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**Sent:** Monday, January 15, 2024 6:32 PM  
**To:** Jennifer Armer <[JArmer@losgatosca.gov](mailto:JArmer@losgatosca.gov)>  
**Subject:** Draft HE comments

Hi, Jennifer:

Thank you for the hard work Staff has put into preparing the January HE draft.

This email will provide my comments on the latest draft HE. Please note that while I serve on the Planning Commission and on the Housing Element Advisory Board, I am providing these comments as a concerned resident of our Town.

Los Altos' Certified Housing Element is a particularly good example for Los Gatos as its population, demographics, and affluence are very similar to our Town. There are areas of their work to consider to bolster our response to HCD's December 1, 2023 comments.

Related to our HCD Comment #1:

RCAA: See page F-44 of Los Altos HE, Section F.2.8 Summary of Fair Housing Issues. Here Los Altos provides a summary of analysis concluding with these four primary issues and the housing needs they drive. A similar summary for Los Gatos would demonstrate to HCD a deeper analysis and understanding of why specific programs are prioritized in Los Gatos' HE.

Also, see Los Altos Program 6.G, Housing Mobility, pp 48-50. This is a much clearer discussion and consolidation of the strategies related to Housing Mobility. While LG may have similar strategies, they are found throughout the draft HE and as such do not appear to reflect the same level of commitment as Los Altos.

Related to our HCD Comment #3:

I see a few additions on page C-8 and C-9 around the topic of land use controls, specifically height. This appears to fall short of what HCD is outlined (pg. 4, Land Use Controls). If it is the case these height limits don't impede development, this would be a good place to insert the words: "based on discussions with developers . . ." Also, where does the Town "encourage maximum densities without exceptions"? We say developers' preference is to not maximize (comment matrix #3a), so we don't offer it. But this seems to be circular reasoning unless analysis of developers' intentions is more clear.

Related to our HCD Comment #5 (incorporating public comment):

Throughout their HE, Los Altos inserts the following: "based on comments received during the planning period of this Housing Element . . ." or similar language to indicate how public participation has impacted the Housing Element. (Try searching for the word "during.")

December 1st response matrix: Staff should explain why comments from HCD are not applicable.

## HOW HAVE OTHER SIMILAR JURISDICTIONS SUCCEEDED IN GETTING THEIR HOUSING ELEMENTS CERTIFIED?

January 10 2024

This is a response provided to Los Gatos Town Council to assist in responding to the HCD letter dated December 1, 2023. This letter rejected once again, the Town's submission of its 6<sup>th</sup> Cycle Housing Element, citing multiple issues preventing this certification. There are multiple issues cited, albeit less than in previous submissions, yet some of the new requirements related to Affirmatively Furthering Fair Housing (AB 686) seem to be more onerous than noted in previous submissions. See the table below:

Category	Issue	Level of Difficulty/Response
AFFH	Reassess and prioritize contributing factors	Low difficulty- need to highlight reasons for segregation and lack of affordable housing and prioritize them.
AFFH	Revise to add goals and actions based on completed analysis above to promote housing mobility beyond state requirements	High difficulty—HCD expecting “significant and robust” action including rezoning beyond state law requirements: <ul style="list-style-type: none"> <li>-Including lower density neighborhoods</li> <li>- Religious sites</li> <li>- alternate land use beyond ADU and SB-9, e.g. missing middle</li> <li>- permitting more ADUs per stie</li> <li>- more multifamily</li> <li>- Affordable housing funding</li> <li>- Creating Home sharing program</li> </ul>
Site Inventory	Clarification of small sites strategy	-Low to medium difficulty - may need to modify implementation program to increase/incentivize lot consolidation but not for large homes
Site Inventory	Electronic Sites Inventory	Should be low difficulty—just format issue

Site Inventory	Adequate Sites	Low to medium difficulty Need to meet requirement for by-right zoning for rezoning—recent action by Council did not fully meet requirement. New issue—may need to increase underlying base zoning for sites in HEOZ. This is more difficult.
Land use Controls	Listed but must analyze impact on housing supply	Low difficulty—just need to provide more descriptive analysis for each land use control listed—e.g. is height a constraint or not and why?
Local Processing and Permits	Analyze Processes to better inform programs	Low difficulty—more specificity needed on approval findings
Programs	Several programs need to have increased objectives, shorter timelines, clarification	Medium to high difficulty depending on program—these were mentioned: <ul style="list-style-type: none"> <li>- D (North 40)</li> <li>- V (Disabled)</li> <li>- AA (Parking)</li> <li>- AQ (Zoning Code Amendments)</li> <li>- AW (Story Poles)</li> </ul>
ADUs	Looking for us to go above law requirements	Medium to high difficulty depending on extent
Public Participation	Looking for increased outreach to lower income	Low to medium—not clear how much more is needed

It appears that some issues are fairly complex requiring actions including potential rezoning, while others require minor edits and explanation. To better inform this process, it will be most helpful to assess the actions taken by other “similar” jurisdictions, in particular those that have been successful in getting certified. By similar, the following characteristics are most relevant:

- Level of affluence of jurisdiction
- Location within State
- Size of jurisdiction

To do this, the Forbes list of the 50 wealthiest cities in California was consulted and cross referenced to the HCD site listing all jurisdictions in California and their compliance status to HE

law. This process was informative as it is clear that very few jurisdictions amongst the 50 richest in the state have their Housing Elements certified by HCD. Here are the cities in just two counties-- San Mateo County and Santa Clara County-- listed in the Forbes article and their certification status:

Ranking/name in Forbes List	Total Households	County	HCD HE Compliance
1 Atherton	2244	San Mateo	Out
2 Hillsborough	3512	San Mateo	Out
4 Portola Valley	1662	San Mateo	Out
5 Woodside	1673	San Mateo	Out
6 Monte Sereno	1219	Santa Clara	Out
7 Los Altos Hills	3125	Santa Clara	In
15 Los Altos	10805	Santa Clara	In
22 Saratoga	11039	Santa Clara	Out
33 San Carlos	11393	San Mateo	Out
35 Palo Alto	26007	Santa Clara	Out
36 Cupertino	20963	Santa Clara	Out
40 Menlo Park	11725	San Mateo	Out
49 Los Gatos	13036	Santa Clara	Out

For the sake of having 2 other jurisdictions that are comparable in affluence and size and being certified, the City of Manhattan Beach and the City of Piedmont were also chosen:

42 Manhattan Beach	13422	Los Angeles	In
14 Piedmont	3821	Alameda	In

So that give us Los Altos Hills and Los Altos in Santa Clara County, Manhattan Beach in Los Angeles County and Piedmont in Alameda County as models of compliance with comparable demographics, although Los Altos Hills and Piedmont are clearly much smaller in size and Los Altos Hills is among the top 10 cities in the state in terms of wealth (and housing prices). As all of these jurisdictions were certified in 2023, they are good examples of what it took to get their Housing Elements over the finish line. Where possible, redline versions of their elements were viewed to determine what was changed from the last comment letter from HCD to the final certification letter from HCD. See below for a summary discussion of each jurisdiction.

### Los Altos Hills

Los Altos Hills did receive their certification letter from HCD on May 30, 2023, less than the 120-day deadline from their adoption of the Housing Element on January 30, 2023 without official certification from HCD. Beating this 4-month window gave Los Altos Hills 3 years to complete

their zoning updates, whereas other jurisdictions not meeting the 120 days must complete rezoning within one year. A couple of important facts about Los Altos Hills:

RHNA: 489 units

Single family homes vs. all residential units: 3139/3180 (98.7%)

The last comment letter received from HCD was dated March 17, 2023. Several of the comments they received were similar to what the Town of Los Gatos received in its letter of December 1, 2023. Below is a summary of the changes they made to get their element to certification between March 17 and May 30.

Before getting to that, it should be noted that Los Altos Hills led their document with a thorough discussion of public participation and noted that the following themes were top of the list of those involved in the discussion which included a Housing Element Survey:

- High cost of living (LA Hills has the largest average home price in Santa Clara County)
- Development process difficult/expensive to navigate
- ADU process difficult to navigate

These three issues seemed to flow through to actions noted throughout the Element to address them. There was a 4<sup>th</sup> issue identified in the Housing Element Survey and that was expressed difficulty in meeting the Town's RHNA of 489 units. This went hand in hand with a discussion of "Community Opposition to Development".

As LAH's March 17 letter also requested more analysis for AFFH, the Town added a new table called Fair Housing vs. Location (Table 40) for the sites in the site inventory. However, since the entire Town is an RCAA, all locations for housing are considered highest resource. Nonetheless, since HCD mentioned that a significant portion of the Town of Los Gatos' RHNA is in two census tracts, it would be useful to incorporate a similar table if not done already to add depth to the analysis, which is required as part of the first comment.

LAH also added Tables 49 and 50. Table 49 in particular addresses HCD's requested for identifying contributing factors to Fair Housing. It has the following format.

Identified Fair Housing Issue	Contributing Factor	Action(s)	Priority
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Here are the steps that LAH added to their element to achieve certification (based on redline version):

- Program A-1 Rezoning 34 acres to allow multifamily housing
  - o 19 acres at Foothill College and St. Nicholas
  - o 15 acres at identified parcels zoned for single family, now multifamily
  - o Minimum density of 20 du per acre, 30 du per acre allowed

- This is to address the gaps in meeting RHNA for lower income
- This is a revision from a previous version
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- Program A-4 By-right approval for sites in RHNA
  - Further description and dates--revision
- New Program A-12—Duplex or Triplex
  - Allows conversion of single- family units to duplex and triplex subject to standards to be developed, permitted on 25% of all single-family units
- New Program B-15 Streamline Committee Review process
  - Remove constraints and shorten timeline
- New Program B-16 Story Poles
  - Revise to streamline requirement or offer renderings in lieu of story poles
- Program E-2 Emergency Shelters
  - Revised to remove constraints
- New Program E-11 Incentives for Extremely Low-Income Development
  - Increase density bonuses beyond state law
  - Develop program for funding infrastructure development (water, sewer)
  - Annual contact with affordable housing developers
- Revisions to G-2 Conversion Unit Education
  - Enhancements to promote ADUs, SB-9 and the A-12 Duplex/Triplex Unit development
- New Program G-5 Tenant Matching and Outreach
  - To encourage/facilitate homeowners creating ADUs, SB-9 or A-12 Duplex or Triplex Units to find renters
  - To help renters find these opportunities

Since LAH got their certification within 120 days of the adoption on January 30, 2023, they do have 3 years to make zoning changes until 2026. But they clearly added new programs to achieve certification and revised others.

### Manhattan Beach

Manhattan Beach is located in Los Angeles County and is the 42<sup>nd</sup> richest jurisdiction in California. Their housing element is on a slightly different cycle, 2021 to 2029, but it is worth noting that they did not get certified until two years later in the middle of 2023.

Their 6<sup>th</sup> cycle RHNA is 774 units, which seems a bit low since they have approximately the same number of starting units that Los Gatos does, but perhaps since their cycle was earlier, they did not get as significant of an increased in RHNA. While mentioned, but not discussed in the Element, the city has a voter initiative that creates some limitations to the placement of housing.

HCD certified their 6<sup>th</sup> cycle Housing Element on July 22, 2023, 16 months after the City Council adopted the Housing Element on March 22, 2022. Given that their RHNA was much lower than the Town's it is noteworthy that they had multiple cycles and a 16-month span between adoption and certification by HCD.

The last comment letter from HCD was on November 22, 2022 and highlighted the following points:

- Non-vacant sites (more evidence needed)
- City-owned sites (more details needed)
- By-right zoning to be completed—more than 1 year from statutory deadline
- Issue with 30 ft. height where density is 43-51 acres—need to explain how not a constraint and perhaps revise
- AFFH—call to increase housing mobility, not limited to RNHA, “throughout the city”.

Here is what Manhattan Beach did in response to get certified (after November 22 letter):

- Expanded zoning
  - o Establish Residential Overlay District (ROD)—42 acres in highest resource areas
  - o Higher density 20 du per acre up to 60 du per acre
  - o Potential for 836 additional units, double lower income RHNA. 55% buffer above RHNA
  - o 60 du per acre could yield up to 2545 units
  - o 42 acres not located in district subject to voter initiative
- Alternative Land Use strategies
  - o Increase number of ADUs
  - o Permit 2 detached ADUs in addition to single family home, more than state law permitting 1 detached ADU and 1 JADU
  - o Add tools to streamline approval
  - o Market ADU construction options
- Incentives to promote housing choices and affordability
  - o Density bonus for lot consolidation 5-10%
  - o 80% density bonus for 100% affordable
  - o Require developers to use City's Affirmative Marketing Plan to attract diverse renters and buyers
  - o Program 3 by-right zoning and/or non-discretionary for sites in inventory
  - o Program 18--Permit residential zoning in mixed-use commercial districts without CUP--include objective standards in zones not subject to voter initiative
  - o Program 23--New program to prevent lot consolidation for purpose of building large single-family homes

- Target Infrastructure Accessibility and Preservation
  - o Preserve Manhattan Beach Senior Villas (even though property has deed restriction to limit costs)—metric is 80% of units affordable to very-low-, low- and moderate-income seniors.
  - o Programs like rides for seniors, Manhattan Beach Pathway Project (ADA)
  - o Research and implement home sharing program
- Targeted outreach and Education
  - o The city added a program to establish a Housing Education Advisory Committee
  - o Added 10 Housing Education Forums

## Los Altos

Los Altos is probably the most comparable to the Town of Los Gatos. It is approximately the same size in terms of housing units and has a 6<sup>th</sup> cycle RHNA of 1958 units. They also have a high concentration of single-family housing as a percentage of all housing, at around 90%. That said, they are even more affluent than Los Gatos with a higher housing average housing price and higher average income. Los Altos had its housing element certified in November 2023 after multiple attempts. The last comment letter received before certification was on June 30 2023.

That letter prompted an outrage from the city, with accusations of HCD imposing a higher standard vs. other jurisdictions. Yet, the city did make changes to achieve certification nonetheless. The main points noted in the HCD letter were the following:

- Reliance on non-vacant sites. 50% or more of the sites are non-vacant and HCD wanted additional justification that those uses would discontinue
- Promote and affirmative further fair housing, excerpt below from the letter
  - o “Examples include creating more housing choices and affordability in single-family neighborhoods beyond complying with law...targeting funding, home sharing, more than one junior accessory dwelling unit per single-family structure, enhancing capacity, affordability and housing choices on religious institutional sites.”

While a red-line marked up version is not available, it is clear that some changes were made to achieve certification

- This statement appears to be in response to the concerns of AFFH
  - o “Low-income households are likely to be excluded from essentially all neighborhoods in Los Altos”.
- Program 1A--Rezone for net new sites of 600 for surplus of 640 units vs. total RHNA of 1958 or vs. net RHNA outside of pending projects and ADUs of 1011 units. Previous surplus was 40 units. Not clear when additional sites were added.



- Program 1B--Increased height in commercial district from 45 to 55 ft. (5 stories) and develop at densities of 38 du per acre or more
- Program 1D—Rezone to permit housing on 2 religious’ sites
- Program 1H—Facilitate housing on city-owned sites
- Program 2C—Affordable housing funding including
  - o Applying for state funding on behalf of a non-profit
  - o Waiving city fees for 100% affordable
  - o Dedicated project planner for 100% affordable
- Program 2D—Encourage and streamline ADU production
  - o Including a variety of pre-approved plans for different sizes and architectural styles
- Program 3L—Eliminate Story Poles—replace with modeling—all development applications
- Program 6C—Target development in highest resource areas
  - o This appears to be an outreach program to attract developers.
- Program 6.G: Housing Mobility—this appears to be the most robust program with the most modifications but pulls in other programs as evidence.
  - o “To improve housing mobility and promote more housing choices and affordability throughout Los Altos, including in lower-density neighborhoods, the city will employ a suite of actions to expand housing opportunities affordable to extremely low, very low-, low-, and moderate-income households.”
  - o Actions and strategies include:
    - SB 9 – Monitor the City’s SB 9 standards and amend standards to facilitate SB 9 applications (e.g., duplexes in single-family zones) if the city is not on track to meet its SB 9 application goal during the planning period. (See Program 1M)

New--Rezoning—Modify zoning to allow residential or increased residential intensity and/or density throughout Los Altos. Includes zoning amendments along higher intensity corridors, and for sites within lower-density neighborhoods (e.g. Loyola Corners, OA zoned sites on Altos Oaks Drive and church sites on Magdalena Avenue). This appears to be new and in direct response to HCD letter.

Housing on City Sites—Enter into a public-private partnership to develop housing targeting low-income households on City-owned Downtown Parking Plazas. (see Program 1H as well)

Enhanced Inclusionary Housing – See Program 2.A.

Accessory Dwelling Units (ADUs) – Encourage and streamline ADUs in single-family neighborhoods by preparing standardized ADU plans with a variety of unit sizes and by affirmatively marketing and outreach to increase awareness and the diversity of individuals residing in Los Altos. See Program 2.D.

New—Junior ADUs – Develop and adopt objective standards to allow more than one (at minimum two) Junior ADU per structure by July 2025. This appears to be new and in direct response to the HCD letter.

Religious Institutional Sites – Allow housing on all religious institutional sites within the city. Includes sites from Program 1D. This appears to be a direct response to the last HCD letter.

Assist in securing funding for affordable housing projects. Program 2C

Home sharing- Research and pursue a home sharing program, including coordination with non-profits and other organizations to assist with matching tenants with existing homeowners. This appears to be new in response to HCD letter.

There was also mention of hiring a new Housing Manager, presumably to facilitate implementation of the Housing Element.

Finally, relative to responding to the HCD's repeated requests for more analysis and conclusions from the AFFH, Los Altos seems to have added a new table which highlights fair housing issues and contributing factors, along with the actions that will address them. Section F-4.

### Piedmont

The final city for comparison is the City of Piedmont in Alameda County in the east Bay. It is roughly the same size as Los Altos Hills and is ranked 14<sup>th</sup> in the Forbes survey in terms of wealth.

Piedmont has a RHNA of 587 units with a capacity of 645 units, leaving a surplus of 58 units. Their Housing Element was certified on November 9 2023. The last comment letter from HCD was provided on May 23, 2023. Their last submission was on September 8 2023 and then the certification was between 60 and 90 days later.

Here are the main points of the May 23 2023 letter from HCD:

AFFH analysis—like the letter received by Los Gatos and other jurisdictions noted in this writeup, Piedmont was asked to complete a more thorough analysis that would lead to meaningful action.

## AFFH goals and actions

- “Actions must have specific commitments, milestones, geographic targeting, and metrics or numerical targets and, as appropriate, must address housing mobility enhancement (more choices and affordability across geographies), new housing choices and affordability in higher opportunity and income areas (e.g., missing middle housing types), place-based strategies for community preservation and revitalization and displacement protection. Particularly, the element must include significant and meaningful action to enhance housing mobility. HCD will send examples under separate cover.” This looks similar to the language given to other wealthy jurisdictions.

## Site Inventory—Non-vacant Sites

- Additional justification for likelihood of existing uses discontinuing

## Site Inventory—Programs

- Program 1L Surplus Land—needs revisions

## Constraints—Program 4G—Modifying City Charter

- Needs clarification of consequences if Charter is not modified and impact on housing supply

Piedmont did submit a revised element on September 8 that included changes including the following:

- Clarifying throughout Element what locations would benefit from which programs (geographic targeting)
- Modifications to Program 1D, allowing housing on religious sites in Zone A (SF residential)
- Modifications to Program 1E—Requiring an ADU with all new single-family construction
- Modifications to Program 1J to provide for going beyond SB9 state law to allow up to 4 units in Zone A (Single Family) and Zone E (Single Family Estate)
- New Program 1U—Priority Development Area Designation
  - o For land within Zone C (multi-family residential) and Zone D (Commercial/Mixed Use) in two specific areas
  - o Eligible for state funding
  - o Suitable for low-income housing
- Clarifying the City Charter including amending the Municipal Code for clarity
  - o Misconceptions on ability of Charter to limit housing choices
- New Program Place-Based Improvement Program
  - o To help direct CIP funding to facilitate low-income housing

- New Program—Establish Fair Housing Task Force
  - Includes directive for outreach to lower-income or special needs individuals or their representatives
- New Program 7E—Fair Housing Mobility Program
  - Incorporates other programs from element
  - Expanding SB-9 beyond state law
  - Affordable housing loan program for new ADUs and JADUs that are deed restricted
  - Home-sharing program
  - Expand ADU program to provide additional incentives for deed restricted units
  - Requiring ADU with single-family development
  - Rezoning to allow housing on religious sites within SF neighborhoods (Zone A)
  - Place-based improvements to facilitate lower-income, higher density development
- Revisions to AFFH analysis
  - Lists which programs address each fair housing issue
  - Notes that housing will be distributed across census tracts

In summary, these four wealthy jurisdictions have all gotten certified Housing Elements within the past year, some with even more difficult issues to facilitate low-income housing.

While it may not be clear exactly what changes are needed to facilitate certification for Los Gatos, this analysis at least provides examples of others that have made their own decisions and been successful in achieving certification.

Submitted by: Melanie Hanssen

Planning Commission and Housing Element Advisory Board

Responding as resident of Los Gatos, not representing any commission, board or organization