



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2026

ITEM NO: 9
ADDENDUM

DATE: April 20, 2026
TO: Mayor and Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: **Following a Court Order, Hear the Appeals Submitted by Applicants for (1) Luxe and (2) Arya Projects Regarding Government Code Section 65941.1's Deadline for Submittal of Complete Planning Applications for Proposed Projects at (1) 14849 Los Gatos Boulevard, and (2) 15300 and 15330 Los Gatos Boulevard**

Remarks:

Attachment nine contains a Revised Resolution Granting Appeal for 15300 and 15330 Los Gatos Boulevard to correct the applicant's name on page three.

Attachment ten contains public comments received before 11:00 a.m. on Monday, April 20, 2026.

Attachments Previously Received with the Staff Report:

1. Incompleteness Letter for 14849 Los Gatos Boulevard
2. Incompleteness Letter for 15300 and 15330 Los Gatos Boulevard
3. Appeal Submitted for 14840 Los Gatos Boulevard
4. Appeal Submitted for 15300 and 15330 Los Gatos Boulevard
5. Correspondence from Town Attorney to Counsel for Applicants
6. Superior Court Order
7. Resolution Granting Appeal for 14849 Los Gatos Boulevard
8. Resolution Granting Appeal for 15300 and 15330 Los Gatos Boulevard

Attachments received with this addendum:

9. Revised Resolution Granting Appeal for 15300 and 15330 Los Gatos Boulevard
10. Public comments received before 11:00 a.m. on Monday, April 20, 2026.

DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
GRANTING AN APPEAL OF THE DECISION OF THE
COMMUNITY DEVELOPMENT DIRECTOR'S INCOMPLETENESS DETERMINATION
FOR A SENATE BILL 330 (SB 330) APPLICATION REQUESTING APPROVAL TO
DEMOLISH A COMMERCIAL BUILDING AND CONSTRUCT A MIXED-USE DEVELOPMENT
(175 MULTI-FAMILY RESIDENTIAL UNITS) WITH COMMERCIAL SPACE AND A
CONDOMINIUM TENTATIVE MAP ON PROPERTY ZONED C-1:HEOZ AND C-1.**

**APNS 424-17-035 AND -036
ARCHITECTURE AND SITE APPLICATION: S-24-018,
CONDITIONAL USE PERMIT APPLICATION: U-24-007,
AND SUBDIVISION APPLICATION: M-24-009.
PROPERTY LOCATION: 15300 AND 15330 LOS GATOS BOULEVARD
APPELLANT/PROPERTY OWNER/APPLICANT: ARYA PROPERTIES, LLC.**

WHEREAS, Government Code Section 65941.1 authorizes housing development project applicants to submit a Senate Bill 330 (SB 330) “preliminary application;”

WHEREAS, under Government Code Section 65589.5(o), submittal of an SB 330 “preliminary application” containing all items required by Government Code Section 65941.1 vests an applicant to the Town regulations that were in effect on the date that the preliminary application was deemed submitted, with certain exceptions;

WHEREAS, Government Code Section 65941.1(e)(1) provides that within 180 calendar days after submitting a preliminary application with all of the required information, an applicant must submit a planning application that includes all of the information required by Government Code Sections 65940, 65941, and 65941.5 in order to retain vesting;

WHEREAS, Government Code Section 65941.1(e)(2) provides that, if the Town determines under Government Code Section 65943 that the planning application is incomplete, the applicant must submit the information required to complete the planning application within 90 days of receiving the Town's determination in order to retain vesting;

WHEREAS, Government Code Section 65941.1(e)(2) could be interpreted to mean that the applicant may have either a single 90-day period in which to render a planning application complete after the 180-day submittal period expires, or unlimited 90-day periods to complete the application;

WHEREAS, a preliminary application for the Arya project was submitted on November 7, 2023, and a formal planning application for a mixed-use development (175 units) and a condominium tentative map (Architecture and Site Application S-24-018, Conditional Use

Permit Application U-24-007, and Subdivision Application M-24-009) was submitted on May 10, 2024;

WHEREAS, on December 23, 2024, the Town provided the Applicant with a letter indicating that the Town had completed its review of the resubmittal of the formal application pursuant to provisions of the Permit Streamlining Act (specifically, Government Code Section 65943), and that the application remained incomplete;

WHEREAS, the application incompleteness determination was provided to the Applicant's team on December 23, 2024, as part of the Staff Technical Review Committee comments, and discussed at the January 8, 2025, Staff Technical Review Committee meeting;

WHEREAS, the Arya applicant received an incompleteness letter after both the 180-day submittal period and an additional 90-day period had elapsed;

WHEREAS, on January 30, 2025, the Town's Community Development Director provided the Applicant with a letter stating that the application remained incomplete and that, in accordance with Government Code Section 65943, the Applicant may appeal the incompleteness determination of the SB 330 application to the Town Council by paying the required appeal fee and submitting a written appeal to the Town Clerk on the appeal form within 10 days of the date of the letter;

WHEREAS, the applicants' architect called a Town staff member to inquire regarding the import of the incompleteness letter, and the Town staff member indicated that the vesting afforded by the preliminary application may have expired;

WHEREAS, after speaking with a Town staff member, the Arya applicant submitted an appeal of the Town staff member's statement that their preliminary application vesting may have expired;

WHEREAS, the Town sought declaratory relief to obtain a judicial determination on the question of whether, after the initial 180-day submittal period expires, there is a single 90-day period or unlimited 90-day periods in which to render a planning application complete;

WHEREAS, the Town continued to process in a normal fashion, without delays, all potentially affected planning applications, including the planning application of the appellant, pending judicial review of this question;

WHEREAS, the Arya planning application was deemed complete on April 16, 2025, and is continuing to be processed, pending receipt of requested information from the applicant;

WHEREAS, on January 29, 2026, the Santa Clara County Superior Court ruled in *The Town of Los Gatos v. Arya Properties, LLC* (Case No. 25CV462276), that that Government Code Section 65941.1(e)(2) "allows for multiple 90-day resubmission periods for a project proponent

to respond to successive incompleteness determinations without losing the project vesting conferred by a preliminary application as provided at section 65941.1, subdivision (e)(1)."

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Los Gatos does hereby declare, determine, and order as follows:

1. Because the Superior Court has determined that multiple 90-day resubmission periods are allowed to respond to successive incompleteness determinations, the vesting afforded by the SB 330 preliminary applications for the Arya application has not expired.
2. The appeal submitted on behalf of Arya Properties LLC is granted.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 21st of April, 2026, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

April 21, 2026

Mayor Rob Moore and Members of the Town Council

Town of Los Gatos

110 East Main Street

Los Gatos, CA 95030

**Re: Item 9 — Opposition to The Luxe and The Arya Builder's Remedy Projects;
Request That the Town Pursue Appellate Review of the Superior Court's Ruling
on Government Code Section 65941.1 Upon Entry of Final Judgment**

Dear Mayor Moore and Council Members Ristow, Badame, Hudes, and Rennie:

I write as a Los Gatos resident to address Item 9 on tonight's agenda and to urge the Town Council to take the following actions:

- **Adopt tonight's resolutions under formal protest**, with explicit language on the record stating the Town's disagreement with the Superior Court's ruling, its reservation of all appellate rights, and its intent to seek review upon entry of final judgment. Compliance under protest is the legally standard and operationally safe path — it avoids contempt exposure, AG referral, and escalating HAA penalties while fully preserving every future legal option. It is the appropriate posture for a municipality that believes a court has erred but is not willing to risk the severe consequences of defiance;
- **Oppose approval of The Luxe (14849 Los Gatos Boulevard) and The Arya (15300 and 15330 Los Gatos Boulevard)** on the merits throughout the entitlement process, by applying all available objective design, infrastructure, CEQA, and completeness standards to the maximum extent permitted by law;
- **Upon entry of a final judgment in *Town of Los Gatos v. Arya Properties, LLC et al.***, direct the Town Attorney to file a notice of appeal and pursue appellate review of the Superior Court's statutory interpretation of Government Code Section 65941.1. The Town Attorney has confirmed the current order is not yet a final judgment and therefore not yet appealable — the Council should commit now to pursuing that appeal at the appropriate procedural juncture;
- **Coordinate with the League of California Cities and similarly situated municipalities** — including Beverly Hills, which faced the identical 90-day dispute — to build the coalition for coordinated appellate briefs now, before final judgment is entered;

- **Direct the Town's state legislative advocates to sponsor or co-sponsor a clarifying amendment to Government Code Section 65941.1** that sets an explicit outer time limit on builder's remedy preliminary applications, regardless of successive resubmissions.

The reasons supporting each of these requests are set forth below.

I. Background: The Court Ruling and Why It Is Incorrect

On January 29, 2026, Santa Clara County Superior Court Judge Helen E. Williams ruled in *Town of Los Gatos v. Arya Properties, LLC et al.* (Case No. 25CV462276) that Government Code Section 65941.1 permits developers to make successive, indefinitely renewable 90-day resubmissions in response to incompleteness determinations, without their preliminary applications expiring. The ruling turned on the court's interpretation of the definite article 'the' in the phrase 'within the 90-day period,' which the court held was grammatical shorthand rather than a singular limitation. The Town Attorney has noted the ruling is an order, not a final judgment, and is not yet appealable.

I respectfully submit that the ruling is incorrect for the following reasons.

The statutory text supports a firm outer time limit. The Town's position — clarified at the hearing — was that sections 65941.1(e)(1) and (e)(2) read together allow a total of 270 days: 180 days to submit the development application, plus a single additional 90-day cure period. Multiple resubmissions are possible within that 270-day window, but once it expires the preliminary application lapses. Section 65941.1(e)(2) states that if information is not submitted 'within the 90-day period, then the preliminary application shall expire.' 'The 90-day period' uses the definite article because it refers to a single, specific period already defined in the statute — not a generic category of repeating periods. Had the Legislature intended unlimited rolling renewals it would have written 'a 90-day period,' as it does elsewhere in the code when creating repeating windows. The court's dismissal of this distinction as mere grammatical convenience conflicts with the settled California rule that every word in a statute is given meaning and none is rendered superfluous.

The expiration language is mandatory, not discretionary. The statute says the application 'shall expire' — not 'may expire' or 'shall expire unless.' California courts consistently hold that 'shall' imposes a mandatory obligation, not a conditional one. The court's reading converts a mandatory expiration into an optional one, rewriting the statute rather than interpreting it.

The Permit Streamlining Act's purpose is undermined, not served. The PSA was enacted to impose firm, efficient timelines on both applicants and agencies. Allowing indefinite rolling 90-day windows achieves the opposite: it creates a mechanism for applicants to maintain vesting rights perpetually while deferring completion, provided they submit any materials — however incremental — within each successive window. Then-Mayor Hudes captured this precisely: 'An unlimited length of time for an application to be open allows for property development to be delayed an infinite amount of time.' A statute designed to streamline permitting cannot be read to permit perpetual incompleteness.

The weight of authority comes exclusively from trial courts — not appellate courts. The court's ruling is a trial court order by a single Santa Clara County judge. It aligns with two Los Angeles Superior Court rulings — *Janet Jha v. City of Los Angeles* (Case No. 23STCP03499, July 2024) and *Yes In My Backyard, et al. v. City of Los Angeles* (Case No. 24STCP0070, November 2024) — but no California Court of Appeal has yet resolved this question. Trial court orders carry persuasive weight, not binding precedent. Critically, the California Attorney General issued Legal Alert OAG 2025-04 on November 14, 2025 — weeks before the ruling — concluding that applicants are entitled to unlimited 90-day resubmission periods. The court was aware of this AG position and still resolved the question on independent statutory construction. That the court exercised independent judgment rather than deferring to the AG actually strengthens the case for appellate review: the question remains genuinely contested at the trial court level and no appellate body has spoken.

II. The Ruling Creates a Grandfathering Mechanism That Harms Los Gatos

The practical harm from this ruling goes beyond the legal question. Both projects were filed by entities controlled by Ali Moayed — Arya Properties, LLC (The Arya) and Los Gatos Boulevard Properties, LLC (The Luxe) — during the period when Los Gatos lacked a certified Housing Element. That noncompliance window has closed: Los Gatos has certified its Housing Element, planning for over 2,400 units — well above the mandated 1,993. The Town is now in compliance. Yet under the court's ruling, both applications — and the full builder's remedy override rights attached to them — are preserved indefinitely, vested to the planning rules in effect on the original filing dates.

The consequences are significant:

- **The original filing dates grandfather the applications into pre-compliance planning rules.** Every ordinance update, design standard, and objective criterion the Town adopts after those filing dates is nullified for these projects. As long as the applicants submit any materials within each rolling 90-day window, they are insulated from the community's subsequent planning decisions — permanently.
- **Piecemeal submission becomes an affirmative strategy.** Under this ruling, an applicant has every incentive to deliberately withhold application materials, submit minimally within each 90-day window, and drag the process forward indefinitely. Staying 'incomplete' preserves the original vesting date while deferring the substantive review that could result in required redesign. This is gaming the statute — and the court's ruling makes it rational behavior.
- **The scale of these projects was calibrated for a noncompliance window that no longer exists.** The Luxe proposes a 148-foot structure at the North 40 — a height with no precedent in Los Gatos. The Arya proposes a 116-foot, 7-story tower at the Ace Hardware site on Los Gatos Boulevard. These scales were designed to exploit builder's remedy's unlimited height override. Now that the Town is in compliance, allowing projects of this scale to proceed solely because a preliminary application can be kept alive indefinitely is inequitable and contrary to the law's purpose.

- **The statewide exposure is substantial.** YIMBY Law — a pro-housing nonprofit whose amicus brief the court adopted — has stated there are at least five similar cases in Santa Clara County Superior Court alone and potentially dozens more statewide. Every California city that had builder's remedy preliminary applications filed during any Housing Element noncompliance window now faces the same indefinite warehousing risk. This issue requires appellate resolution, not just compliance with a trial court order.

III. How to Comply Tonight While Preserving Every Future Option

A threshold question for tonight is whether the Town can avoid or delay compliance. The honest answer is: not without severe consequences. Outright refusal to comply with a court order is contempt of court. Under Government Code Section 65585(l) and the Housing Accountability Act as strengthened by AB 1893, noncompliance with a court order in an HAA matter triggers escalating monthly penalties of \$10,000 per unit per violation — across 302 combined units, that exposure compounds to millions of dollars within weeks. The enforcement risk is not theoretical: HCD has already issued a Notice of Potential Violation to Los Gatos itself, dated February 12, 2025, regarding the 980 University Avenue builder's remedy project — demonstrating that HCD is actively monitoring the Town's processing of these applications and will escalate to the state Attorney General if compliance is not maintained. The state AG has now issued a formal Legal Alert (OAG 2025-04, November 14, 2025) concluding that unlimited 90-day resubmission periods are required — placing the full weight of the AG's office behind enforcement of this interpretation. An injunction is not available to the Town in this posture — injunctions restrain other parties, not one's own court order. A stay would require the order to first become a final judgment.

The correct path is compliance under formal protest — a legally standard and operationally safe posture that avoids all of the above exposure while fully preserving every future legal option. Specifically, I urge the Council to:

- **Direct the Town Attorney to insert explicit protest language into tonight's resolutions.** The resolutions should state on their face: (a) the Town adopts them solely in compliance with the Superior Court's order in *Town of Los Gatos v. Arya Properties, LLC et al.*, Case No. 25CV462276; (b) the Town expressly disagrees with the court's interpretation of Government Code Section 65941.1 and does not concede its correctness; (c) the Town reserves all rights to seek appellate review upon entry of a final judgment; and (d) adoption of these resolutions does not constitute a waiver of any substantive or procedural objection to the Luxe or Arya applications. This language is standard in California municipal practice and courts recognize it as consistent with compliance.
- **Correct the drafting error in the Arya resolution before voting.** The draft Arya resolution (Attachment 8) contains an apparent error in paragraph 2, which reads 'The appeal submitted by the Luxe applicant is granted' — but this resolution concerns The Arya project at 15300 and 15330 Los Gatos Boulevard; the correct applicant is Arya Properties, LLC. This should be corrected before adoption to ensure the resolution accurately reflects the Council's intended action and withstands future legal scrutiny. The Council should also note that the Arya

application was already deemed complete on April 16, 2025 and is currently being processed — tonight's action formalizes what is operationally already underway.

- **Commit tonight to filing a notice of appeal upon entry of final judgment.** The Town Attorney has confirmed the current order is not yet a final judgment and is therefore not yet appealable. The Council should formally direct the Town Attorney to monitor for entry of final judgment and file a notice of appeal immediately upon that event. The appeal is justified: the question is purely one of statutory interpretation reviewed de novo, no California Court of Appeal has yet addressed it, and the Town's textual argument — that sections 65941.1(e)(1) and (e)(2) together establish a firm 270-day outer limit — is credible and well-grounded in the statute's text and structure.
- **Begin coalition-building now, before final judgment is entered.** Beverly Hills faced the identical §65941.1 dispute and lost at the Superior Court level as well. YIMBY Law has stated there are at least five similar cases in Santa Clara County alone, and potentially dozens statewide. The League of California Cities and individual affected municipalities should be engaged immediately so that coordinated amicus briefs can be filed promptly once the appeal is perfected. A coalition distributes cost and substantially strengthens the appellate argument.
- **Pursue the legislative fix in parallel.** A clarifying amendment to §65941.1 establishing a hard outer time limit — for example, 48 months from the original preliminary application filing date regardless of subsequent resubmissions — is the permanent solution. If enacted before the appellate question is resolved, it would prospectively close the loophole for all future applications. The Town's legislative advocates should be engaged now.

The appeal is strong on its merits. First, the question is purely legal — Courts of Appeal review statutory interpretation de novo, with no deference to the trial court. Second, the issue is of statewide significance: at least five similar cases are pending in Santa Clara County Superior Court alone, HCD has issued Notices of Violation to Los Gatos, Beverly Hills, and Cupertino on the same 90-day issue, and the California AG has issued a formal Legal Alert (OAG 2025-04) taking the unlimited-resubmission position. Paradoxically, the breadth of this enforcement posture is precisely why appellate clarity is needed — an AG Legal Alert and HCD guidance letters do not bind courts, and the question of whether they deserve judicial deference remains open. Third, the existing authority consists exclusively of trial court orders — none carries appellate precedential force. The Sixth District Court of Appeal has not spoken, and the Town's 270-day argument has not been tested at the appellate level.

IV. Opposing the Projects on the Merits Within Compliance

Compliance with the court order does not mean passive acceptance of these projects. The Town retains substantial authority throughout the entitlement process and should use it fully:

- **Apply every completeness standard with precision.** With successive 90-day periods now confirmed by the court, the Town's incompleteness determinations must be exhaustive, specific, and legally airtight. A vague or over-inclusive incompleteness letter now hands applicants grounds to argue bad faith or to seek deemed-approval. Every identified deficiency must be documented with the exact statutory or regulatory basis for the requirement. Conversely, the Town should not omit legitimate deficiencies — each item left out of an incompleteness letter may be waived.
- **CEQA review — insist on a full EIR for both projects.** The Arya filed a Notice of Preparation in December 2025. Any attempt to use a Mitigated Negative Declaration rather than a full Environmental Impact Report for a 116-foot, 175-unit structure on Los Gatos Boulevard should be vigorously challenged. The cumulative impacts of both projects — plus the Town's remaining pipeline of over a dozen builder's remedy applications — must be analyzed together in the same EIR, not project-by-project. Segmented CEQA review that obscures cumulative impacts is itself a grounds for legal challenge.
- **Require independent peer review of all technical studies.** Neither project's traffic, geotechnical, noise, shadow, or infrastructure analyses should be accepted from developer-submitted consultants without independent Town-retained peer review. Los Gatos Boulevard is a constrained corridor. The Arya's three levels of underground parking on a 1.9-acre site raises legitimate groundwater and geological questions. The Town should require fully independent analysis before any completeness finding is made on technical submissions.
- **Enforce objective design standards to the maximum extent permitted.** Builder's remedy removes density and use restrictions — it does not eliminate the Town's right to apply objective design standards. Height compatibility studies, massing analyses, shadow impact modeling, and pedestrian-scale design requirements are all legitimate and legally defensible conditions. Every applicable objective standard should be identified now and applied consistently throughout the review.
- **Confirm infrastructure capacity before any entitlement action.** Current will-serve letters from SCVWD and the relevant sewer district, and a school impact fee analysis from Los Gatos Union School District and Los Gatos–Saratoga Joint Union High School District, should be conditions of completeness — not afterthoughts. Infrastructure capacity constraints are substantive bases for conditions of approval that survive builder's remedy.

V. Conclusion

Tonight's vote does not have to be a surrender. Adopting the required resolutions under formal protest — with explicit language disagreeing with the ruling and reserving all appellate rights — is both legally safe and strategically correct. It keeps the Town out of contempt, avoids AG referral, and eliminates millions in potential HAA penalties, while preserving every legal option the Town has to fight this ruling at the appellate level and in the Legislature.

The Superior Court's interpretation of Section 65941.1 is legally flawed, practically harmful, and contrary to the Legislature's intent. It converts a mandatory, singular expiration deadline into an indefinite warehousing mechanism that allows developers to lock in builder's remedy rights tied to a municipality's past noncompliance — long after that noncompliance has been corrected. No California Court of Appeal has endorsed this interpretation, and the Town has a credible textual argument that the lower courts have erred.

I urge the Council to: **adopt the resolutions tonight under formal protest with rights reserved**; commit to appeal upon entry of final judgment; begin building the statewide municipal coalition now; pursue a legislative fix to §65941.1; and apply every available objective standard rigorously to both projects throughout the entitlement process. These steps together represent the most effective strategy available to the Town — complying where it must, contesting where it can, and protecting the community's planning interests at every stage.

Thank you for your consideration.

Respectfully submitted,

James Lyon