

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

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April 14, 2023

Laurel Prevetti, City Manager
Town of Los Gatos
110 E Main Street
Los Gatos, CA 95030

Dear Laurel Prevetti:

RE: Town of Los Gatos' 6th Cycle (2023-2031) Adopted Housing Element

Thank you for submitting the Town of Los Gatos' (Town) adopted housing element received for review on February 13, 2023. In addition, the Town submitted draft revisions on March 31, 2023. However, these revisions are not considered as part of this review. The Town, in adopting the element, also made findings pursuant to Government Code section 65585, subdivision (f)(2). These findings appear intended to explain the reasoning the element substantially complies with State Housing Element Law (Article 10.6 of the Gov. Code) despite findings made by the California Department of Housing and Community Development (HCD) in its January 12, 2023 prior review. However, the Town's findings are inadequate to demonstrate compliance with statutory requirements, and revisions to the element continue to be necessary to comply with State Housing Element Law. Pursuant to Government Code section 65585, subdivision (h), HCD is reporting the results of its review:

- *Local Findings of Substantial Compliance:* The Town prepared findings that appear intended to explain the reasoning the element substantially complies with State Housing Element Law despite HCD findings in the prior review. However, these findings do not provide content, reasoning, or response to HCD's findings that the prior draft element does not substantially comply with State Housing Element Law. For example, HCD's prior review has various findings regarding an assessment of fair housing and appropriate policies and programs to affirmatively further fair housing (AFFH). The Town's findings do not address this essential statutory requirement. Similar issues persist throughout the Town's findings where statutory requirements are not addressed in any meaningful way or where broad statements of statutory requirements are made but no content, reasoning, or response is provided in regard to these statutory requirements or HCD's prior findings.

The Town's findings only appear to make an attempt at meeting statutory requirements related to calculations of realistic residential capacity, suitability of

sites, and potential for redevelopment on nonvacant sites—narrow issues among many statutory requirements. However, these findings do not address the full extent of statutory requirements and HCD’s prior findings.

Regarding the calculation of realistic residential capacity, the Town appears to be using minimum densities, which is an acceptable approach. However, the element and the findings do not appear to clarify or commit to this approach. The element simply changes the calculations, but there is no explanation that minimum densities are required or programmatic commitment to the minimum densities utilized. For example, for the North Forty Specific Plan, Program D (Additional Housing Capacity) does not commit to minimum densities, and minimum and maximum densities seem to be coterminous, which is generally considered a constraint on development. Also, the element does not make a commitment to require residential uses in zones that allow 100 percent non-residential uses so the element and findings are not responsive to HCD’s findings regarding the likelihood of residential development.

Regarding suitability of sites and redevelopment potential on nonvacant sites in the planning period, the Town’s findings explain that a few sites are added and simply mention that existing uses do not constitute an impediment to planned residential development in the planning period due to the submittal of property owner interest forms. First, this finding does not address that the use will likely discontinue during the planning period as required by statute. Second, the Town’s finding does not address several other statutory areas of HCD’s findings such as replacement requirements, small sites, appropriate zoning for lower-income households, infrastructure, and zoning for a variety of housing types. Third, simply stating a property owner submitted an interest form is not an affirmative demonstration of interest in residential development in the planning period. There is no discussion of the form and methods of gathering the information. Finally, but not exhaustively, many identified sites do not describe owner interest, and there is no other information or reasoning to explain how the Town complies with these requirements despite HCD’s findings.

For these and many other reasons, the Town’s findings do not explain the reasoning as to how the element substantially complies with State Housing Element Law despite HCD’s findings in the prior review.

- *Adopted Housing Element and HCD’s Findings:* The Town’s adopted element essentially contains no revisions to address HCD’s prior findings. The adopted element contains minimal revisions regarding utilizing minimum densities (although not consistently) to calculate residential capacity and adds a few sites but otherwise provides no content to address HCD’s January 12, 2023 review. For these reasons, HCD will not repeat its findings and refers the Town to HCD’s prior review.

- *Revisions Submitted for HCD's Review:* The Town submitted revisions to HCD on March 31, 2023. These revisions have not been considered in this review for various reasons, including the timing of the submittal as well as the importance of responding directly to the Town's findings pursuant to Government Code section 65585, subdivision (f)(2). HCD has considered these revisions as a separate submission and will be reviewed expeditiously, to the extent possible. HCD recognizes the Town's commitment to address HCD's findings as noted in Resolution 2023-006 and fully appreciates the opportunity to cooperate with the Town to help the Town meet statutory requirements and substantially comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the Town fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Please be aware that AB 2339, codified in Government Code section 65583 adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

Public participation in the development, adoption, and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the Town should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website, and a link to the revisions must be emailed 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.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting

requirements pursuant to Government Code section 65400. With a compliant housing element, the Town will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the Town to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

We are committed to assist the Town in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Armando Jauregui, of our staff, at jose.jauregui@hca.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager