

HCD 01/12/23 Comments on Los Gatos Draft Housing Element with Responses

Comment Number	HCD Comment (1/12/23 Letter)	Response
1	<p>A. Review and Revision</p> <p><i>Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, §65588 (a) and (b).)</i></p> <p>The review requirement is one of the most important features of the element update. The review of past programs should describe progress in implementation of previous actions, including results compared to objectives and evaluate the effectiveness of actions to make appropriate adjustments in the current planning period. In the most cases, the element does not describe any progress in implementation and particularly housing related outcomes and then simply concludes to continue or modify programs. For example, the prior element had a program to implement the below market rate program and evaluate the program as a constraint. The element reports the program was implemented. There is no discussion of outcomes or an evaluation of constraints. Then, the element concludes the program will be modified but the new program does not appear to adjust on past efforts. The element must fully describe past commitments, progress in implementation, evaluate effectiveness and then discuss appropriate adjustments in the current planning period.</p> <p>In addition, the element must provide an evaluation of the cumulative effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness) and revise programs as appropriate.</p>	<p>Additional analysis added to Table E-1 of Appendix E regarding the continuation, modification, or deletion of fifth cycle goals, policies, and implementation programs.</p> <p>Added evaluation of the effectiveness of the past fifth cycle programs in meeting the needs of special needs populations and a list of key accomplishments to Appendix E.</p>
2	<p>B. Housing Needs, Resources, and Constraints</p> <p><i>1. Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)</i></p> <p><u>Regional Level Patterns and Trends:</u> While the element includes several maps and tables and reports data, it generally must evaluate the data and especially at a regional level, comparing the Town to the broader region.</p>	<p>Additional analysis by protected class on opportunity and disparities (especially disability status) included in Section A.10 of Appendix A.</p> <p>An R/ECAPS map was added to section A.7 of Appendix A to show that the only R/ECAPS in the region are located in the City of San Jose. Analysis of the cost burden rates for the Town and a comparison to the greater Bay Area</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p>This is particularly important since the Town appears far different from the rest of the region. The analysis should address all components of the assessment of fair housing (e.g., segregation and integration, disparities in access to opportunity) and should focus on race, income, and overall access to opportunity). The analysis should address trends and incorporate local data and knowledge and other relevant factors (See below).</p>	<p>included in Section A.9 of Appendix A.</p>
3	<p><u>Income and Racial Concentration of Affluence (RCAA):</u> The element briefly mentions incomes in the Town compared to the region and notes it is safe to speculate the Town has neighborhoods that are RCAs; however, the entire Town is an RCAA and the element should incorporate this information. Please see HCD's Affirmatively Furthering Fair Housing (AFFH) Data Viewer at https://affh-data-resources-cahcd.hub.arcgis.com/. The element should include specific analysis of income and RCAA at a regional level (Town compared to the broader region). The analysis should at least address trends, conditions, coincidence with other fair housing factors (e.g., race, highest resource, overpayment), effectiveness or absence of past strategies (e.g., lack of publicly assisted housing and lack of multifamily zoning), local data and knowledge and other relevant factors. The element must add or modify meaningful programs based on the outcomes of this analysis, including actions to improve housing mobility within and beyond Town boundaries.</p>	<p>Updated Section A.7 of Appendix A to include the RCAA definition, text analysis, and a map of the concentration of RCAA's.</p>
4	<p><u>Disparities in Access to Opportunity:</u> While the element provided a general analysis of opportunity areas, and high-level conclusions about the Town's disparities in access to opportunity, it should analyze trends and patterns related to access to transportation on a local and regional level.</p>	<p>Updated Appendix D, <i>Sites Inventory Analysis</i>, with text analysis of each sites distance to a public transit line and a public school, with an accompanying map, and modified Appendix A to include transit opportunities on a local and regional level.</p>
5	<p><u>Disproportionate Housing Needs, Including Displacement Risk:</u> The element includes some information on cost burden and overcrowding but should also discuss local patterns of housing conditions. For example, the element should discuss areas of the Town where proportions of housing units needing rehabilitation may be higher than other areas and may utilize local knowledge such as qualitative information from code enforcement staff.</p>	<p>Local knowledge has been added to Appendix B, subsection, <i>Substandard Housing</i>, regarding the Town's patterns of housing conditions. A survey summarizing the Town's Code Enforcement substandard housing code violations from 2015-2023 has been included on Page B-25.</p>
6	<p><u>Identified Sites and Affirmatively Furthering Fair Housing (AFFH):</u> The element must include data on the location of regional housing need allocation (RHNA) sites by income group relative to all fair housing components. The analysis</p>	<p>Additional text added to Appendix A describing the housing sites and how they mitigate fair housing issues.</p> <p>Additional text added describing that the</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p>should address the number of units by income group and location, any isolation of the RHNA by income group, magnitude of the impact on existing concentrations of socio- economic characteristics and discuss how the sites improve fair housing conditions. The analysis should be supported by local data and knowledge and other relevant factors and programs should be added or modified as appropriate to promote inclusive and equitable communities.</p>	<p>sites in the Sites Inventory do not saturate one specific set of income category in a specific location in Town, rather they are spread throughout the Town and were selected for their proximity to Town services and amenities.</p>
7	<p><u>Local Data and Knowledge:</u> The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the Town related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers, Town staff and related local and County planning documents.</p>	<p>Local knowledge was integral to the development of this Housing Element update. Local knowledge gained from the Housing Element Advisory Board, Town Staff, and public participation (described in Section 10.1.5) was the basis for the development of goals, policies, and implementation programs included. Additional details based on local knowledge were provided within Appendices A, B, C, and D.</p>
8	<p><u>Other Relevant Factors:</u> While the element includes some general background on exclusionary practices, it should relate these situations to the Town and complement data and mapping with other relevant factors that contribute to fair housing issues in the Town. For instance, the element can analyze historical land use; zoning and barriers to housing choices such as past denials of affordable housing, local land use initiatives or proposed referendums; investment practices; seeking investment or lack of seeking investment to promote affordability and inclusion; information about redlining/greenlining, restrictive covenants and other discriminatory practices; land use related lawsuits; local land use initiatives; demographic trends, or other information that complements the state and federal data.</p>	<p>Section A.2 of Appendix A provides a discussion of the history of segregation in the region and in Los Gatos specifically. Figures A-6 and A-7 show that there has been some slow change in the diversity index since 2010. Additional explanation of why the diversity index has changed since 2010 has been added to Appendix A, Section A.7.</p> <p>Section A.5 of Appendix A discusses contributing factors and fair housing issues, and additional discussion of extremely low-income (ELI) households has been provided.</p> <p>Additional maps have been added on public housing buildings in the region to Section A.6 of Appendix A.</p>
9	<p><u>Contributing Factors Fair Housing Issues:</u> Upon a complete AFFH analysis, the element must assess and prioritize contributing factors to fair housing issues and add or modify programs as appropriate.</p>	<p>Additional analysis included for any overlaps between disability bias cases/complaints and concentrations of persons with a disability within Section A.6 of Appendix A. Analysis of fair housing issues added to Section B.5 of</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
		<p>Appendix B.</p> <p>Section A.5 of Appendix A was modified to include contributing factors to identified fair housing issues with current (or anticipated) goals and actions.</p>
10	<p><i>2. Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)</i></p> <p>Housing Conditions: The element provides some information on age of the housing stock. However, it must estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable organizations. For additional information, see the Building Blocks at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/housing-stock-characteristics.</p>	<p>See response number 5 regarding housing units in need of rehabilitation and replacement per the Town's Code Enforcement Officer's summary of the Town's Code Enforcement substandard housing code violations from 2015-2023.</p>
11	<p><i>3. An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)</i></p> <p>Pipeline Projects: The element includes a list of 176 units through pipeline projects on page D-38. While the element may utilize pipeline and potential development projects toward the RHNA, it must also demonstrate their affordability and availability in the planning period. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). Availability should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors.</p>	<p>Additional details and updated data have been provided for the projects listed as Pipeline projects on Page D-52 of Appendix D.</p>
12	<p>Sites Inventory: The element must clarify what the allowable density is for the North Forty Specific Plan</p>	<p>Appendix H has been modified to state that the maximum density for sites</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	identified in Table A. The inventory indicates sites zoned under the North Forty Specific Plan where the minimum and maximum densities is the same (i.e., 30 units per acre). If the densities are the same, the element should include a specific analysis of the range as a potential constraint.	within the North Forty Specific Plan will be modified to 40 dwelling units per acre.
13	<p><u>Realistic Capacity:</u> The element must include a methodology for calculating the realistic residential capacity of identified sites. The methodology must be adjusted as necessary, based on the land use controls and site improvements and typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction. For example, the element could clearly list other recent projects, the zone, acreage, built density, allowable density, level of affordability and presence of exceptions such as a density bonus. In addition, the element must also account for the likelihood of 100 percent nonresidential development. The element lists recent trends for residential development in non-residential zones but should also consider the development activity of 100 percent nonresidential uses. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. This analysis may incorporate any proposed policies such as residential performance standards and prohibition of commercial uses.</p>	Modifications to Appendix D and Appendix H to utilize the minimum density completed per the direction of the Town Council on December 20, 2022.
14	<p><u>Nonvacant Sites:</u> The element must include an analysis demonstrating the potential for additional development on nonvacant sites. The element generally provides a description of the properties like location and whether the property owner submitted an interest form but does not describe the results of the form or why the property might redevelop in the planning period. To address this requirement, the element should address the extent to which existing uses may constitute an impediment to additional residential development, the Town's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.</p>	Modifications to Appendix D and Appendix H to utilize the minimum density completed per the direction of the Town Council on December 20, 2022.

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p>For your information, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.</p>	
15	<p><u>Replacement Housing Requirements:</u> The element identifies sites with existing residential uses. Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program that has the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3). The housing element must be revised to include such analysis and a program, if necessary.</p>	<p>Added Implementation Program BK, Unit Replacement Program, to Section 10.6, <i>Implementation Programs</i> of Chapter 10 requiring replacement housing units to be built when existing affordable units are demolished, per Government Code Section 65915 I(3).</p>
16	<p><u>Small Sites:</u> The element identifies several sites smaller than a half-acre. Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of the sites to accommodate housing for lower-income households, including programs as appropriate.</p>	<p>Parcel 529-24-003 is consolidated with 50 Los Gatos-Saratoga Road and parcel 529-24-001, which respectively are in excess of eight acres in size and future development of the property would include all three consolidated parcels.</p> <p>The following sites less than half an acre are located within the North Forty Specific Plan: 16260 Burton Road and 16250 Burton Road are located within Phase II of the North Forty Specific Plan. A Conceptual Development Advisory Committee application was submitted to the Town on February 23, 2022, requesting preliminary review of a proposal for a mixed-use development.</p> <p>Parcel 424-06-116, 16240 Burton Road, 16270 Burton Road, 16210 Burton Road, and 14823 Los Gatos Boulevard are all located within the North Forty Specific Plan Area. Based on the development of Phase II of the plan area, development of these parcels is expected in consolidation with the larger, single-</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
		owned parcels.
17	<p><u>Zoning for Lower-Income Households:</u> The element must demonstrate zoning appropriate to accommodate housing for lower-income households. The sites inventory includes zones with densities of 14 to 22 units per acre (Medium Density Residential R-M) that allocate units for lower income. However, the element does not include an analysis evaluating the adequacy of the R-M zone to encourage and facilitate the development of units affordable to lower-income households. For communities with densities that meet specific standards (allow at least 30 units per acre for Los Gatos), no analysis is required. Otherwise, the element must include an analysis based on, including but not limited to, factors such as market demand, financial feasibility and development experience within identified zones demonstrating how the adopted densities can accommodate housing for lower-income households.</p>	Appendix H has been modified to remove projected affordable units from the sites within the Lark Avenue Area.
18	<p><u>SB 9 Sites:</u> The element identifies SB 9 as a strategy to accommodate the part of the Town's RHNA. To support these assumptions, the analysis must include experience, trends and market conditions that allow lot splits. The analysis must also include a nonvacant sites analysis demonstrating the affordability, likelihood of redevelopment and the existing use will not constitute as an impediment for additional residential use. The analysis should describe how the Town determined eligible properties, whether the assumed lots will have turnover, if the properties are easy to subdivide, and the condition of the existing structures or other relevant factors indicating additional development potential. The analysis should also describe interest from property owners as well as experience. The analysis should provide support for the assumption of eligible properties being developed within the planning period. Based on the outcomes of this analysis, the element should add or modify programs to establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development as well as monitor development every two years with and identify additional sites within six months if assumptions are not being met. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9.</p>	<p>Modifications to Appendix D with added analysis on the calculation of SB 9 housing unit projections on Page D-50.</p> <p>Added Implementation Program BL, Senate Bill 9 Monitoring to Section 10.6, <i>Implementation Programs</i> of Chapter 10 requiring annual monitoring of the SB 9 applications to evaluate the effectiveness of SB 9 housing development and consider additional incentives if necessary.</p>
19	<p><u>Availability of Infrastructure:</u> The element must demonstrate sufficient existing or planned water and sewer capacity to accommodate the Town's RHNA for the</p>	Language from pages 90 through 92 of the Housing Element Environmental Assessment were added to Appendix C,

Comment Number	HCD Comment (1/12/23 Letter)	Response
	planning period.	Page C-31 to demonstrate the Town's utility and service systems infrastructure.
20	<p><u>Zoning for a Variety of Housing Types:</u></p> <ul style="list-style-type: none"> <i>Transitional and Supportive Housing:</i> Transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate compliance with this requirement or include a program if necessary. <i>Permanent Supportive Housing:</i> By right permanent supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate. <i>Employee Housing:</i> The element should clarify if there are any zones that allow agriculture uses. If there are zones that allow agriculture uses, then the town must comply with California Health and Safety Code Section 17021.6. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. <i>Manufactured Housing:</i> The element must demonstrate zoning permits manufactured housing on a permanent foundation in the same manner and in the same zone as a conventional or stick-built structures are permitted (Government Code Section 65852.3) or add or modify programs as appropriate 	<p>Modified Implementation Program BC, Zoning Text Amendment for Special Needs Housing to Section 10.6, <i>Implementation Programs</i> of Chapter 10, modifying the zoning code to permit the following:</p> <ul style="list-style-type: none"> Allow Transitional Housing and Supportive Housing developments by-right in all zoning districts that permit residential uses as a permitted use (per SB 2). Develop a by-right, streamlined, ministerial review of Supportive and Transitional Housing developments (per AB 2162). Permit by-right Permanent Supportive Housing and Transitional Housing in zones where multi-family and mixed uses are permitted, including nonresidential zones permitting multi-family uses (per Government Code Section 65651). Allow Employee Housing consisting of up to 36 beds or 12 units in zones that allow agricultural uses (per Health and Safety Code Section 17000, et seq.). <p>Language has been added to Appendix C, subsection, <i>Manufactured Housing</i>, describing that the Town's current zoning permits manufactured housing on a permanent foundation in the same manner and in the same zones that conventional or stick-built structures are permitted.</p>
21	<p><u>Electronic Sites Inventory:</u> For your information, pursuant to Government Code section 65583.3, the Town must submit an electronic sites inventory with its adopted housing element. The Town must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at https://www.hcd.ca.gov/planning-and-community-development/housing-elements for a copy of the form and instructions. The Town can reach out</p>	<p>Table B of Appendix H has been modified to include four new sites: 16151 Los Gatos Boulevard, 620 Blossom Hill Road, 15480 Los Gatos Boulevard, and 15500 Los Gatos Boulevard.</p> <p>Table C of Appendix H has been modified to include the Housing Element Overlay Zone for all sites within the Sites</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	to HCD at sitesinventory@hcd.ca.gov for technical assistance.	Inventory.
22	<p><i>4. An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)</i></p> <p>Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. For example, the element should analyze all development standards by zoning district for impacts on housing costs and ability to achieve maximum densities. The element should also discuss any local initiatives, referendums, moratoriums or other mechanisms (existing or proposed) that impact housing supply, cost, feasibility, timing and ability to achieve maximum densities. In addition, the analysis should specifically address the development standards in the North Forty Specific Plan, Mixed Use Commercial, and the High-Density Residential zone. The analysis must evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities. The Town could engage the development community to assist with this analysis.</p>	<p>Table C-1 in Appendix C contains details of the development standards by zoning district, and Table C-2 was added to describe permitted residential uses and residential uses which require conditional use permit in each zoning district. Additional discussion was added to describe the modifications to these regulations that will be made by the Town to reduce the constraints imposed by the CUP process.</p> <p>Discussion of additional constraints are also provided and augmented in Appendix C, including by General Plan Designation, Town Code (Zoning District), Building Code, on- and off-site improvements, design standards and guidelines, fees, and processing times.</p> <p>The outreach conducted as part of the Housing Element update, as described in Section 10.1.5, included outreach to and discussions with the development community in Town. Their feedback and a desire to continue discussion on process improvements was incorporated into this Housing Element update, including Implementation Program A.</p>
23	Fees and Exaction: While the element lists the total fees per units for single-family and multifamily development, it should also list the fees that comprise that total and particularly impact fees then evaluate those total fees for impacts on development costs.	Additional development and impact fees associated with residential development costs were added to Appendix C, subsection, <i>Governmental Fees and Exactions</i> . See page C-13.
24	Local Processing and Permit Procedures: The element must describe and analyze the types of permits, extent of discretionary review including required approval findings, number of public hearings and processing time required for a typical single family and multifamily development that meets zoning requirements.	Additional narrative describing the processing and permitting timeline provided in Appendix C, subsection, <i>Processing and Permitting Time</i> . See Page C-27.
25	Housing for Persons with Disabilities: The element indicates the Town adopted a procedure for requesting reasonable accommodation for persons with disabilities (p. C-23) and describes the procedure; however, the element should address criteria related to: "There would	One of the mandatory criteria for the procedure for requesting reasonable accommodation for persons with disabilities could be considered a constraint, "There would be no impact

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p>be no impact on surrounding uses" and include a program to address the constraint. In addition, residential care facilities for seven or more require a conditional use permit (CUP). The element should evaluate the CUP as a constraint and add a program to allow group homes in all residential zones with an objective and certain process similar to other residential uses.</p>	<p>on surrounding uses." Implementation Program BC, <i>Zoning Text Amendments for Special Needs Housing</i>, has been added to modify Municipal Town Code Section 29.10.530(5) text to read, "There would be <u>no minimal impact</u> on surrounding uses."</p> <p>Added Implementation Program BC, <i>Zoning Text Amendments for Special Needs Housing</i> to Section 10.6, <i>Implementation Programs</i> of Chapter 10 to allow for group homes of seven or more by-right in residential districts, and to conform with HCD's Group Home Technical Advisory (December 2022).</p> <p>Additional language included in Appendix C, Table C-2, <i>Housing Types Allowed by Zoning District</i>, and Appendix C, subsection, <i>Constraints on Housing for Persons with Disabilities</i>.</p>
26	<p><u>Density Bonus</u>: The element states the Town adopted a state density bonus program in June 2012. The Town's current density bonus program should be reviewed for compliance with current State Density Bonus Law (SDBL). (Gov. Code, § 65915.). The element should include a program to update density bonus program. Program V is conducting a study to evaluate the existing Density Bonus Ordinance and recommend changes to increase the number of units constructed, however it should specifically commit to update the ordinance in compliance with state law.</p>	<p>Amendment of the Town's Density Bonus Ordinance has been added to Implementation Program BJ, <i>Ordinance Amendments</i> within Chapter 10.</p>
27	<p><u>Inclusionary Zoning Ordinance</u>: The element mentions the Town's inclusionary zoning ordinance, but it must also analyze the Town's inclusionary housing requirements, including its impacts as potential constraints on the development of housing for all income levels. The analysis must evaluate the inclusionary broader policy's implementation framework, including the percentage of new residential construction that is dedicated to affordable housing, the types of options and incentives offered, relationships with SDBL and any other factors that may impact housing costs.</p>	<p>Additional narrative describing the Below Market Price Program and a comparison of inclusionary requirements for nearby jurisdictions provided in Appendix C, subsections, <i>Below Market Price (BMP) Program</i> and <i>Affordable Housing In-Lieu Fee Fund</i>.</p>
28	<p><u>Zoning and Fees Transparency</u>: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards and fees for</p>	<p>Added language to Section 10.1.4 <i>Overview of Planning and Legislative Efforts</i>, clarifying that the Town is in</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	each parcel on the jurisdiction's website.	compliance with transparency requirements.
29	<p><i>5. Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)</i></p> <p><u>Special Housing Needs:</u> While the element quantifies some of the Town's special needs populations, it must also estimate the number of persons experiencing homelessness in the Town. In addition, the element reports data but must also analyze the special housing needs. For a complete analysis of each population group, the element should quantify the needs, evaluate trends and characteristics (e.g., tenure, income) of housing needs, discuss disproportionate challenges faced by the population, the existing resources to meet those needs, assess any gaps in resources or effectiveness of past strategies, describe the magnitude of the remaining need and appropriate propose policies and programs.</p> <p>For additional information and a sample analysis, see the Building Blocks at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks.</p>	Additional discussion of the housing needs of individuals with disabilities, and details of the number of homeless individuals within the Town, was added to Section A.9 of Appendix A.
30	<p>C. Housing Programs</p> <p><i>1. Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)</i></p> <p>To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs should have specific commitment toward housing outcomes and discrete and early timing (e.g., at least annually or by Jan 2025). Examples of programs to be revised include:</p> <ul style="list-style-type: none"> • Program K, Small Multi-Unit Housing: The Program should include a timeline of when zoning code will be updated. 	Modification to Section 10.6, <i>Implementation Programs</i> of Chapter 10 to include a quantified objective and performance metric, where applicable.

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<ul style="list-style-type: none"> • M Lot Consolidation: The Program should include a quantification of approximately how many lot consolidations the town plans to facilitate. • Program R, Development Impact and Permit Fees: The Program should include a completion timeline. • Program S, Affordable Housing Development: The Program should include quantification of approximately how many units will be incentivized. • Program T, Purchase Affordability Covenants in Existing Apartments: The element should clarify the timeline to establish and implement the program (e.g., by 2024 and at least annually). • Program AC, Housing Opportunities for Persons Living with Disabilities: The Program must include a completion timeframe. • Program AK, Housing Conditions Survey: Program should be revised to include a specific timeline for when the housing condition survey will be conducted. Additionally, the element should describe how often funding will be applied for (e.g., annually). • Program AR, CDBG and Other Housing Rehabilitation Programs: The Program should clarify how often the Town will participate in the County of Santa Clara Community Development Block Grant Joint Powers Authority (e.g. annually, biannually). • Program AS, Countywide Home Repair Programs: The Program should include a numerical target (e.g., how many minor home repairs). <p>Program AU, Residential Rehabilitation Program: The Program should include a timeline commitment.</p>	
31	<p><i>2. Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)</i></p>	<p>The Pipeline Projects have been modified to include additional narrative about their current status in the entitlement process on Page D-52 within Appendix D. Additional narrative about the SB 9 projections have also been added to Page D-50 within Appendix D.</p> <p>The Sites Inventory Form in Appendix H has been modified to show the minimum density for the North Forty Specific Plan Area as 30 dwelling units per acre and the maximum as 40 dwelling units per acre. Implementation Program D has also been included to amend the North Forty Specific Plan to increase the maximum allowable density</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p>As noted in Finding B3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the Town may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:</p>	<p>to 40 dwelling units per acre.</p> <p>See response number 15 regarding replacement housing requirements.</p> <p>See response number 16 regarding small sites.</p> <p>See response number 17 regarding affordable units for sites with densities less than 30 dwelling units per acre.</p> <p>See response number 19 regarding infrastructure availability.</p>
32	<p><u>Program D Additional Housing Capacity:</u> Currently the element identifies a shortfall of adequate sites to accommodate the RHNA within the planning period. Program D appears to be intended to rezone sites to accommodate a shortfall of sites for the lower-income-RHNA. However, the Program must be revised to meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). For example, the Program must commit to permit owner-occupied and rental multifamily uses by-right (without discretionary action) for developments in which 20 percent or more of the units are affordable to lower-income households.</p>	<p>Modified Program BH to clarify reuse sites will allow by-right approval for housing developments when 20 percent or more units of the units are affordable to lower-income households and all rezonings will be completed by January 2024.</p>
33	<p><u>Replacement Housing Requirements:</u> The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).</p>	<p>Added Implementation Program BK, Unit Replacement Program to Section 10.6, <i>Implementation Programs</i> of Chapter 10 requiring replacement housing units to be built when existing affordable units are demolished, per Government Code Section 65915 I(3).</p>
34	<p><i>3. The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)</i></p> <p><u>Program S (Affordable Housing Development):</u> While the program targets extremely low income and other special needs groups, it should also include very low- and low-income households. The Program should be revised to include outcome-oriented commitments such as annual outreach with developers and identification of development or housing opportunities.</p>	<p>Modified Program S: Affordable Housing Development in Section 10.6, <i>Implementation Programs</i> of Chapter 10 to include very low- and low-income households, facilitate annual outreach to developers, and identifying development and housing opportunities.</p>
35	<p><i>4. Address and, where appropriate and legally possible,</i></p>	<p>See response number 25 regarding</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p><i>remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)</i></p> <p>As noted in Finding B4, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the Town may need to revise or add programs and address and remove or mitigate any identified constraints.</p>	<p>implementing programs to mitigate existing governmental constraints.</p> <p>Added discussion of the requirement to install story poles as a government constraint, as described in Appendix C, subsection, <i>Story Poles</i>. In response to the constraint, Implementation Program BM has been added to Section 10.6, <i>Implementation Programs</i> of Chapter 10, reviewing the Town's Story Pole and Netting Policy and explore options for residential or mixed-use projects with affordable housing to reduce the associated costs of installing story poles.</p> <p>Chapter 10.2.7, <i>Governmental and Non-Governmental Constraints</i>, and Appendix C, <i>Governmental and Non-Governmental Constraints</i>, describes the Town's governmental constraints.</p>
36	<p><i>5. Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)</i></p> <p>As noted in Finding B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the Town may need to revise or add or modify goals and actions. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community revitalization and displacement protection. For example, the element must add significant and meaningful housing mobility actions to overcome the existing patterns in the Town related to the broader region.</p>	<p>Modified Section 10.6, <i>Implementation Programs</i> of Chapter 10 to include Implementation Program BI, to work with affordable and market rate housing developers to affirmatively market affordable housing. Added narrative to Section 10.1.5 of Chapter 10 regarding the inclusion of affordable housing partnerships as a strategic priority for the Town Council.</p>
37	<i>6. Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at</i>	Modified Program U: Accessory Dwelling Units in Section 10.6, <i>Implementation</i>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p><i>affordable rent... (Gov. Code, § 65583, subd. (c)(7).)</i></p> <p>Program U Accessory Dwelling Units (ADU): While the element includes a program to incentivize ADU development by waiving fees when an ADU is deed restricted for very low-, and low-income households, it should also provide other incentives that incentivize and promote the creation of ADUs that can be offered at affordable rent. The element could consider other ADU incentives such as exploring and pursuing funding, modifying development standards, and reducing fees beyond state law, pre-approved plans, and homeowner/applicant assistance tools. Finally, the program should commit to monitor the production and affordability of ADUs (e.g., every other year) and make adjustments, if necessary, by a date certain (e.g., within six months).</p>	<p><i>Programs of Chapter 10 to include a homeowner marketing program for ADUs, providing homeowner assistance tools, collaboration with countywide efforts to develop pre-approved ADU plans, including plans that are ADA accessible, streamline review and permitting of ADU's by publishing pre-approved plans, and annually monitor the number of ADU's produced.</i></p>
38	<p>D. Quantified Objectives</p> <p><i>Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)</i></p> <p>The element did not address this requirement. The element must include quantified objectives to establish an estimate of housing units by income category, including extremely low-income households, that can be constructed, rehabilitated, and conserved over the planning period.</p>	<p>Added Section 10.3.3, <i>Summary of Quantified Objectives</i> of Chapter 10 to include quantified objectives to establish an estimate of housing units by income category, including extremely low-income households, that can be constructed, rehabilitated, and conserved over the planning period.</p>
39	<p>E. Public Participation</p> <p><i>Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)</i></p> <p>While the element described various efforts to achieve public participation in the preparation of the housing element update, it should also describe how comments were considered and incorporated into the element. Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the Town must continue to engage the community, especially organizations that represent lower-income and special needs households, including local neighborhood groups and commenters on this review</p>	<p>The Town conducted further community outreach at the Farmer's Market, the Town Library, at Town Hall, social media, newsletters, and through the distribution of a Renter's Survey. On November 15, 2022, the Town of Los Gatos published a Renter's Housing Survey to gather input from residents who are currently renting or have a history of renting in the Town. The goal of the survey was to inform the Town on renter household's needs and possible barriers to accessing housing. The survey was made available in English, Russian, and Spanish, and posted on the Town's dedicated website. Additionally, the survey was distributed in print throughout the Town in collaboration</p>

Comment Number	HCD Comment (1/12/23 Letter)	Response
	<p>such as Silicon Valley@Home, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.</p>	<p>with West Valley Community Services (WVCS). The survey received a total of 62 responses. The Town had anticipated many of these results from the survey and as a result added Implementation Program P, <i>Funds for Development for Extremely Low-Income Households</i>, Program Y, <i>Nonprofit Affordable Housing Providers</i>, and Program AN, <i>Fair Housing Education</i> to the Housing Element. Staff has also met with Silicon Valley@Home to discuss the Housing Element.</p>
40	<p>F. General Plan Consistency <i>The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)</i></p> <p>The Town must discuss how internal consistency will be maintained and achieved with other elements of the general plan throughout the planning period.</p>	<p>State law requires internal consistency of the General Plan. Given the recent update of the Town's General Plan, conducted with an understanding of the changes that were going to be required as part of this Housing Element update, only a few Housing Element Implementation Programs are needed to maintain the consistency.</p> <p>Additional language has been added to the discussion of the 2040 General Plan in Section 10.1.4.</p>