

**Public Comments received by the Town of Los Gatos
during the Seven-Day Public Review of the
Draft Revised 2023-2031 Housing Element**

March 23, 2023 to March 30, 2023

From: Phil Koen <[REDACTED]>
Sent: Thursday, March 30, 2023 1:26 PM
To: Gabrielle Whelan <GWhelan@losgatosca.gov>
Cc: [REDACTED]; Rick Van Hoesen <[REDACTED]>; Jocelyn Shoopman <jshoopman@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Laurel Prevetti <LPrevetti@losgatosca.gov>; Erin Walters <EWalters@losgatosca.gov>
Subject: RE: Town of Los Gatos Seven-Day Public Review of the Revised Draft 6th Cycle Housing Element

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[EXTERNAL SENDER]

Hello Gabrielle,

Thank you for your reply. I agree with your suggestion to add clarifying information to the website and staff reports to make sure the public understands the Town is now in the process of modifying the adopted Housing Element. There is a material difference in revising a draft element as opposed to modifying an adopted element. What has not been adequately explained to the public is the rational for now modifying the adopted Housing Element when the Town Council just found the element to be "substantially compliant" with State Law and passed a resolution on January 30, 2023, stating the recitals were true and correct.

Furthermore, on February 13, 2023, the Town submitted to HCD the adopted element for their certification stating the "Housing Element responds to the comment and feedback from the State Department of Housing and Community Development's (HCD) July 12, 2023 (sic January 12, 2023) letter". The Town is now waiting to hear whether HCD will certify the adopted element. HCD's response should be received within 60 days of February 13.

The public deserves a full and complete explanation as to why any amendments are now required, given we are in the middle of the certification process. If the Staff truly believes the adopted element does comply with State Law, wouldn't it be prudent to wait for HCD's review to be completed and receive their comments before making any proposed amendments?

The only logical reason I can think of to amend the adopted element prior to any written feedback from HCD would be because the Staff believes the adopted housing element does not comply with State Law and material changes are in fact required to obtain HCD certification. This conclusion would be at direct odds with the resolution that was passed on January 30, 2023, and the findings that were made. If this is the case, and the Staff believes an error has been made and material and extensive changes are now needed to comply with State Law, then the Staff needs to be fully transparent with the public on this point and provide a full and complete explanation.

Based on my understanding, the housing element was adopted pursuant to Govt. Code Section 65585 (f) (2) which allows a local jurisdiction to adopt a draft element without changes even though HCD had found the draft element did not substantially comply with State Law. As you know, HCD's January 12, 2023, letter contained an eleven-page appendix that detailed multiple statutory requirements that were not met and HCD concluded "revisions will be necessary to comply with State Housing Element Law". To be very clear, the inventory of land suitable and available for residential development was only one of many issues discussed in HCD's letter and was not deemed by HCD to be their "primary concern". This language simply does not exist in the HCD letter.

In my opinion it is misleading to suggest that making a very minor change of the Town's site inventory would be sufficient to address the multitude of statutory issues discussed in HCD's eleven-page document. There doesn't appear to be any reasonable basis for making the finding that the minor change in the site inventory, while ignoring all HCD's other substantive comments, would be sufficient to conclude, based on substantial evidence in the record, the adopted element was indeed compliant with State Law. This is a problem.

I would greatly appreciate a clear and full explanation as to why the Town is now amending the adopted element before receiving HCD's response on certification. If an error was made and the Staff now believes the adopted element is legally deficient, then please clearly state this. The public deserves full transparency on this matter.

Lastly, it is highly unlikely Town will meet the statutory deadline of adopting a compliant housing element by May 31, 2023, given the timing of this amendment and HCD's 60-day response deadline. This is a serious matter, and the Staff needs to fully explain to the public the consequences of missing this deadline including potential impacts on receiving federal, state, and regional funding and the likelihood of successfully completing all rezoning mandated by the Housing Element by January 31, 2024. Missing the January 31, 2024, rezoning deadline would be catastrophic for the Town.

I look forward to your reply.

Thank you,

Phil Koen

From: Gabrielle Whelan <GWhelan@losgatosca.gov>
Sent: Tuesday, March 28, 2023 9:53 AM
To: Phil Koen <[REDACTED]>
Cc: [REDACTED]; Rick Van Hoesen <[REDACTED]>; Jocelyn Shoopman <jshoopman@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Laurel Prevetti <LPrevetti@losgatosca.gov>
Subject: RE: Town of Los Gatos Seven-Day Public Review of the Revised Draft 6th Cycle Housing Element

Hello, Mr. Koen.

I believe that the posted document description is factually accurate in that the document posted is a draft only and proposes revisions to the Housing Element. In order to clarify that the proposed draft revisions will amend the Town's adopted Housing Element, staff is going to add information to both the Town's website and the staff report to make it clear that the document being considered is a proposed amendment to the Town's adopted Housing Element.

When the Housing Element was adopted, the Town made the finding that the Housing Element was in "substantial compliance" with state law in that the sites inventory had been revised to

assure that adequate sites were available for development. This addressed HCD's primary concern. At the same time, the Town committed to work with HCD to make the additional revisions requested by HCD. Now that those additional revisions have been completed, staff is recommending adoption of the revised Housing Element.

Government Code Section 65585(h)(3) provides that HCD has 60 days to provide findings on proposed amendments to adopted Housing Elements.

With regard to process, staff proposed to take the Housing Element revisions to HCD first for comments. That way, when the revised Housing Element comes to the Town Council for review, the Town Council will know that HCD is prepared to certify the revised Housing Element if adopted. That said, a Town Council discussion of the Housing Element has been added to the 4/4 Town Council agenda.

Please let me know if you have any follow-up questions. Thank you.



Gabrielle Whelan • Town Attorney

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From: Phil Koen <[REDACTED]>

Sent: Thursday, March 23, 2023 3:46 PM

To: Gabrielle Whelan <GWhelan@losgatosca.gov>

Cc: [REDACTED] Rick Van Hoesen <[REDACTED]>; Jocelyn Shoopman

<jshoopman@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>; Laurel Prevetti

<LPrevetti@losgatosca.gov>

Subject: Fwd: Town of Los Gatos Seven-Day Public Review of the Revised Draft 6th Cycle Housing Element

[EXTERNAL SENDER]

Hello Gabrielle,

Please note that the document posted for public comment is a proposed amendment to the legally adopted housing element. To reference the document as a "revised draft" is factually incorrect. Please correct this so the public fully understands the nature of the document being posted for public comment.

The 6th Cycle Housing Element was adopted by the Town Council on January 30, 2023 pursuant to Govt. Code Section 65585 (f) (2). The changes now being proposed are numerous, wide ranging and material in nature. In fact, the changes are exactly what was recommended by HCD in their January 12, 2023 letter. This calls into question why these changes are now being made if the housing element was adopted pursuant to the code cited above which specifically discusses the adoption of a housing element without making changes recommended by HCD.

At the time of adoption, the Council made a finding that the Housing Element was in substantial compliance with State Law despite the findings of HCD. Is it the Town's determination that those findings are now incorrect and as such the amendment is now required to be compliant with State Law? The public needs to fully understand why this amendment is now necessary.

Under Govt. Code Section 65585 (h) HCD will have 90 days to review the draft amendment and report its findings once the proposed amendment is filed. Please make sure the Town Council is aware of the 90 day response time because it will be past the May 31, 2023 deadline. To the best of our knowledge this has never been disclosed.

Lastly, would you please clarify why the Planning Commission and Town Council are not approving this amendment prior to being submitted to HCD? This seems to put the cart before the horse and is not consistent with other local jurisdictions who have adopted housing elements and are now revising them in order to be certified by HCD.

We look forward to your reply.

Thank you.

Phil Koen

Begin forwarded message:

From: Jocelyn Shoopman <jshoopman@losgatosca.gov>

Date: March 23, 2023 at 8:40:44 PM GMT+1

Cc: Jennifer Armer <JArmer@losgatosca.gov>, Joel Paulson <jpaulson@losgatosca.gov>, Erin Walters <EWalters@losgatosca.gov>

Subject: Town of Los Gatos Seven-Day Public Review of the Revised Draft 6th Cycle Housing Element

Hello,

On March 16, 2023, the Housing Element Advisory Board reviewed the revised Draft 2023-2031 Housing Element with modifications in response to the California Department of Housing and Community Development's (HCD) Findings and Comment letter received by the Town on January 12, 2023. Following their review, they recommended that staff resubmit the revised Draft Housing Element to HCD with additional modifications.

The revised Draft 2023-2031 Housing Element is available to the public for a seven-day review period prior to HCD re-submittal. The seven-day public review period ends on March 30, 2023. The following items can be viewed on the Town's Housing Element Update website at:

<https://www.losgatosca.gov/1735/General-Plan---Housing-Element>

1. Revised Draft 2023-2031 Housing Element – Clean Copy
2. Revised Draft 2023-2031 Housing Element – Track Changes Copy
3. Response Memorandum to HCD's Findings and Comment Letter

Written comments (including name, affiliation, telephone number, and contact information) can be submitted through March 30, 2023, by email to HEUpdate@losgatosca.gov or by mail to:

Town of Los Gatos
Community Development Department
110 E. Main Street
Los Gatos, CA 95030

Sincerely,



Jocelyn Shoopman • Associate Planner

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www.losgatosca.gov • <https://www.facebook.com/losgatosca>

COMMUNITY DEVELOPMENT HOURS:

Counter Hours: 8:00 AM – 1:00 PM, Monday – Friday
Phone Hours: 8:00 AM – 5:00 PM, Monday – Friday

All permit submittals are to be done online via our Citizen's Portal platform. All other services can be completed at the counter. For more information on permit submittal, resubmittal, and issuance, please visit the [Building](#) and [Planning](#) webpages.



General Plan Update, learn more at www.losgatos2040.com



Housing Element Update, learn more at <https://www.losgatosca.gov/1735/General-Plan---Housing-Element>

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