



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 01/13/2026

ITEM NO: 1

DESK ITEM

DATE: January 13, 2026

TO: Mayor and Town Council

FROM: Gabrielle Whelan, Town Attorney

SUBJECT: **Consider a Recommendation by the Planning Commission and Adopt a Resolution to Approve Architecture and Site and Subdivision Applications to Construct a Mixed-Use Residential Development (450 Units), a Vesting Tentative Map, Site Improvements Requiring a Grading Permit, and Removal of Large Protected Trees Under Senate Bill 330 (SB 330) on Property Zoned North Forty Specific Plan: Housing Element Overlay Zone. Located at 14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270 Burton Road; and Assessor Parcel Number 424-07-116. APNs 424-07-009, -052, -053, -081, -094, -095, -115, and -116. Architecture and Site Application S-23-031 and Subdivision Application M-23-005. An Initial Study was Prepared and No Additional Environmental Review is Necessary Pursuant to CEQA Guidelines Section 15183: Streamlining Process, Since the Proposed Project's Environmental Impacts were Adequately Addressed in the 2040 General Plan EIR. Property Owner: Yuki Farms LLC. Applicant: Grosvenor Property Americas c/o Steve Buster. Project Planner: Jocelyn Shoopman.**

REMARKS:

Attachment 17 contains public comments received after 11:00 a.m. on Monday, January 12, 2026, and before 11:00 a.m. on Tuesday, January 13, 2026, including public comment that was erroneously left out of the January 12, 2026, Addendum report.

Attachment 18 contains additional correspondence from the applicant's legal counsel.

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

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SUBJECT: 14859, 14917, 14925, and 16392 Los Gatos Boulevard; 16250, 16260, and 16270
Burton Road; and Assessor Parcel Number 424-07-116/S-23-031 and M-23-005

DATE: January 13, 2026

Attachments Previously Received with the Staff Report:

1. Final Initial Study – September 2025
(available online at https://www.losgatosca.gov/N40II_FinalInitialStudy)
2. Draft Modified Resolution making the required findings and approving the applications subject to the Modified Conditions of Approval (included as Exhibit A)
3. April 30, 2025, Planning Commission Staff Report, with Exhibits 1 through 16
4. April 30, 2025, Planning Commission Addendum, with Exhibits 17 through 18
5. April 30, 2025, Planning Commission Desk Item, with Exhibits 19 through 20
6. April 30, 2025, Planning Commission Desk Item 2, with Exhibit 21
7. April 30, 2025, Planning Commission Verbatim Minutes
8. October 29, 2025, Planning Commission Staff Report, with Exhibits 21 through 26
9. October 29, 2025, Planning Commission Addendum 1, with Exhibit 27
10. October 29, 2025, Planning Commission Addendum 2, with Exhibit 28
11. October 29, 2025, Planning Commission Desk Item, with Exhibits 29 through 30
12. October 29, 2025, Planning Commission Verbatim Minutes
13. Public comments received between 11:01 a.m., Wednesday, October 29, 2025, and 11:00 a.m., Thursday, January 8, 2026

Attachments Previously Received with the Addendum:

14. Technical Assistance Communication from HCD
15. Modified Conditions of Approval
16. Public Comments

Attachments Received with this Desk Item:

17. Additional Public Comments
18. Additional Correspondence from the Applicant

From: shannon susick <[REDACTED]>

Sent: Tuesday, January 13, 2026 9:39 AM

To: Rob Moore <RMoore@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Council <Council@losgatosca.gov>

Subject: Phase II North 40

Mayor, Council and Staff,

As the 1st phase of the North 40 has been built truly differently than the renderings and promises made, it is imperative that the second phase be approved as originally intended with minimal housing and maximum commercial space.

This means housing that would best serve the community and state if built as low income; homes for teachers, first responders, service providers.

Commercial space and open space would have the least impact on the Town of Los Gatos and its infrastructure and greatest impact on our reserves. By infrastructure I mean, roads, schools, first responders, water, traffic, carbon footprint and more.

Instead of looking at projects individually, when and I ask WHEN, will the Town look at the cumulative effects of all these high-rise, high density projects? Please, for all our sakes, do not put this all on the state or blame others. And perhaps, take a sideways glance at the adjacent San Jose/Good Samaritan proposals as well; just for fun?

With 20 years in the planning, it is a travesty to change the proposal mid course in order to profit and kowtow to the builder. Most of us have taken a seat the past few years; exhausted from the first phase.....What is being built as phase I has nothing of the "look and feel" of Los Gatos; *an unsightly gateway to our once beautiful Town.*

There should be significant profits in the project at what used to be the Los Gatos Lodge for Summerhill; which appears to be the motivation and benchmark for all the projects falling under the "builder's remedy" umbrella and slated for our Town.

(sidenote; did EVERY single tree need to be removed from the Lodge site????)

Fight for our Town, fight for your constituents, plan ahead, protect the environment & our children, look at the big picture-these are some of the reasons residents voted for you.

I urge you to deny the proposed 450 home development for all these reasons and in good conscience.

Shannon Holmes Susick
[REDACTED]

Board of Directors

Aubrey Merriman, *Chair*
LifeMoves
 Nevada Merriman, *Vice Chair*
MidPen Housing Corporation

Randy Tsuda, *Treasurer*
Alta Housing

Pilar Lorenzana, *Secretary*
Silicon Valley Community
Foundation

Steven Yang
Northern CA LIIF

Candice Gonzalez
Sand Hill Property Company
 Chad Bojorquez
Destination: Home

Maria Noel Fernandez
Working Partnerships USA

Alison Brunner
Law Foundation of Silicon
Valley
 Victor Vasquez
SOMOS Mayfair

Julie Mahowald
Housing Trust Silicon Valley

Wendi Baker
Harmonie Park Development

Staff Regina Celestin Williams
Executive Director

Via Email**January 13, 2026****Los Gatos Town Council**

110 E. Main Street
 Los Gatos, CA 95030

Re: Strong Support for Approval of North 40 Phase II

Dear Mayor Moore and Members of the Town Council,

On behalf of SV@Home, I am writing to express our strong support for approval of North 40 Phase II and to urge the Town Council to adopt staff's recommended actions for this important project.

North 40 Phase II represents one of the most significant opportunities in recent years to deliver affordable housing in Los Gatos while also completing a thoughtfully planned, mixed-use neighborhood. The project will deliver 450 homes in total, including 77 permanently affordable homes, with 67 of those homes developed and operated by Eden Housing as a 100% affordable family rental community.

We want to be very clear: this project succeeds or fails only as a complete, integrated plan. The affordable housing component cannot move forward without the market-rate phase proceeding first, and that sequencing is essential to making the affordable homes financially feasible. By allowing the affordable building to stand on its own, Eden Housing can leverage the donated land, completed infrastructure, and prior development work from the master developer to compete for tax credits with far less public subsidy and deliver these homes more quickly than would otherwise be possible.

Just as importantly, a stand-alone affordable building does not mean exclusion. A neighborhood is not defined by a single structure—it is defined by shared streets, shared spaces, schools, services, and the rhythms of daily life. This project will allow families, workers, and people with deep ties to Los Gatos to remain in the community where they work, where their children attend school, and where they may already have family connections. That is what real inclusion looks like in practice.

The affordable housing component itself reflects the kind of thoughtful, community-centered development Los Gatos should be proud to support. These homes will serve families earning up to 60% of AMI, include a meaningful set-aside for residents with intellectual and developmental disabilities, and provide family-sized units with long-term affordability protections and supportive services. These are not symbolic units—they are real homes for real families in a high-opportunity community.

We also want to underscore that the Town's own staff report makes clear that this project is entitled and must be evaluated under state law, including SB 330, the Housing Accountability Act, the State Density Bonus Law, and No Net Loss requirements. Denial of this project—or imposing conditions that render it infeasible—would expose the Town to

January 13, 2026

RE: Strong Support for Approval of North 40 Phase II

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significant legal risk, including potential court-ordered approval, fines, and attorneys' fees. More importantly, it would needlessly delay or jeopardize homes that the community urgently needs.

This is a moment for leadership. Approving North 40 Phase II means completing a long-planned neighborhood, delivering affordable homes faster and more efficiently, advancing the Town's Housing Element commitments, and doing so in a way that is fiscally responsible and legally sound.

We strongly urge the Town Council to approve the project and adopt staff's recommended actions. This is the right outcome for Los Gatos, for future residents, and for the families who are counting on these homes.

Sincerely,



Regina Celestin Williams
Executive Director

Silicon Valley @ Home is a nonprofit advocacy organization that supports housing and affordable housing development throughout Santa Clara County. SV@Home works with a broad coalition of strategic partners to address the urgent housing needs of the diverse residents across all our communities. We advocate for solutions including increasing production of homes at all income levels, especially affordable housing; preserving existing affordable housing; and protecting our community's most vulnerable residents from displacement.



1/13/26

Via email: JShoopman@losgatosca.gov

Re: Town Council Meeting 1/13/26 Item North 40 Phase 2

Dear Town Council,

I am writing on behalf of Life Services Alternatives to express my strong support for the North 40 Phase 2 project and to urge the Town Council to approve the project so it can move forward without delay.

North 40 Phase 2 will provide much-needed affordable housing, with 25% of the units designated for individuals with intellectual and developmental disabilities who receive services from San Andreas Regional Center.

Life Services Alternatives (LSA) is a nonprofit organization that has provided exceptional community living and programs for adults with intellectual and developmental disabilities (I/DD) in Santa Clara County for 24 years. Our mission is to ensure that adults with I/DD can live with dignity, respect, and choice in inclusive neighborhood homes while receiving the support they need to thrive. Through personalized, skill-building programs and community integration opportunities, we empower individuals to live meaningful, connected lives and reach their fullest potential. We see firsthand the urgent need for safe, affordable, and stable housing options for this population—needs that projects like North 40 Phase 2 directly address.

This proposal fulfills what was envisioned in the Housing Element and delivers exactly what was approved. The affordable housing component will be a pad-ready, environmentally safe and well-prepared site for construction. Eden Housing is a trusted, mission-driven developer with a long history of success in creating inclusive affordable housing in partnership with nonprofits like Housing Choices and has already demonstrated its commitment to quality through the timely completion of Phase 1. Flexibility and timely approval will ensure that this second phase can begin quickly and efficiently.

The project also achieves very low affordability levels without requiring Town funding, meets the density requirement of 30 units per acre, and will bring residents into a walkable, mixed-income, mixed-use neighborhood with access to transit, outdoor spaces, and community amenities.

The need is urgent. Many other local families are aging and worry about what will happen to their loved ones with disabilities in the future. I urge Town Council to approve this development and allow it to move forward to ensure Los Gatos continues to be a welcoming and inclusive town for people of all abilities.

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

With gratitude,

Hadiyah Fain



State Council on Developmental Disabilities



STATE OF CALIFORNIA
Gavin Newsom, Governor

• website • www.scdd.ca.gov

• email • centralcoast@scdd.ca.gov

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

January 13, 2026

Los Gatos Town Council

110 E. Main St.

Los Gatos, CA 95030

Via email to: JShoopman@losgatosca.gov and Clerk@losgatosca.gov

Re: Town Council Meeting 1/13/26 Item North 40 Phase 2

Dear Town Council,

On behalf of the Central Coast Office of the California State Council on Developmental Disabilities (SCDD), I am writing to express our strong support for the North 40 Phase II project and to urge the Town Council to approve the project so it may proceed without delay.

The State Council on Developmental Disabilities (SCDD) is an independent state agency established under the Lanterman Act and the federal Developmental Disabilities Assistance and Bill of Rights Act to promote policies and practices that advance self-determination, inclusion, and independence for Californians with developmental disabilities. Access to safe, affordable, and community-based housing for people with IDD and their families has been and continues to be one of SCDD's top policy priorities.

North 40 Phase II delivers exactly what was envisioned and previously approved through the Town's Housing Element and earlier North 40 actions. The project will provide much-needed affordable housing, including 25% of the units specifically designated for adults with intellectual and developmental disabilities (IDD) who receive services through San Andreas Regional Center. This supports inclusion within a mixed-income, walkable community.

This phase of the project is ready to proceed. The affordable housing site is pad-ready and environmentally cleared, and Eden Housing has demonstrated its ability to deliver through the successful completion of Phase I. Approval at this time would support timely construction and help avoid delays that could affect project feasibility.

The project meets required density standards, achieves very low affordability levels without Town funding, and places residents near transit, services, and community amenities. These

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

factors support long-term housing stability and are consistent with the Town's adopted housing goals.

There is an urgent need for affordable, inclusive housing in the region, particularly for adults with disabilities whose families are planning for long-term stability. Moving this project forward would provide a timely response to that need.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer Lucas".

Jennifer Lucas
Regional Manager, Central Coast Office
CA State Council on Developmental Disabilities
2580 N. First Street, Ste. 240
San Jose, CA 95131
Jennifer.Lucas@scdd.ca.gov
408.324.2106



January 13, 2026

Via email: JShoopman@losgatosca.gov

Re: Town Council Meeting 1/13/26 Item North 40 Phase 2

Dear Town Council,

I am writing on behalf of **Parents Helping Parents**, a nonprofit organization based in San Jose, California, to share our support for the North 40 Phase 2 project and to offer our perspective as an organization that works closely with families of individuals with disabilities throughout Santa Clara County and beyond.

Parents Helping Parents is a 501(c)(3) nonprofit dedicated to providing parent-to-parent support, information, and guidance for families of children and adults with disabilities of all ages and needs. Through our programs and services, we regularly hear from families who are navigating complex systems and planning for long-term stability and housing for their loved ones. **Access to affordable, inclusive housing is consistently identified as one of their greatest concerns.**

North 40 Phase 2 would contribute meaningfully to addressing this need by providing affordable housing, with 25% of the units designated for individuals with intellectual and developmental disabilities who receive services from San Andreas Regional Center. Developments that thoughtfully integrate housing for people with disabilities into the broader community can offer important opportunities for independence, connection, and quality of life.

We appreciate the Town Council's careful consideration of this project and its continued efforts to support thoughtful planning and inclusive housing opportunities. North 40 Phase 2 represents an approach that aligns with community values of inclusion and accessibility, and we hope it will be given favorable consideration.

Thank you for your time and service to the community.

Sincerely,

Maria Daane

Executive Director, Parents Helping Parents

408-727-5775

mariad@php.com



January 12, 2026,

Via email: JShoopman@losgatosca.gov

Re: Town Council Meeting 1/13/26 Item North 40 Phase 2

Dear Town Council,

**SANTA CLARA AND
SAN BENITO COUNTIES**

6203 San Ignacio Avenue
Suite 200
San Jose, CA 95119

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

I am writing on behalf of San Andreas Regional Center to express support for the North 40 Phase II Development, and to urge the Town Council to approve the project so it can move forward without delay.

San Andreas Regional Center (SARC) is funded by the State of California to serve people with Intellectual and Developmental Disabilities as required by the Lanterman Developmental Disabilities Act. Our service area includes Santa Clara County and the Town of Los Gatos.

SARC supports the advancement of the North 40 Phase II Development. This project represents a critical opportunity for the community, as it will include 16 apartments (25% of the affordable units) designated with a preference for extremely low-income individuals with developmental disabilities.

MONTEREY COUNTY

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

Every day, SARC's Service Coordinators witness the profound impact of the shortage of permanent supportive housing for people with developmental disabilities in Los Gatos. More than 100 individuals with developmental disabilities — including families currently living in Los Gatos — have been referred by SARC to Housing Choices for assistance in securing affordable housing. The need is urgent, ongoing, and deeply felt across the community.

SANTA CRUZ COUNTY

1110 Main Street
Suite 8
Watsonville, CA 95076
Tel: 1(831) 900-3737
Fax: 1(831) 728-5514

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

The need is urgent. Many local families are aging and increasingly worried about what will happen to their loved ones with disabilities in the years ahead. I urge the Town Council to approve this development and allow it to move forward so that Los Gatos can continue to be a welcoming, inclusive community for people of all abilities.

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

www.sarc.org

Please contact me if I can provide any further information.

Sincerely,

Javier Zaldivar
Executive Director



STAY CONNECTED

Member of the Association
of Regional Center Agencies

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

Serving Persons with Developmental Disabilities



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

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

Monday, Jan. 12, 2026

Re: Town Council Meeting 1/13/26 Item North 40 Phase 2

Dear Town Council,

I am writing on behalf of College of Adaptive Arts to express my strong support for the North 40 Phase 2 project and to urge the Town Council to approve the project so it can move forward without delay.

North 40 Phase 2 will provide much-needed affordable housing, with 25% of the units designated for individuals with intellectual and developmental disabilities who receive services from San Andreas Regional Center.

I have firsthand seen the transformation of a community when adults with IDD are included and supported. It means the world to give them full access to independence through supported housing. It gives families a huge peace of mind relief to know that their children will have a sustained place to live. It's incredible transformative and beneficial to the entire community.

This proposal fulfills what was envisioned in the Housing Element and delivers exactly what was approved. The affordable housing component will be a pad-ready, environmentally safe and well-prepared site for construction. Eden Housing is a trusted, mission-driven developer with a long history of success in creating inclusive affordable housing in partnership with nonprofits like Housing Choices and has already demonstrated its commitment to quality through the timely completion of Phase 1. Flexibility and timely approval will ensure that this second phase can begin quickly and efficiently.

The project also achieves very low affordability levels without requiring Town funding, meets the density requirement of 30 units per acre, and will bring residents into a walkable, mixed-income, mixed-use neighborhood with access to transit, outdoor spaces, and community amenities.

The need is urgent. Many other local families are aging and worry about what will happen to their loved ones with disabilities in the future. I urge Town Council to approve this development and allow it to move forward to ensure Los Gatos continues to be a welcoming and inclusive town for people of all abilities.

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

With gratitude,

DeAnna Pursai
Co-Founder & Director of Development & Community Outreach
College of Adaptive Arts

College of Adaptive Arts

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



January 12, 2026

Via email: JShoopman@losgatosca.gov

Re: Town Council Meeting 1/13/26 Item North 40 Phase 2

Dear Planning Commissioners,

I am writing on behalf of Bay Area Housing Corp. (BAHC) to express my strong support for the North 40 Phase II Development and to urge the Town Council to approve the project so it can move forward without delay.

As a long-time Los Gatos resident and parent of a daughter with cerebral palsy who progressed through our local school system, I've witnessed firsthand the critical importance of inclusive, affordable housing in our community. My daughter's journey through Blossom Hill, Fischer, and Los Gatos High School demonstrated not just the welcoming spirit of our town, but also highlighted a pressing challenge: the need for accessible, affordable housing that allows people with intellectual and developmental disabilities (I/DD) to remain in the community they call home.

For two decades, I've served as the Executive Director of BAHC in Los Gatos, building upon my earlier work as the founding Executive Director of Housing Choices Coalition. Through these roles, I've gained deep insight into both the challenges and solutions surrounding affordable housing. The partnership between Housing Choices Coalition and Eden Housing, which secures set-aside units for individuals with I/DD in the North 40 Phase II Development, represents exactly the kind of innovative approach our community needs.

North 40 Phase II will provide much needed affordable housing, with 25% of the units designated for individuals with intellectual and developmental disabilities who receive services from San Andreas Regional Center, the state funded Agency.

The need is urgent. Many other local families are aging and worry about what will happen to their loved ones with disabilities in the future. I urge the Planning Commission to approve this development and allow it to move forward.

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

**Bay Area Housing
Corporation**
101 Church Street
Suite 4
Los Gatos, CA 95030
Tel: 408/395-5100
Fax: 408/395-5101
www.bahc1.org

Sincerely,

Kristine McCann

From: noreply@civicplus.com <noreply@civicplus.com>

Sent: Monday, January 12, 2026 1:09 PM

To: CodeCompliance <CodeCompliance@losgatosca.gov>

Subject: Online Form Submission #16959 for Town Contact Form

Town Contact Form

First Name Jiny

Last Name So

Email Address (Required)

[REDACTED]

Phone Number

[REDACTED]

Message (Required)

To Whom it may concern:

I am writing to formally express my concerns regarding the proposed housing development in our neighborhood. While I recognize the importance of expanding housing options within our city, I have significant reservations about this particular project and its anticipated effects on our community.

Primarily, the scale of the planned 175-unit development and its 116-foot buildings appears disproportionate to the existing character of the area. The resulting increase in population density may place additional pressure on local infrastructure, potentially exacerbating traffic congestion—particularly between Lark and Los Gatos Blvd—as well as contributing to heightened noise levels and further strain on public services. These challenges are compounded by unresolved issues observed with the North 40 development. Additionally, there is concern that the project would lead to substantial overcrowding within the local school district which we are already experiencing.

Moreover, the proposed form of multi-story apartment housing does not align with the established character of the neighborhood, which is predominantly comprised of single-family homes. This shift in housing type could alter the visual appeal of the area and diminish the unique sense of community currently present.

In light of these considerations, I respectfully request the reconsideration of this housing development proposal. While I support thoughtful growth and the provision of new housing, it is important that any new projects be compatible with the character and capacity of our community. Thank you for your attention to these concerns.

Sincerely,
Jiny

Which Department do
you want to submit this
message to? (Required)

Community Development: Code Compliance

Add an attachment

Field not completed.

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

From: Kendra Burch <[REDACTED]>

Sent: Monday, January 12, 2026 11:58 AM

To: Sean Mullin <SMullin@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>

Subject: N. 40 Phase 2 Condition of Approval

Sean/Joel,

I took a look at the conditions of approval for the N. 40 Ph 2 project and wanted to note that the CofA related to Material Handling Route and Permit doesn't properly reflect what I had wanted to add to the condition in the meeting. I was intending the condition be something more like:

"Construction vehicles can not park and idle on LGB or Lark while waiting to deliver or offhaul materials from the site. The trucks either park and turn off or (preferred) pull onto the project site to wait for drop off or pick up."

My reasoning was this, during Phase 1 trucks would site on Lark Ave, starting as early as 4 AM, and idle while they waited for site access. It was loud and can't be good for the environment. In addition, I've noticed on another job site that large trucks with materials will drop their trailer, leaving the trailer and material in the median until it is picked up later, blocking street access and causing safety issues.

I wasn't trying to limit what streets are used for material delivery or offhaul, I trust Public Works to organize this.

I hope that's clear. If not, please give me a call and I'll explain further.

Thanks!

Kendra

From: [REDACTED]

Sent: Sunday, January 11, 2026 3:46 PM

To: Town Manager <Manager@losgatosca.gov>

Cc: Matthew Hudes <MHudes@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Rob Moore <RMoore@losgatosca.gov>; Gabrielle Whelan <GWhelan@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Katy Nomura <KNomura@losgatosca.gov>

Subject: RE - Formal Request for Written Responses: North 40 Phase II (Grosvenor-Eden Housing)



January 10, 2026

VIA EMAIL

Mr. Chris Constantin, Town Manager
Town of Los Gatos
110 E. Main Street Los Gatos, CA 95030
Copy to: Town Council, Town Attorney, Planning Commission

RE: Formal Request for Written Responses: North 40 Phase II (Grosvenor/Eden Housing)
Density Bonus Application

Dear Town Manager Constantin,

On behalf of the Los Gatos Community Alliance (LGCA), we request detailed, written responses to the following questions regarding the North 40 Phase II project. Our coalition is dedicated to responsible development of market rate and affordable housing that preserves the character of Los Gatos while ensuring the Town's housing obligations are met with enforceable, legally sound agreements.

The current proposal allows for a "market-rate first" phasing approach, potentially generating between \$190 million and \$220 million in market-rate revenue before construction begins on the required affordable housing component. This structure mirrors the "Hidden Grove" project in Loomis, which was recently litigated in Stonebridge Properties, LLC v. Town of Loomis (Case No. S-CV-0053043).

As detailed in the attached Judicial Precedent Summary (Attachment A), the court affirmed

that a developer's density bonus eligibility depends on a non-conceptual "agreement to construct"—
a standard this project currently fails to meet.

To ensure an informed public hearing, we request answers to the following:

1. Legal Compliance & Stonebridge/Loomis Precedents

1.1 Consistency: How does this phasing—permitting the realization of \$190 million to \$220 million in revenue prior to affordable construction—satisfy the SDBL requirement that market-rate and affordable units constitute “one development application” (Gov. Code § 65915(i))?

1.2 Judicial Precedent: In Stonebridge, the court upheld the Town's right to deny a density bonus when the affordable component was deferred. How does the Town distinguish the North 40 proposal from the Loomis project, given the similar deferral of the affordable component to a future nonprofit developer?

1.3 Contingency: Since the 67 units in Building G1 represent 87% of the total required affordable units and depend entirely on a third party securing competitive financing, how has the Town determined this meets the non-contingent standards of the SDBL?

1.4 Risk of Premature Approval: Why would the Town move to approve this development prior to receiving a definitive written response from HCD, especially when the Stonebridge ruling provides a clear legal basis for the Town to demand higher specificity and concurrency?

2. Enforceability & Risk Mitigation

2.1 Performance Bonds: Will the Town require a construction completion bond for the affordable units prior to the sale of the first market-rate townhome?

2.2 Milestone Triggers: Why has the Town not implemented a “stop-gap” (e.g., withholding market-rate certificates of occupancy) until Building G1 reaches a specific construction milestone?

2.3 Security vs. Delivery: Please explain the Town's rationale for treating a lien on a vacant lot as a functional equivalent to the actual delivery of housing. How does a lien guarantee the Town meets its RHNA obligations if construction never occurs?

3. Physical & Financial Feasibility

3.1 Fallback Scenarios: If Building G1 is never built, has staff verified that Building E1 can physically and legally accommodate all 77 BMP units without violating height or density codes?

3.2 Financial Analysis: What “pro forma” data has the applicant submitted to prove that concurrent construction is financially infeasible?

4. HCD Verification & Jurisdictional Precedent

4.1 HCD Agreement: Has the proposed deed restriction for this project been reviewed and agreed to by the California Department of Housing and Community Development (HCD) as sufficient evidence of a binding agreement to develop affordable housing?

4.2 Precedent Use: Has this specific approach—utilizing a deed restriction as the primary evidence of agreement—been successfully utilized by other local jurisdictions in their recent housing element cycles or density bonus negotiations?

We respectfully request these responses be provided in writing to the public prior to the upcoming Town Council meeting. Please be advised that the LGCA will seek all avenues available under the law to ensure full compliance with State Housing Law.

Sincerely,

On behalf of the Los Gatos Community Alliance

Jak Van Nada

Los Gatos Community Alliance

Facts Matter; Transparency Matters; Honesty Matters

www.lgca.town



Three Attachments

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



February 2, 2024

Christy Consolini, Planning Director
Town of Loomis
3665 Taylor Road
PO Box 133
Loomis, CA 95650

RE: Hidden Grove Project – Letter of Technical Assistance

Dear Christy Consolini:

The California Department of Housing and Community Development (HCD) is aware that the Town of Loomis (Town) is in the process of reviewing a development application for the Hidden Grove project (Project) located northeast of the Interstate 80 and Horseshoe Bar Road interchange. Both the applicant for the Project, Stonebridge Properties, LLC (Applicant), and the Town requested technical assistance regarding eligibility requirements under the State Density Bonus Law (SDBL) (Gov. Code, § 65915), and objective standards under the Housing Accountability Act (HAA) (Gov. Code, § 65589.5). HCD recognizes the challenge of interpreting ever-changing housing and land-use laws and appreciates the opportunity to provide technical assistance that may lead to better housing outcomes for California, as well as the Town.

Background

HCD understands the Project is comprised of nine parcels¹ with a variety of general plan land use designations and zoning classifications. These range from single-family to multifamily, commercial, and public/quasi-public.² As proposed, the Project would result in 204 single-family lots, one mixed-use lot with nine units, and one multifamily lot with approximately 112 to 140 units.

¹ Placer County Assessor's Parcel Numbers: 043-080-007, 030-080-008, 043-080-015, 043-080-044, 044-094-001, 044-094-004, 044-094-005, 044-094-006, and 044-094-010

² The Project site has a mixed general plan land use designations that allow for a range of dwelling units (DU) per acre (AC), the residential – medium density (RM) allows for 2-6 dwelling unit (DU) per acre (AC), residential medium-high density (RMH) allows for 6-10 DU per AC, residential – high density overlay (RH) allows for 20-25 DU per AC, Town Center Commercial (TC) not to exceed 15 DU, and public/quasi-public not applicable. The Projects base allowable density is calculated by multiplying the gross acres (GAC) times the maximum allowable dwelling units (DU), the RM section of the Project site totals 18 gross acres (GAC) with an allowable maximum density of 108 DU (18 GAC x 6 DU = 108 DU) and a proposed of 57 DU, RMH section of the Project stie totals 21.4 GAC with an allowable maximum density of 214 DU (21.4 GAC x 10 DU = 214 DU) and a proposed of 147 DU, RH section of the Project site totals 6.9 GAC with an allowable maximum density of 173 DU (6.9 GAC x 25 DU = 172.5 DU rounded up) and a proposed of 140 DU.

The Applicant submitted a Preliminary Application under Government Code section 65941.1, and the Town verified the Preliminary Application vesting date as July 12, 2021. The Applicant submitted its initial formal development application in December 2021. Since then, the Applicant has submitted a number of further communications to the Town.

HCD understands that application materials submitted to date do not fully define the multifamily affordable housing component of the Project. The application materials provided a concept for an affordable housing component that did not specify the number nor type of affordable units that would serve as the basis for the Project's requested density bonus. In addition, the submitted materials do not indicate that the Applicant "seeks and agrees to construct" the affordable housing as is required by statute. (Gov. Code, § 65915, subd. (b)(1).)

State Density Bonus Law (SDBL)

The Town may decline to provide a density bonus because the Applicant has not demonstrated it "seeks and agrees to construct" the requisite affordable units.

Under SDBL, a local government is not obligated to provide a density bonus if an applicant does not demonstrate it "seeks and agrees to construct a housing development...that will contain at least" the minimum specified proportion of affordable units. (Gov. Code, § 65915, subd. (b)(1).) The combination of market rate and affordable units used to calculate a density bonus must be on "contiguous sites that are the subject of one development application." (Gov. Code, § 65915, subd. (i).) A local government is thus not obligated to provide a density bonus if an applicant does not demonstrate that, along with its market-rate units, the applicant "seeks and agrees to construct" affordable units as "the subject of one development application."

Several terms within the "Proposed Term Sheet," provided to HCD on January 24, 2024, indicate the Project does not meet these conditions.

- Term 1 demonstrates the Applicant's intent to develop the single-family portion of the site and sell the affordable housing portion of the site to a yet-to-be-selected "experienced affordable housing developer." On its face, this plan appears to propose developing the affordable units separately from the market rate units, rather than as part of "one development application," as required by SDBL. (Gov. Code, § 65915, subd. (i).) This plan also suggests the Applicant does not "seek[] and agree[] to construct" the affordable units. (Gov. Code, § 65915, subd. (b)(1).)
- Term 2 proposes that "[t]he Town will provide evidence as necessary to confirm the affordable housing parcel has the land use entitlements required..." This term does not indicate the Applicant will seek entitlements for the affordable units.

Since the Applicant is seeking entitlements for the Project's market-rate units, the lack of commitment to seek entitlements for the affordable units is inconsistent with the pursuit of affordable and market-rate units that are part of "one development application." (Gov. Code, § 65915, subd. (i).) HCD understands that the multifamily component of the proposal would require a separate development application.

- Term 3 proposes that the Applicant build only a finished pad with roadways and stubbed utilities. Again, this does not demonstrate the Applicant "seeks and agrees to construct" the affordable units. (Gov. Code, § 65915, subd. (b)(1).)
- Term 4 proposes "[t]he first final map for the project must create the legal parcel where the affordable housing units will be constructed." Again, this does not demonstrate the Applicant "seeks and agrees to construct" the affordable units. (Gov. Code, § 65915, subd. (b)(1).)
- Term 7 ties the commencement of construction of the affordable housing units to funding awarded by tax credits. While affordable housing financing is, indeed, a complicated and uncertain process, this term further demonstrates the unreliability of an outcome where both the market rate and affordable units are treated as "the subject of one development application." (Gov. Code, § 65915, subd. (i).)
- Term 8 acknowledges the possibility that this proposal could yield a condition where 75% of the market rate housing units are built while the affordable housing site is unable to proceed. This candid acknowledgement further indicates that the Applicant does not "seek[] and agree[] to construct" the required affordable units. (Gov. Code, § 65915, subd. (b)(1).)

Finally, the Applicant has specified neither the total number of units nor the number and income levels of affordable units. This lack of specificity may be an additional indication that the Applicant does not "seek[] and agree[] to construct" the requisite affordable units. (Gov. Code, § 65915, subd. (b)(1).)

HCD has provided prior verbal technical assistance to both the Applicant and the Town. On February 15, 2023, the Applicant inquired whether partnering with an affordable housing developer to prepare a plan for the affordable units would help them meet the requirements of SDBL. HCD verbally indicated that could be a viable strategy. HCD met with the Town on February 22, 2023 and December 6, 2023 and inquired about the Applicant's progress in this regard. To date, the Applicant has not partnered with an affordable housing developer nor submitted a plan for the affordable units.

Even if the Project did demonstrate compliance with the conditions that mandate the Town provide a density bonus, the application's requests for regulatory incentives/concessions and waivers of development standards are overly broad.

A project that receives a density bonus is entitled to waivers of development standards and up to five incentives/concessions. (Gov. Code, § 65915, subd. (d)(2).) Development standards are defined as including a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation. (Gov. Code, § 65915, subd. (o)(2).)

Even if the Project were eligible under SDBL, the application materials are too conceptual for the Town to evaluate, and they attempt to request waivers for locations that are proposed to be determined during the preparation of improvement plans.³ The development application should **clearly specify** what is required and what is specifically requested.

The Applicant has proposed to utilize SDBL incentives and concessions to exempt the Project from all requirements related to open space and park dedications, tree replacement, and “if necessary,” maintenance of specific levels of service on roadways and intersections impacted by the Project. Even if the Applicant becomes eligible for a density bonus under SDBL, the concessions/incentives and waivers of development standards requested by the Applicant for this Project are questionably broad, potentially problematic, and would need to be studied. In this regard, it may be important to note that neither SDBL nor the HAA require cities to grant incentives/concessions or waivers that would have a “specific, adverse impact...upon public health and safety.” (Gov. Code, §§ 65915, subd. (d), 65589, subd. (j)(1)(A).)

Housing Accountability Act (HAA)

Objective Standards

The HAA does not prohibit a local agency from requiring the housing development project comply with “objective, quantifiable, written standards, conditions, and policies.” (Gov. Code, § 65589.5, subd. (f)(1).) Additionally, the HAA does not prohibit local agencies from imposing fees or other exactions authorized by law that are essential to provide necessary public services and facilities to the project that were in effect when a preliminary application was submitted. (Gov. Code, § 65589.5 (f)(3).) This provision is consistent with the United States Supreme Court decisions in *Nollan v. California*

³ Exhibit B-Hidden Grove Request Under California's Density Bonus Law, dated January 5, 2023, page 10.

Coastal Commission, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 517 U.S. 374 (1994).

Boyington Road Extension

HCD understands that the Town seeks to require the Applicant to construct an extension of Boyington Road as a condition of project approval. The Applicant contends that this requirement violates the HAA.

The objective development standard that requires the Applicant to construct the Boyington Road extension is derived from a subdivision requirement established in 1998 by Ordinance No. 185, codified in Loomis Municipal Code section 14.44.120 and 14.56.100. This requirement is consistent with Government Code section 66486, which specifies that “[i]n the event of the installation of improvements required by an ordinance adopted pursuant to section 66485, the local agency shall enter into an agreement with the subdivider to reimburse the subdivider for that portion of the cost of those improvements, including an amount attributable to interest, in excess of the construction required for the subdivision.”

The Applicant contends that the per-unit development fee should exclude the cost of extending Boyington Road. This position is incorrect. The per-unit development fee is the mechanism that the Town uses to reimburse the Applicant for the cost of constructing the Boyington Road extension pursuant to Government Code section 66486 and Loomis Municipal Code section 14.44.120 and 14.56.100. Verbal technical assistance was provided to the Applicant on April 27, 2023 and on June 29, 2023 consistent with the above-mentioned requirement to construct the Boyington Road extension.

Moreover, as discussed above, the Town is not barred from imposing fees related to the impacts of the development, nor is it required to approve construction of homes without construction of a road extension if that extension is required for public safety.

Conclusion

HCD observes that the Applicant did not provide the Town with definitive information regarding the Project’s number of units nor income level of the affordable units to establish eligibility under SDBL, nor does the Applicant seek and agree to construct affordable housing. The Project application materials must include information that enables the Town, or HCD, to confirm that the Project is entitled to the benefits and protections of SDBL and the HAA. When an applicant seeks and agrees to develop a project, it cannot rely on an affordable component that is provisional or conceptual to earn a density bonus, concessions, or development standard waivers.

HCD appreciates the Applicant's efforts to utilize several complex land use laws; however, they should be aware that each set of laws has different eligibility requirements. HCD recommends that the Applicant first review the statutory requirements and work with the Town to craft an entitlement proposal that is compliant with state and local requirements.

Likewise, HCD appreciates the Town's efforts to meet the challenges of applying various laws and standards to achieve a development review process that is consistent with state law.

HCD remains committed to supporting the Town in achieving housing objectives across all income categories. HCD appreciates the Town's consideration of this guidance and welcomes any further opportunities to provide technical assistance. If you have any questions or need additional information, please contact Gabriel A. Pena-Lora, of our staff, at gabriel.pena-lora@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" and the last name "West" clearly distinguishable.

Shannan West,
Housing Accountability Unit Chief

ATTACHMENT A: SUMMARY OF JUDICIAL PRECEDENT

Case: Stonebridge Properties, LLC v. Town of Loomis Superior Court of California, County of Placer (Case No. S-CV-0053043) Relevance: Applicability of State Density Bonus Law (SDBL) to Phased Developments

The Fact Pattern

The developer (Stonebridge) sought a 35% density bonus but planned to build market-rate units in early phases while deferring the affordable housing component to a nonprofit. The Town of Loomis denied the application, arguing the developer had not actually "agreed to construct" the affordable units within the meaning of the law.

Key Legal Findings

The Court ruled in favor of the Town, upholding the following:

1. "Seeking and Agreeing to Construct" is Mandatory: A density bonus is a "quid pro quo." A plan that leaves construction to a future date or a separate entity is insufficient.
2. Town Discretion to Deny: A Town does not abuse its discretion when it denies a density bonus for a project that lacks a specific, enforceable timeline for the affordable component.
3. Anti-Bifurcation: A project cannot be "bifurcated" where the benefits (market-rate sales) are realized immediately while the obligations (affordable units) are pushed into an uncertain future.

Application to North 40 Phase II

The North 40 proposal mirrors the Stonebridge flaws:

- 87% Deferral: Delegating the "agreement to construct" to a third party (Eden Housing).
- Funding Contingency: Delivery is contingent on future, unobtained public subsidies.
- Revenue Imbalance: Allowing \$190M–\$220M in revenue to be captured before the affordable housing obligation is even permitted for construction.

HCD Comparison Table (Legal Comparison)

| HCD Loomis Finding (Feb 2, 2024) | North 40 Phase II Project Status |
|---|---|
| "Provisional" vs. Guaranteed: HCD rejected plans where affordable units were "provisional" or "conceptual" rather than guaranteed. | Observation: Building G1 is contingent on Eden Housing's future grant applications and Grosvenor's future land donation. |
| Bifurcation of Applications: HCD ruled that affordable units must be part of "one development application," not a separate future project. | Observation: Market-rate units are sold now; 87% of affordable units are deferred to a different developer on a separate parcel. |
| Lack of Construction Certainty: HCD criticized the absence of a firm construction commencement or completion deadline. | Observation: There is no "milestone-based" trigger forcing the start of Building G1 relative to the sale of market-rate homes. |
| Inadequate Applicant Commitment: HCD found that an applicant merely "preparing the site" for a nonprofit is not "agreeing to construct." | Observation: The current proposal shifts the actual construction burden away from the primary applicant and onto a non-profit partner. |
| Funding Contingencies: HCD noted that density bonus eligibility cannot be contingent on the receipt of future public subsidies. | Observation: The delivery of the 67 units in G1 is explicitly tied to Eden Housing's success in competitive tax credit rounds. |

From: [REDACTED]

Sent: Friday, January 9, 2026 3:59 PM

To: gabriel.pena-lora@hcd.ca.gov; gavin.newsom@gov.ca.gov; Rob Bonta
<Rob.Bonta@doj.ca.gov>

Cc: Rob Moore <RMoore@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>;
Mary Badame <MBadame@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>;
Rob Rennie <RRennie@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>; Joel
Paulson <jpaulson@losgatosca.gov>; Katy Nomura <KNomura@losgatosca.gov>

Subject: Request for Written Clarification and Expedited Review of Verbal Technical Assistance



January 9, 2026

Gabriel A. Pena-Lora
Housing Accountability Unit
California Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
Via Email: gabriel.pena-lora@hcd.ca.gov

Re: Request for Written Clarification and Expedited Review of Verbal Technical Assistance Regarding State Density Bonus Law Eligibility for the Los Gatos, Ca., North 40 Phase II Project – Proposed Parcel Transfer to Eden Housing

Dear Mr. Pena-Lora:

The Los Gatos Community Alliance, a coalition of residents dedicated to responsible development, respectfully requests written clarification from the Housing Accountability Unit concerning verbal technical assistance previously provided to the Town of Los Gatos. This clarification pertains to the application of the State Density Bonus Law (SDBL) (Government Code § 65915) to the North 40 Phase II project (the “Project”), proposed by Grosvenor Property Americas in partnership with Eden Housing.

Specifically, we seek confirmation of whether the Project’s proposed transfer of approximately two acres to Eden Housing for the development of 67 affordable units satisfies the statutory requirement that the applicant “seeks and agrees to construct” the

requisite affordable housing units as part of one unified development application on contiguous sites (Gov. Code § 65915, subds. (b)(1) and (i)).

HCD's February 2, 2024, letter of technical assistance to the Town of Loomis (RE: Hidden Grove Project) provides clear guidance that a local agency may decline to grant a density bonus where the applicant fails to demonstrate a firm commitment to construct the affordable units. The letter highlights several deficiencies that render proposals ineligible, including:

- Intent to transfer or sell the affordable parcel to another developer without integrated entitlements and construction commitments.
- Lack of specificity regarding binding agreements, timelines, or entitlements for the affordable component.
- Conditioning construction on uncertain financing mechanisms, such as tax credit awards.
- Potential for market-rate development to advance substantially while the affordable portion remains delayed or unrealized.
- Absence of documented evidence that the applicant actively "seeks and agrees to construct" the units as an integrated element.

The North 40 Phase II Project proposes approximately 450 total units, including market-rate townhomes and multifamily rentals, with 67 affordable units attributed to a separate parcel transferred to Eden Housing (a reputable nonprofit developer). Public records indicate an announced intent to donate the land since April 2023, with the Project incorporating input from the community and aligning with the Town's Housing Element goals. The Los Gatos Planning Commission, on October 29, 2025, approved cost-saving concessions (5-2 vote) to support feasibility, allowing Grosvenor to proceed with site regrading and construction of 127 for-sale townhomes prior to the affordable building.

Despite these positive aspects, several elements of the current proposal appear to parallel the provisional characteristics critiqued in the Loomis letter:

- No publicly documented evidence of a fully executed, binding agreement for the parcel transfer as of January 9, 2026.
- No confirmed, enforceable timeline for the land transfer or commencement of construction on the affordable units (with estimates suggesting groundbreaking may be three years away, including design and funding phases).

- Reliance on uncertain external financing (e.g., tax credits and grants), which introduces risks of delay or modification.
- Approval of phased sequencing that permits significant progress on market-rate components before the affordable portion advances, potentially decoupling the elements and undermining the unified application requirement.

While the proposal names a specific partner (Eden Housing) and allocates units to a single building—a structure reportedly accepted in prior verbal guidance due to standard financing practices—the Loomis letter stresses the need for concrete, written evidence of commitment over conceptual plans. It references earlier verbal suggestions that partnering with an affordable developer could be viable, yet emphasizes that actual execution and submission of a definitive plan are required for eligibility.

In view of the Loomis guidance, the ongoing entitlement process, and the scheduled Town Council special meeting on January 13, 2026, to consider the Project, we respectfully request:

1. Written confirmation or clarification of HCD's prior verbal position regarding whether the proposed parcel transfer to Eden Housing meets the "seeks and agrees to construct" standard under SDBL.
2. An expedited review of the Project's eligibility for density bonus benefits, incentives, concessions, or waivers, including an assessment of whether the current proposal provides sufficient evidence of firm commitment and integration.

This guidance would assist the Town of Los Gatos, the applicant, and community stakeholders in achieving compliance with state law while advancing housing objectives responsibly. The Community Alliance appreciates HCD's ongoing commitment to technical assistance and your prompt attention to this time-sensitive matter.

Thank you.

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



January 13, 2026

Town of Los Gatos Town Council
110 East Main Street
Los Gatos, CA 95030

Re: North 40 Housing Development Project – Phase II
14859 Los Gatos Boulevard and 16270 Burton Road
APNs 424-07-009, -053, -081, -094, -095, -115, -116, and -052
Architecture and Site Application S-23-031
Subdivision Application M-23-005

Dear Mayor Moore and Council Members:

We represent Grosvenor Property Americas (“**Applicant**”), the applicant for a development project at 14859 Los Gatos Blvd and 16270 Burton Road (“**Project Site**”) in the Town of Los Gatos (“**Town**”) to develop 450 homes (77 of which would be affordable to lower income households), over 15,000 square feet of retail, over 3,000 square feet of commercial and civic space, and associated on- and off-site improvements (the “**Project**”). The Project will be considered at your January 13, 2026 hearing, and we look forward to the opportunity to present the Project to you.

We write to request that you **approve the Project as proposed** by the Applicant. In general, we support the recommendations for approval made by the Planning Commission and the findings and conditions of approval presented to you for consideration by Town staff. We also support the conclusions in the Town’s North 40 Phase II Final Initial Study demonstrating that the Project’s environmental effects have been fully analyzed and disclosed, such that further CEQA review is not required.

However, to help overall Project feasibility, we respectfully request one further modification be made to the conditions of approval before the Town Council takes action on the Project. We note that in its January 12, 2026 letter to the Town Attorney, the California Department of Housing and Community Development (“**HCD**”) observed that, “[t]he applicant has proposed sureties to mitigate risks associated with constructing a multi-phase project whose initial phase does not contain affordable units.” This analysis supports HCD’s conclusion that,

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“**als proposed**, the North 40 Phase II project would seek and agree to construct affordable housing for the purposes of SDBL eligibility” (emphasis added).

Notwithstanding HCD’s conclusion, the conditions of approval in the hearing packet do not align with the Applicant’s proposal for delivering the Project’s affordable housing component, which was included as a concession under the State Density Bonus Law.¹ The Applicant’s State Density Bonus Law concession proposes that before reaching the “affordable housing completion milestone,” the Project would be limited to 127 certificates of occupancy, corresponding with the first phase of Project development. The “affordable housing completion milestone” would be defined as the earlier to occur of pulling building permits for the 100% affordable housing building *or* the Applicant or its designee’s acceptance of a tax credit allocation to finance the 100% affordable housing building. In the alternative, if the mixed-income multifamily building were to develop first, the Applicant would satisfy the Project’s full affordable housing obligation in that portion of the Project until reaching the affordable housing completion milestone.

In an effort to satisfy the Town’s request for additional security, the Applicant is willing to accept the imposition of an additional deed restriction and covenant as proposed by the conditions of approval, despite the additional burden this would create. However, it is important that the timing commitments within the covenant reflect the Applicant’s State Density Bonus Law concession.

Accordingly, we ask that the proposed condition of approval be modified as follows (proposed addition shown in **blue underlined** text):

5. DEED RESTRICTION AND COVENANT: Prior to the issuance of building permits for any residential units, the developer shall record against each parcel in the project a Deed Restriction and Covenant, on a form approved by the Town Attorney, requiring that all of the parcels shall, as part of the project approval, be collectively responsible for satisfying the requirements of the Town’s Below Market Price (BMP) Program to construct and offer seventy-seven (77) units affordable to lower-income households. The Deed Restriction and Covenant shall provide that if the developer transfers, sells, assigns, leases, or otherwise conveys one or more of the parcels in the project such that there are separate owners of the parcels within the project, then the obligation to comply with the Town’s BMP

¹ For a more detailed discussion of the State Density Bonus Law, the Applicant’s proposed concession thereunder, and the legal limits on the Town’s discretion to deny the request, please refer to our October 28, 2025 letter to the Planning Commission, which is incorporated herein by reference.

Town of Los Gatos Town Council

January 13, 2026

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Program shall be shared, jointly and severally, between the developer and the transferee(s) and that said requirement shall burden all of the parcels in the project equally and shall run with the land so as to be binding upon every person or entity having any fee, leasehold, or other estate in any of the parcels now or in the future, except that it shall not be binding on the individual purchasers of any of the 127 townhomes in Buildings A1, A2, A3, A4, B1, B2, B3, C1, C2, C3, D1, D2, F1, F2, F3, H1 and H2. The Deed Restriction and Covenant shall further provide that the Town and the developer intend that 10 BMP units will be provided in Building E1 and 67 BMP units will be provided in Building G1; however, if a building permit for Building E1 is pulled before the earlier to occur of pulling a building permit for Building G1 or the acceptance by the developer or its assignee of an allocation of Low Income Housing Tax Credits to construct no fewer than 67 BMP units affordable to lower income households plus one unrestricted manager's unit for Building G1, Building E1 will include 77 BMP units with the ability to transfer 67 BMP units to Building G1 in the future. Once the requirement to provide 77 BMP units has been satisfied, as determined by the Town in its sole discretion, the Town shall release the Deed Restriction and Covenant as to each of the parcels in the project.

The change would bring the conditions of approval in alignment with the Applicant's proposal and HCD's direction while helping to support the Project's overall feasibility. Moreover, it still fully protects the Town's interests. Once a developer accepts a tax credit award, the program imposes a 180-day readiness deadline on the development, meaning that the developer has six months to close on the land, close on its financing, pull permits, and start construction. At that point in the process, affordable housing completion is also secured by payment and performance bonds and a financial guaranty. Therefore, the acceptance of a tax credit award provides tangible assurances and a fixed schedule for the affordable housing delivery. We note that the Applicant's affordable housing development partner, Eden Housing, has **never** failed to deliver an affordable housing project after accepting a tax credit award. Thus, we respectfully request that you incorporate the language shown above when you consider the Project.

Finally, we urge the Town Council to consider and take final action on the Project at its January 13, 2026 hearing. The Project application has been complete since April of 2024; the Town fully considered the Project and its analyzed its design and potential environmental effects for over a year; and the Planning Commission recommended the Project for approval on October 29, 2025. No new issues have arisen, and the time to act is now. Moreover, the Applicant must

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have final entitlement approval to finalize County funding and apply for tax credits to deliver the affordable housing component of the Project. The next round of 9% tax credit applications are due on April 7, 2026, and any delay beyond tonight's meeting could cause the Project to miss the cycle of funding, further delaying the delivery of affordable housing.

Accordingly, we respectfully ask for your vote in favor the Project on January 13, 2026. Thank you, and we look forward to continuing to collaborate with the Town to deliver the Project and advance the Town's housing needs for existing and future residents of all incomes and abilities.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP



Eric S. Phillips

cc: Joel Paulson, Los Gatos Community Development Director
Gabrielle Whelan, Los Gatos Town Attorney
Wendy Wood, Los Gatos Town Clerk