so that's approximately 250 units. When you add those

1 additional units; that has resulted in the increased
2 surplus. It's not because the Town had added any new sites
3 to the sites inventory.

4 We did receive preliminary feedback in this
5 matrix from HCD about those no additional 250 units, and so
6 that's part of the work we're doing this week to review and
7 see if those units have in fact already been reported to
8 the Department of Finance, in which case they would be
9 removed and the surplus would be decreased.

10
11 CHAIR BARNETT: Follow up?

12 COMMISSIONER THOMAS: Yes.

13 CHAIR BARNETT: Please.

14 COMMISSIONER THOMAS: I think that it's clear why
15 that percentage changed, but from day one we've had a lot
16 of comments from the public and concern about the number of
17 sites included and the total number of units, so I was
18 hoping we as a group could very briefly go over the
19 importance of why we need to have all of these sites on our
20 initial list instead of adding more as we go, which I know
21 we've discussed, but I think it needs to be addressed
22 again.

23 JOEL PAULSON: Through the Chair, maybe Ms. Tam
24 could respond a little differently to should we be removing
25 sites at this point? This has been predominantly the same

1 as what was adopted in January, so there hasn't been a
2 change. There have been many comments of concern when we
3 went up to the 25% buffer, but ultimately that was adopted,
4 so that's where we are.

5 The other bucket that it was added, again, has
6 been discussed, but Ms. Tam, if you would maybe provide
7 comments on what implications there might be if the
8 Planning Commission ultimately wanted to recommend removing
9 some of the existing sites.

10 VERONICA TAM: For one thing, I think everybody
11 has heard enough about SB 166, monitoring of no net loss,
12 which is a new State law that applies to the six-cycle
13 Housing Element that any time when a site in your inventory
14 is developed, if it's developed with fewer units than
15 projected in the Housing Element, or fewer affordable units
16 by income distribution, you have to do an accounting of
17 whether the remaining sites inventory has the ability to
18 meet the RHNA.

19 Because of your town, the market economics, the
20 majority of the Housing Element sites when they're
21 developed are not likely to be developed with a lot of
22 affordable units, probably just your inclusionary
23 requirements, that type of project. But for the purpose of
24 doing adequate sites analysis, the State does allow us to
25

1 use density as a proxy so that we are allowed to count most
2 of the sites that are higher density as housing sites that
3 are feasible for facilitating lower income, so when actual
4 development happens you are likely going to have a net loss
5 against your sites inventory, so for that reason the State
6 recommends a buffer between 15-30%; that's in the sites
7 inventory guide book provided by HCD. The higher income
8 area, the more expensive the communities, I think the
9 higher the buffer should be because more likely that you're
10 going to result in a net loss of affordable units when your
11 sites are being built.
12

13 Now, can you remove sites right now? I certainly
14 do not recommend it, because removing the sites means that
15 we have to completely redo the AFFH analysis. At the end of
16 AFFH analysis there is an analysis of how your sites
17 inventory is distributed across different neighborhoods,
18 different demographics and characteristics in your
19 community, and therefore conclude whether the sites are
20 promoting fair housing. So if you choose to reduce sites
21 right now, we will have to redo the AFFH analysis, and that
22 would substantially delay the whole Housing Element
23 certification process, because HCD would need to review
24 that whole section again.
25

1 Now, when you run into a net loss situation in
2 the future it only gives you six months to actually
3 identify replacement sites or rezone additional sites to
4 replenish your sites inventory, so having a high enough
5 buffer today would save you trouble as you go down the
6 line, because we all know rezoning and identifying new
7 sites is not an easy task. State law only gives you 180
8 days to do that, so having a healthy buffer is going to
9 take you a long way when your sites are eventually
10 developed.

11
12 JOEL PAULSON: And through the Chair, I would add
13 also that since Council has already introduced all but one
14 site for the Housing Element Overlay Zone, we certainly
15 wouldn't want to be looking at reducing any of those sites.

16 CHAIR BARNETT: Commissioner Thomas.

17 COMMISSIONER THOMAS: My next question is about
18 if that rezoning and the taking out of that one space is
19 going to impact our Housing Element at all, or the
20 certification process of it, and if so, how can we remedy
21 that?

22 JOEL PAULSON: Thank you for the question.
23 Because it's only 16 units in the Housing Element and
24 they're all above moderate, it's not going to have an
25 impact like a parcel or number of parcels that also include

1 affordable housing as a part of that. So we have looked at
2 that, because that is a potential option as well to
3 bringing that buffer down, or that surplus down, that
4 slight bit more.

5 COMMISSIONER THOMAS: So then is that site still
6 going to stay in, but just at the current zoning, or will
7 it get removed because it's not getting rezoned at this
8 point?
9

10 JOEL PAULSON: I would say that is unknown and
11 it's really a timing issue, because actually that one site
12 is going back to the Council on December 5th, so in between
13 there we're looking at options for when we come back on the
14 29th, if Planning Commissioners are available. Potentially
15 there's an option to remove that site, but also to include
16 language in any resolution or future action that because it
17 was in before, should the Council choose to rezone that
18 site in the interim in the timing that would accomplish
19 certification, then we could always add that back without
20 having to come back through a full cycle with the
21 Commission.

22 COMMISSIONER THOMAS: Okay, thank you.

23 CHAIR BARNETT: Commissioner Hanssen.

24 COMMISSIONER HANSSEN: Since it was asked in the
25 public comments I thought we should bring this up, and

1 because it's also come up in other meetings as well. The
2 out migration from California to other states that started
3 picking up during the pandemic and hasn't really changed
4 much, has it had any impact at all on the State's and HCD's
5 interest in pursuing all this AFFH? Has it had any
6 tampering of following through on everything that we're
7 being asked to do?

8 JENNIFER ARMER: Thank you for that question.
9 This is a topic and a question and concern that was brought
10 up actually enough years back that it was part of the
11 General Plan update process, that there were these news
12 articles and discussion of this, and there are different
13 studies on what these numbers are, but at this point it is
14 not changing what the requirements for the State are in
15 terms of the housing capacity that communities need to
16 provide in their Housing Element.

18 COMMISSIONER HANSSEN: Thank you.

19 CHAIR BARNETT: I have one question, Ms. Tam, and
20 that is I gather you found HCD to be very responsive in
21 terms of time on these iterations and you expect it to
22 continue to be the case. I assume that they're overwhelmed,
23 but it sounds like you're managing. Can you comment on
24 that?
25

1 VERONICA TAM: They are definitely overwhelmed,
2 and they are also understaffed; I think that's probably a
3 fair comment. They do have statutory deadlines to make, and
4 so a lot of times what we do if we want to push them to
5 respond faster is actually do a formal submittal, because
6 then they are bound by a statutory deadline or (inaudible)
7 timeline for you.

8 I do try to engage them in an informal kind of
9 review first, and to the extent I can get them to commit to
10 responding faster through informal review I do try to do
11 that, but informal reviews do run a risk, because they are
12 not obligated to respond in a timely manner for informal
13 review.
14

15 I think at this stage we want to do formal
16 reviews; that's why we have submitted for the 60-day review
17 and we're getting a letter. At this stage the State is also
18 starting their review of Housing Elements in the Monterey
19 Bay and San Joaquin Valley areas, and so I think we run the
20 risk of being pushed behind the line if we don't commit
21 them to a statutory required timeframe. So at this time I
22 do recommend going through everything formal review, but we
23 all try to have interim conversations with the State during
24 the formal timeframe.
25

1 CHAIR BARNETT: So would it be fair to say that
2 you're in agreement with the Staff in terms of the probable
3 timing for Planning Commission review and Council review?

4 VERONICA TAM: Yes.

5 CHAIR BARNETT: Thank you. Commissioner Burnett.

6 COMMISSIONER BURNETT: Yes, thank you. A question
7 for Staff, a follow up question. What would be the most
8 likely timeline for the certification of the Housing
9 Element if it didn't happen on December 1st?
10

11 JENNIFER ARMER: Thank you for that question. As
12 was laid out in the Staff Report, our recommendation is
13 that you continue this discussion until November 29th, and
14 to add to what I was saying earlier with a little
15 specificity, if we want to allow time for the Town Council
16 to consider the Housing Element before the end of the year,
17 their final meeting is on December 19th, and the deadlines
18 for putting an ad in the paper for this item to go to that
19 meeting is actually on November 30th, and so that's why the
20 29th is a critical date in that timeline, and we do need to
21 include wording in that ad that reflects what the
22 recommendation from Planning Commission was. So that's how
23 we got to that timeline.
24

25 The hope, based on the description that Ms. Tam
has shared as well, is that once we have that meeting with

1 Planning Commission and you've provided a recommendation
2 based on the additional changes, we then get a formal
3 letter from the State on Friday, December 1st. We hope that
4 at that point either all of the comments have been resolved
5 or it is only a few minor issues, and so that any remaining
6 revisions that need to be done are minor enough that they
7 don't need to come back to Planning Commission, that your
8 recommendation can stand and can be brought to Town Council
9 on the 19th along with any additional feedback based on the
10 comment letter for December 1st.

11
12 CHAIR BARNETT: Thank you for those comments.
13 Helpful. I'm not seeing any hands raised, and I don't have
14 any more questions, so why don't we move on to the issue of
15 the continuance and see if there's a motion for a
16 continuance of this hearing to November 29, 2023 at 7:00
17 o'clock. Commissioner Thomas.

18 COMMISSIONER THOMAS: I'm happy to do that, but I
19 do have a clarification question for Staff. So that's going
20 to be another special meeting on the 29th?

21 JENNIFER ARMER: That is correct, because it's
22 not a regularly scheduled date for Planning Commission.

23 COMMISSIONER THOMAS: I move to continue this
24 item to a date certain of November 29, 2023 for a special
25 meeting at 7:00pm.

1 CHAIR BARNETT: Is there a second? Commissioner
2 Hanssen.

3 COMMISSIONER HANSSEN: I second the motion.

4 CHAIR BARNETT: I assume there's no discussion,
5 so I'll call for a raise of hands of those Commissioners in
6 favor, and that's unanimous. Thank you very much.

7 (END)

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