

PC 4-22-2025

Item No.3  
Update to  
Parking  
Restrictions

Written  
Communications

**From:** [S B](#)  
**To:** [City of Cupertino Planning Commission](#)  
**Subject:** New ordinance  
**Date:** Tuesday, April 22, 2025 3:00:16 PM

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Please include this in the written comments

TO the planning commission,

I'm writing to express a concern that I know many residents share regarding the increasing number of recreational vehicles (RVs) being parked throughout our city, particularly in public areas like near Target and Memorial Park.

As a resident, I understand and follow the regulations that prohibit RV parking on public streets unless it's within designated time limits or on private property. However, there appears to be a lack of consistent enforcement of these rules. To ensure fairness and uphold the integrity of our community standards, I believe the city should either enforce the existing ordinances more effectively or consider implementing a new, clearly defined policy that addresses long-term or overnight RV parking in public areas.

In addition, I recognize that some of these vehicles may be occupied by individuals experiencing homelessness. While enforcement is necessary, it must be paired with compassionate, long-term solutions. I strongly urge the city to invest in resources such as transitional housing, mental health services, and job placement programs. Repurposing vacant properties, like the soon-to-close Aloft Hotel, into temporary or supportive housing could be a meaningful step in addressing this issue in a humane and constructive way.

Our city should be a place that upholds the rule of law while also providing support for those in need. Addressing these challenges responsibly will help ensure a cleaner, safer, and more compassionate community for everyone.

Thank you for your attention to this matter.

Regards

Sashi

Sent from my iPhone

**From:** [Rhoda Fry](#)  
**To:** [City of Cupertino Planning Commission](#); [City Council](#)  
**Subject:** Planning Commission 4/22/2025 please include in public comment agenda 3, parking  
**Date:** Tuesday, April 22, 2025 3:16:56 PM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Commission 4/22/2025 please include in public comment agenda 3, parking  
Hi Planning Commission,  
The presence of RVs as housing in the city has become problematic.  
Thanks for working on this issue and restoring our neighborhoods.  
I've heard that many are occupied by Apple employees – if so, it would be nice if the Apple parking lots would accommodate those RVs.  
Regards, Rhoda Fry

PC 4-22-2025

Item No. 4  
Westport

Written  
Communications

**From:** [Piu Ghosh \(she/her\)](#)  
**To:** [Luke Connolly](#); [Lindsay Nelson](#); [Gian Martire](#)  
**Subject:** Fwd: Westport Project Changed  
**Date:** Thursday, April 17, 2025 6:32:19 PM

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Public comment for WP.

Thanks!  
Piu



Begin forwarded message:

**From:** Mahesh Gurikar <mgurikar@yahoo.com>  
**Date:** April 17, 2025 at 9:17:24 PM EDT  
**To:** lukec@cupettion.gov, "Piu Ghosh (she/her)" <PiuG@cupertino.gov>, planningcomission@cupertino.org  
**Subject:** Westport Project Changed

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Members of the Planning Commission,

Westport's proposal to reduce the retail space and eliminate underground parking

Please do not allow the requested changes to the project.

4000 sq fr retail space is too small.  
One restaurant may take 4000 sft.  
We need several retail businesses here.  
May be it can be reduced to about 12000 Sft.

If underground parking is eliminated, those vehicles compete for parking on Mary Avenue.

Please recommend Westport stick to original plan approved.

Thank you,  
Mahesh Gurikar  
Resident of Cupertino



**Jack Farrell**  • Friday 5:40 am

**To:** Cupertino Planning Department, Lin, Austin, Sbull, McNamara, Ryan [Show more](#)

Good morning,

Please find attached letter of support for item 4 of the April 22nd agenda.

Sincerely,

**Jack Farrell** *he/him*

Research Attorney

267-218-1147



YIMBY  
LAW

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Letter of Support 20...  
DOCX



YIMBY LAW

## YIMBY Law

2261 Market Street STE 10416

San Francisco, CA 94114

[hello@yimbylaw.org](mailto:hello@yimbylaw.org)

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1

04/18/2025

City of Cupertino  
Planning Commission  
10300 Torre Ave  
Cupertino, CA 95014

Via email (planning@cupertino.gov)

Re: April 22, 2025 hearing, agenda item 4

Dear Planning Commission of Cupertino,

We are pleased to submit this letter of support of the proposed Summerhill Homes project at 20840 Stevens Creek Boulevard. YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. The Summerhill Homes project will consist of 59 townhomes, which include 12 below market rate townhomes, on a site designated for residential development in the Cupertino Housing 2023-2031 Housing Element.

Summerhill's proposal is consistent with the Heart of the City specific plan, the Cupertino General Plan, and local zoning ordinances. As your officials have already identified to California's Department of Housing and Community Development that the site is appropriate for residential use and may contribute to the RHNA obligations, it is inarguably beneficial to public welfare that it be used for that purpose.

California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's general plan

**YIMBY Law, 2261 Market Street STE 10416, San Francisco, CA 94114**

1





YIMBY LAW

YIMBY Law

2261 Market Street STE 10416

San Francisco, CA 94114

[hello@yimbylaw.org](mailto:hello@yimbylaw.org)

---

2

at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state. I look forward to seeing this project approved and brought to realization to help change the tides of the housing crisis in the Bay Area.

Sincerely,

Sonja Trauss  
Executive Director  
YIMBY Law

**From:** [Rafa Sonnenfeld](#)  
**To:** [Santosh Rao](#)  
**Cc:** [City of Cupertino Planning Commission](#)  
**Subject:** Planning Commission Agenda Item #4 - Westport Cupertino Project  
**Date:** Friday, April 18, 2025 1:58:01 PM  
**Attachments:** [Westport Cupertino letter of support.pdf](#)

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Dear Rao and Commissioners,

Please find attached YIMBY Law's support letter for the above-referenced housing development project, which is being heard at your upcoming April 22nd meeting.

Thank you,

**Rafa Sonnenfeld** he/him

Senior Manager



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# YIMBY Law

2261 Market Street STE 10416  
San Francisco, CA 94114  
[hello@yimbylaw.org](mailto:hello@yimbylaw.org)



YIMBY LAW

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April 18, 2025

Santosh Rao, Chair  
City of Cupertino Planning Commission  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
[srao@cupertino.org](mailto:srao@cupertino.org)

Re: Westport Cupertino Project

Dear Chair Rao:

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Government Code Section 65589.5, also known as the Housing Accountability Act ("HAA"), and the Minimum Parking Requirements law, Government Code section 65863.2, commonly known as "AB 2097." The Planning Commission has an obligation to abide by all relevant state housing laws, including AB 2097, when evaluating the above-referenced project.

We write this letter to express YIMBY Law's deep concern about the City's position in the staff report for the proposed modifications to the Westport Cupertino project that the project is not eligible to use AB2097 to reduce its previously approved parking because AB2097 cannot be applied retroactively. Simply put, there is no basis in the text of AB2097 supporting this position. Instead, the interpretation of AB2097 is plainly inconsistent with the expressed intent of AB2097 to reduce the cost of constructing housing.

Taking the position that AB2097 cannot be applied to previously approved projects would also be inconsistent with State HCD guidance, including in [a Technical Advisory published this past January](#).

YIMBY Law

2261 Market Street STE 10416

San Francisco, CA 94114

[hello@yimbylaw.org](mailto:hello@yimbylaw.org)



YIMBY LAW

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We encourage the Planning Commission to reject the staff report's unsupported position that AB2097 is unavailable to the Westport Cupertino project and instead approve the project's requested parking reduction under AB2097

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

A handwritten signature in black ink that reads "Sonja Trauss". The signature is written in a cursive, flowing style.

Sonja Trauss  
Executive Director  
YIMBY Law

**From:** [Piu Ghosh \(she/her\)](#)  
**To:** [Lindsay Nelson](#)  
**Subject:** Fwd: Planning Commission Agenda Item #4 - Westport Cupertino Project  
**Date:** Friday, April 18, 2025 2:33:26 PM  
**Attachments:** [Westport Cupertino letter of support.pdf](#)

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Hi! Lindsay

When you get comments re: agenda items, please make sure to forward to the project planner and Ben (if he doesn't get PC emails).

Thanks  
Piu



Begin forwarded message:

**From:** Rafa Sonnenfeld <[rafa@yimbylaw.org](mailto:rafa@yimbylaw.org)>  
**Date:** April 18, 2025 at 4:58:00 PM EDT  
**To:** Santosh Rao <[srao@cupertino.org](mailto:srao@cupertino.org)>  
**Cc:** City of Cupertino Planning Commission  
<[planningcommission@cupertino.gov](mailto:planningcommission@cupertino.gov)>  
**Subject:** Planning Commission Agenda Item #4 - Westport Cupertino Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Rao and Commissioners,

Please find attached YIMBY Law's support letter for the above-referenced housing development project, which is being heard at your upcoming April 22nd meeting.

Thank you,  
**Rafa Sonnenfeld** he/him  
Senior Manager



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# YIMBY Law

2261 Market Street STE 10416  
San Francisco, CA 94114  
[hello@yimbylaw.org](mailto:hello@yimbylaw.org)



YIMBY LAW

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April 18, 2025

Santosh Rao, Chair  
City of Cupertino Planning Commission  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
[srao@cupertino.org](mailto:srao@cupertino.org)

Re: Westport Cupertino Project

Dear Chair Rao:

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Government Code Section 65589.5, also known as the Housing Accountability Act ("HAA"), and the Minimum Parking Requirements law, Government Code section 65863.2, commonly known as "AB 2097." The Planning Commission has an obligation to abide by all relevant state housing laws, including AB 2097, when evaluating the above-referenced project.

We write this letter to express YIMBY Law's deep concern about the City's position in the staff report for the proposed modifications to the Westport Cupertino project that the project is not eligible to use AB2097 to reduce its previously approved parking because AB2097 cannot be applied retroactively. Simply put, there is no basis in the text of AB2097 supporting this position. Instead, the interpretation of AB2097 is plainly inconsistent with the expressed intent of AB2097 to reduce the cost of constructing housing.

Taking the position that AB2097 cannot be applied to previously approved projects would also be inconsistent with State HCD guidance, including in [a Technical Advisory published this past January](#).

YIMBY Law

2261 Market Street STE 10416

San Francisco, CA 94114

[hello@yimbylaw.org](mailto:hello@yimbylaw.org)



YIMBY LAW

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We encourage the Planning Commission to reject the staff report's unsupported position that AB2097 is unavailable to the Westport Cupertino project and instead approve the project's requested parking reduction under AB2097

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

A handwritten signature in black ink that reads "Sonja Trauss". The signature is written in a cursive, flowing style.

Sonja Trauss  
Executive Director  
YIMBY Law



**From:** [Santosh Rao](#)  
**To:** [Lindsay Nelson](#); [Luke Connolly](#)  
**Subject:** Fw: [April 22 Planning Commission Hearing, Item #4] Letter regarding Westport Cupertino Project Use of AB2097  
**Date:** Friday, April 18, 2025 6:23:50 PM  
**Attachments:** [J Abrams Letter re Westport Building 1 Use of AB2097 041825.pdf](#)

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Please include in written communications. Thank you.



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**From:** Nicholas Roosevelt <nroosevelt@jabramslaw.com>  
**Sent:** Friday, April 18, 2025 2:54 PM  
**To:** Santosh Rao <srao@cupertino.org>; Tracy Kosolcharoen <Tkosolcharoen@cupertino.gov>; David Fung <dfung@cupertino.gov>; Seema Lindskog <slindskog@cupertino.gov>; Steven Scharf <SScharf@cupertino.gov>  
**Cc:** James Abrams <jabrams@jabramslaw.com>; Simsik, Balint <Balint.Simsik@related.com>; Zak, Cascade <cascade.zak@related.com>; Piu Ghosh (she/her) <piug@cupertino.gov>; Gian Martire <GianM@cupertino.gov>; fandrews@awattorneys.com <fandrews@awattorneys.com>  
**Subject:** [April 22 Planning Commission Hearing, Item #4] Letter regarding Westport Cupertino Project Use of AB2097

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Dear Chair Rao and Commissioners—

Attached please find a letter from the project sponsor of Item #4 on the Planning Commission's agenda for next Tuesday, April 22 (Modifications to the Development Permit and Architectural & Site Approval for the Westport Development).

The letter regards the project's proposed use of the parking reduction measures provided for in AB2097.

Thank you for your attention to this matter,

Nick

-----  
  
Nick Roosevelt  
J. Abrams Law, P.C.  
538 Hayes Street  
San Francisco, CA 94102

Email: [nroosevelt@jabramslaw.com](mailto:nroosevelt@jabramslaw.com)  
Cell: (504)-717-9251

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**J. ABRAMS LAW, P.C.**

538 Hayes Street  
San Francisco, CA 94102

Nick Roosevelt  
[nroosevelt@jabramslaw.com](mailto:nroosevelt@jabramslaw.com)

**VIA E-EMAIL**

April 18, 2025

Santosh Rao  
Chair  
City of Cupertino Planning Commission  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
[srao@cupertino.org](mailto:srao@cupertino.org)

Re: Westport Cupertino Project, Building 1

Dear Chair Rao and Commissioners:

This firm represents the project sponsor of the “Building 1” development (“Building 1”) within the Westport Cupertino project (the “Project”). The Planning Commission is scheduled to hear proposed modifications to the Project on April 22, 2025.

We were surprised and disappointed to read the staff report published on April 17, in which the City states that the Project is ineligible to utilize a state law (AB2097) intended to make housing more feasible to construct by reducing residential parking requirements. The staff report simply states without justification that “AB2097 cannot apply retroactively to this previously entitled project.” This conclusion is surprising, partially because the Project’s application was filed nearly one year ago, the law was adopted prior to such application, and the sponsor has been consistently working with the City since that time.

As reflected in the staff report, the sponsor team is open to continuing to work with Planning staff on a design solution to add approximately 19 spaces to the Project’s surface parking lot if that is what it will take for the City to expediently approve the proposed design modifications to Building 1. However, we respectfully submit to the Planning Commission and City that its position that AB2097 cannot apply to the Project is inconsistent with: (1) the text of AB2097, (2) well established principles of statutory interpretation, (3) technical guidance published by State HCD, (4) technical assistance provided to the City of Los Angeles, and (5) the well-established AB2097 implementation program in the City of Los Angeles.

As such, we respectfully request the Planning Commission recommend approval to the City Council of the Project’s proposed parking modifications as originally submitted (a total of 73 surface parking spaces with no basement parking) and without conditioning its recommendation on the provision of additional surface parking that would be inconsistent with applicable state law.

## **Background**

The application for the proposed modifications to Building 1 was submitted June 17, 2024 and accepted by Planning staff as complete on October 31, 2024. As detailed in the staff report, the application requests five modifications:

- Increase the approved senior assisted living dwelling unit count to 136 dwelling units, which is within the permitted density bonus for the Westport Cupertino project;
- Reduce the total amount of proposed parking by eliminating the basement-level parking garage pursuant to AB2097, which allows for the elimination of parking requirements for projects within a half-mile of a major transit stop, such as the bus stop at Stelling Road and Stevens Creek Boulevard;<sup>1</sup>
- Utilize an available state density bonus concession to reduce otherwise required ground floor retail in Building 1 to 4,000 square feet;
- Make minor adjustments to the design of Building 1 that will reduce its height and decrease its overall square footage; and
- Waive application of the Park Land Dedication Fee.

We generally refer the Commission to the Staff Report and our June 18, 2024 letter included in the agenda package for the April 22 hearing for further detail and justification for the requested modifications unrelated to AB2097.

The application was initially noticed for a hearing before the Planning Commission on February 25, 2025, then successively rescheduled to March 11, March 25, and then April 22 based on varying justifications including errors in required public noticing, onboarding of new staff, and the need for further time for City decisionmakers to understand the state laws being invoked as part of the proposed modifications.

On the same day the project sponsor was informed on April 10 that the hearing would actually proceed on April 22, we were verbally informed that the City might take the position that AB2097 is unavailable to the Project because it cannot be applied retroactively to already approved projects.

For the following reasons, we respectfully submit this interpretation of AB2097 is not supportable.

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<sup>1</sup> We note that previous approvals for the Westport Cupertino project, Staff Report, and the Westport Mixed-Use Project Environmental Impact Report Addendum No. 1 all make clear that there is no dispute that the Project is located within a half-mile of a major transit stop as required by AB2097. *See, e.g.*, Staff Report p. 8 and Addendum p. 4-23.

### **Nothing in AB2097 Says It Only Applies to Wholly “New” Projects**

Simply stated, there is no language in AB2097 stating that it only applies to projects approved after its effective date of January 1, 2023. However, the law is clear about which types of previously approved projects are disqualified. Disqualified projects are those that:

[eliminate] commercial parking requirements if it conflicts with an existing contractual agreement of the public agency that was executed before January 1, 2023, provided that all of the required commercial parking is shared with the public. *See* Govt. Code § 65863.2(h)(1).

Through this clause, the authors of the legislation identified which projects are disqualified. The authors did not include previously approved projects in this list.

It is a well-established principle of California statutory interpretation that the reader may not insert language, nor ignore language which has been inserted. *See Harbor Fumigation, Inc. v. County of San Diego Air Pollution Control Dist.*, 43 Cal.App.4th 854, 860 (1996). Here, the City’s position that AB2097 cannot apply retroactively to the Project depends on a broad prohibition on retroactive use that simply is not in the text of the law, while ignoring text that conversely supports there is no such broad prohibition on retroactive use of the law and that the clear intent of the law is to allow projects (particularly housing projects) to reduce their cost of construction, subject to narrow exceptions.

More specifically, AB2097 states that the “Legislature finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions” and that “[t]herefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.” *See* Govt. Code § 65863.2(i). This clause does not say the intent of AB2097 is to prohibit the imposition of parking requirements *moving forward*, it instead clearly and broadly expresses the intent of the state legislature to prohibit the imposition of parking requirements for all projects within a half mile of a major transit stop.

AB2097 also provides that cities may impose EV and ADA parking requirements to “new” multifamily residential or nonresidential development. *See* Govt. Code § 65863.2(f). That is, in addition to setting forth the limited circumstances where an otherwise eligible project can be disqualified from using AB2097, the state legislature also clearly provides the certain instances where “new” projects can be subject to certain parking requirements. In other words, AB2097 addresses both retroactive and prospective application of the law for certain types of projects, but *does not* broadly prohibit retroactive use of the law, certainly not for an approved housing development like this Project.

### **State HCD Guidance Makes Clear that AB2097 Can Apply to Existing Uses**

Included as Attachment 1 to this letter is a Technical Advisory published by State HCD this past January which clearly states that AB2097: (1) can apply to existing buildings or structures; and (2) can be used to eliminate existing parking agreements with a public agency that were executed before January 1, 2023. *See* highlighted text on page 6.

**State HCD Has Issued Technical Assistance Letters for a Project in Los Angeles Proposing to Invoke AB2097 After Initially Being Approved With a Parking Requirement**

Included as Attachment 2 are two letters issued by State HCD to the City of Los Angeles where the underlying project facts make clear that the project in question was approved with a parking requirement and thereafter proposed to eliminate it using AB2097. *See* highlighted text on page 2 of the March 28, 2024 letter and page 1 of the November 17, 2023 letter.

**Well Established AB2097 Implementation Policy in Los Angeles Supports Applicability of AB2097 to Previously Approved Projects**

Including as Attachment 3 is City of Los Angeles Inter-Departmental Memo regarding Implementation of AB 2097 provided detailed guidance on the City's implementation of law and clearly setting forth the City's position that AB2097 applies to previously approved projects seeking to amend their entitlements to invoke AB2097. *See* page 5.

**Conclusion**

For the reasons above, we respectfully request that the Planning Commission reconsider the position regarding AB2097 in the Staff Report and recommend approval of the sponsor's proposed modification to the Project's parking proposal as proposed (utilizing AB2097). We emphasize that project sponsor is not proposing the parking modifications on a whim (nor is it proposing to entirely eliminate parking as it is entitled to under AB2097), but instead is pursuing the modification in a tailored effort to make the construction of Building 1 financeable in a manner that will deliver new housing consistent with the City's Housing Element and state law.

Sincerely,



Nick Roosevelt

CC:

Piu Ghosh  
Planning Manager  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
piug@cupertino.gov

Gian Martire  
Senior Planner  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
GianM@cupertino.org

Floy Andrews  
City Attorney  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014  
fandrews@awattorneys.com

## **ATTACHMENT 1**

*State HCD Technical Advisory on AB2097*

California Department of Housing and Community Development

# TECHNICAL ADVISORY

On the Implementation of AB 2097, Prohibition on Minimum Parking Requirements (Statutes of 2022)



Housing Policy Development Division  
**January 2025**



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SECTION 1. INTRODUCTION

On September 22, 2022, Governor Newsom signed Assembly Bill (AB) 2097 (Chapter 459, Statutes of 2022), which aims to promote more affordable housing solutions and reduce greenhouse gas emissions by removing mandatory parking minimums within one-half mile of major transit stops (with some exceptions) and addressing excess parking spaces that drive up costs. This law took effect on January 1, 2023.

On September 19, 2024, Governor Newsom strengthened these efforts by signing AB 2553 (Chapter 275, Statutes of 2024), which expands the definition of “major transit stop” by increasing the frequency of bus service intervals to 20 minutes or less during peak periods. This portion of the law takes effect January 1, 2025.

In combination, AB 2097 empowers developers and communities to prioritize housing and other development projects near transit hubs, which supports more sustainable and connected communities while addressing California’s critical housing and climate challenges.

*The California Department of Housing and Community Development (HCD) has authority to enforce AB 2097 pursuant to Government Code section 65585, subdivision (j)(12). This technical advisory provides guidance and considerations regarding implementation of AB 2097.*

## SECTION 2. KEY PROVISIONS OF AB 2097

The applicable statutory citations that define the provisions of AB 2097 can be found in the following sections of the Government and Public Resources Codes.

AB 2097		Statute
1	A public agency <b>shall not impose or enforce any minimum automobile parking requirement</b> on eligible residential, commercial, or other development projects located within one-half mile of public transit.	<a href="#">Gov. Code, § 65863.2, subd. (a)</a>
2	<b>“Public transit”</b> means a “major transit stop” as defined in Public Resources Code section 21155.	<a href="#">Gov. Code, § 65863.2, subd. (e)(5)</a>
3	<b>“Major transit stop”</b> is defined in Public Resources Code section 21064.3. A project shall be considered to be within one-half mile of a major transit stop if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop and if not more than 10 percent of the residential units, or 100 units, whichever is less, in the project are farther than one-half mile from the stop. Major transit stops that are included in the applicable regional transportation plan also qualify.	<a href="#">Pub. Res. Code, § 21155, subd. (b)</a>
4	<b>“Major transit stop”</b> means a site containing any of the following: (a) Existing rail or bus rapid transit station. (b) Ferry terminal served by either a bus or rail transit service. (c) Intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.	<a href="#">Pub. Res. Code, § 21064.3</a>
5	(a) <b>“Bus rapid transit”</b> means a public mass transit service provided by a public agency or by a public private partnership that includes all the following features: (1) Full-time dedicated bus lanes or operation in a separate right-of-way dedicated for public transportation with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. (2) Transit signal priority. (3) All-door boarding. (4) Fare collection system that promotes efficiency. (5) Defined stations. (b) <b>“Bus rapid transit station”</b> means a clearly defined bus station served by a bus rapid transit.	<a href="#">Pub. Res. Code, § 21060.2</a>
6	The <b>“applicable regional transportation plan”</b> is prepared by a metropolitan planning organization (MPO) as part of the organization’s sustainable communities strategy. There are <a href="#">18 MPOs</a> throughout the state of California.	<a href="#">Pub. Res. Code, § 21155, subd. (a)</a>

### SECTION 3. PROJECT SITE ELIGIBILITY

Whether AB 2097 prohibits a public agency from imposing minimum parking requirements on a development project depends on the proposed land use or whether there is a commercial parking agreement in place. For residential projects, the applicability of AB 2097 depends on the type of proposed housing, total number of housing units, and proposed affordability mix.

**Table 1. Project Site Eligibility**

AB 2097 prohibition on minimum parking requirements...	
<b>Does not apply</b> to the following uses or circumstances ➡	<ul style="list-style-type: none"> <li>▪ <b>Event centers.</b><sup>1</sup></li> <li>▪ <b>Hotel, motel, bed and breakfast inn, or other transient lodging.</b><sup>2</sup></li> <li>▪ <b>Commercial parking in a contractual agreement with a public agency, executed before January 1, 2023.</b><sup>3</sup></li> </ul>
<b>Applies without exceptions</b> to the following uses ➡	<ul style="list-style-type: none"> <li>▪ Development containing <b>fewer than 20 housing units.</b><sup>4</sup></li> <li>▪ <b>Affordable, senior, student, or special needs housing</b>, where at least 20 percent of the total number of units are dedicated to very low-, low-, or moderate-income households, students, the elderly, or persons with disabilities.<sup>5</sup></li> <li>▪ Developments subject to <b>other state law parking reductions.</b><sup>6</sup></li> </ul>
<b>Applies with exceptions*</b> to the following uses ➡	<ul style="list-style-type: none"> <li>▪ <b>Other residential-only developments.</b><sup>7</sup></li> <li>▪ <b>Other mixed-use developments</b> with at least two-thirds of the square footage designated for residential use.<sup>7</sup></li> <li>▪ <b>Transitional or supportive housing.</b><sup>7</sup></li> <li>▪ <b>Commercial and other developments.</b><sup>8</sup></li> <li>▪ <b>Residential hotels</b>, as defined in Health and Safety Code section 50519.<sup>2</sup></li> </ul>
<p><b>*EXCEPTIONS.</b> A local public agency can make written findings—supported by a preponderance of evidence—within 30 days of the receipt of a completed application that having no minimum parking requirements would have a substantially negative impact on any of the following:</p> <ul style="list-style-type: none"> <li>▪ <b>Regional Housing Needs.</b> The local jurisdiction’s ability to meet its share of the regional housing need for low- and very low-income households.<sup>9</sup></li> <li>▪ <b>Special Housing Needs.</b> The local jurisdiction’s ability to meet housing needs for elderly or persons with disabilities as identified in Government Code section 65583, subdivision (a)(7).<sup>10</sup></li> <li>▪ <b>Existing Residential or Commercial Parking.</b> Within 0.5 mile of the development project.<sup>11</sup></li> </ul>	

<sup>1</sup> Gov. Code, § 65863.2, subd. (d).

<sup>2</sup> Gov. Code, § 65863.2, subd. (e)(6).

<sup>3</sup> Gov. Code, § 65863.2, subd. (h)(1).

<sup>4</sup> Gov. Code, § 65863.2, subd. (c)(2).

<sup>5</sup> Gov. Code, § 65863.2, subd. (c)(1).

<sup>6</sup> Gov. Code, § 65863.2, subd. (c)(3).

<sup>7</sup> Gov. Code, § 65863.2, subd. (e)(1).

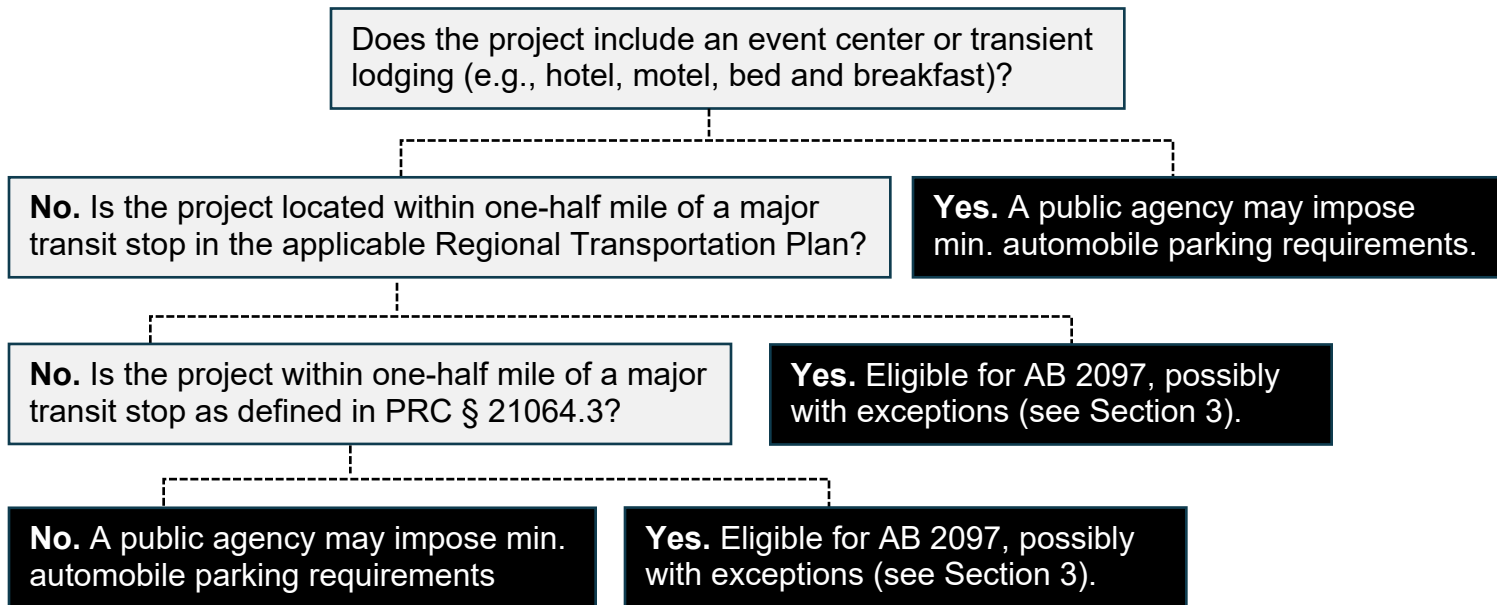
<sup>8</sup> Gov. Code, § 65863.2, subd. (a).

<sup>9</sup> Gov. Code, § 65863.2, subd. (b)(1).

<sup>10</sup> Gov. Code, § 65863.2, subd. (b)(2).

<sup>11</sup> Gov. Code, § 65863.2, subd. (b)(3).

## SECTION 4. DETERMINING AB 2097 ELIGIBILITY



## SECTION 5. FREQUENTLY ASKED QUESTIONS (FAQS)

### Voluntary and Required Parking

- 1. Can a public agency still require parking in certain circumstances?**  
Yes, but only in limited situations and only for certain types of projects – see Section 3 (Project Site Eligibility).<sup>12</sup>
- 2. Is voluntary parking allowed?**  
Yes. AB 2097 prohibits minimum required parking for qualifying projects but does not impose a maximum parking standard. An applicant may choose to add parking even if they qualify for a full parking exemption under state law, although local jurisdictions may impose a maximum parking requirement. A public agency may require voluntary parking spaces be used for car share vehicles, be made publicly available (e.g., not assigned to a specific use or business), or be charged a parking fee, but cannot require that any voluntary parking is free of charge to residents.<sup>13</sup>
- 3. Does AB 2097 apply to commercial or other non-residential development?**  
Yes. AB 2097's prohibition on minimum parking requirements also extends to commercial, industrial, and other non-residential land uses – with exceptions. See Section 3 (Project Site Eligibility).<sup>14</sup>
- 4. Can a public agency still require accessible or electric vehicle (EV) parking?**  
Yes, a public agency can still require the same percentage or number of accessible and EV parking spaces as would have otherwise applied if AB 2097 did not apply, based on local and state requirements. AB 2097 does not change (i.e., reduce, eliminate, or preclude enforcement of) the minimum parking requirement for spaces that are accessible for persons with disabilities or provide charging equipment for EVs.<sup>15</sup>

<sup>12</sup> Gov. Code, § 65863.2, subd. (b).

<sup>13</sup> Gov. Code, § 65863.2, subd. (g).

<sup>14</sup> Gov. Code, § 65863.2, subd. (a).

<sup>15</sup> Gov. Code, § 65863.2, subd. (f).

A public agency should be aware that it may eliminate local parking standard requirements and nonetheless require accessible and EV parking, for example, calculated as a percentage of provided parking.

## Project Eligibility

**6. Does AB 2097 only apply to new “ground-up” development projects?**

No. In addition to new construction, AB 2097 also applies to changes of use in existing buildings or structures, including the creation or expansion of qualifying uses. See Section 3 above for Project Site Eligibility.

**7. Which public agencies does AB 2097 apply to? What about the coastal zone?**

AB 2097 defines “public agency” to mean the state or any state agency, board, or commission, any city, county, city and county, including charter cities, or special

**5. Can a public agency still require bicycle parking?**

A public agency may require and enforce bicycle parking. AB 2097 applies solely to automobile parking requirements.<sup>16</sup>

district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision.<sup>17</sup> AB 2097 applies to public agencies, which includes the Coastal Commission. See [memo](#) by the California Coastal Commission, dated June 30, 2023.

**8. Can AB 2097 be used to eliminate an existing parking agreement?**

Yes, with the exception of contractual commercial parking agreements with a public agency that were executed before January 1, 2023.<sup>18</sup>

## Major Transit Stop Eligibility

**9. How is the “within one-half mile” distance measured for AB 2097?**

The distance to a major transit stop is measured in a straight line from the nearest edge of the parcel containing the proposed project to any point on the parcel or parcels that make up the property upon which a major transit stop is located. See [HCD Technical Assistance Letter to the City of San Clemente](#), dated November 17, 2023. Note: other statutes may measure distance from transit differently from AB 2097.

**10. Does any type of existing rail station qualify as a major transit stop?**

Any existing rail station – including those without facilities, that are unstaffed or have infrequent or limited service – automatically qualifies as a major transit stop.<sup>19</sup>

**11. What is the difference between “major transit stop” and “high quality transit corridor?”**

A “high quality transit corridor” is generally more expansive compared to “major transit stop.” A “high quality transit corridor” is a bus *corridor* with a fixed-route and service intervals no longer than 15 minutes during peak commute hours.<sup>20</sup> A major transit stop identifies a *point, parcel, or intersection*.

<sup>16</sup> Gov. Code, § 65863.2, subd. (a).

<sup>17</sup> Gov. Code, § 65863.2, subd. (e)(4).

<sup>18</sup> Gov. Code, § 65863.2, subd. (h)(1).

<sup>19</sup> Pub. Res. Code, § 21064.3, subd. (a).

<sup>20</sup> Pub. Res. Code, § 21155, subd. (b)

AB 2097 specifies a site's relationship to a "major transit stop" and not a "high quality transit corridor."

A ferry terminal qualifies as a major transit stop if it is served by either a bus or rail transit service.<sup>21</sup>

**12. What type of ferry terminal qualifies as a major transit stop for AB 2097?**

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**Regional Transportation Plan (RTP)**

**13. What if a location is a "major transit stop" in the current RTP, but does not meet any criteria in Public Resources Code section 21064.3 as a "major transit stop"?**

A major transit stop that is included in the applicable RTP qualifies nearby sites for the purposes of AB 2097.<sup>22</sup> The statute does not distinguish between existing and planned major transit stops, nor future changes or improvements. A site that qualifies based on its proximity to a major transit stop that is included in the RTP does not need to meet any criteria in Public Resources Code

section 21064.3. See [HCD Technical Assistance Letters to the City of Los Angeles](#), dated November 17, 2023 and March 28, 2024.

**14. What if the current RTP identifies a major transit stop that no longer meets any criteria in Public Resources Code section 21064.3?**

The RTP remains in effect and binding for AB 2097 eligibility during its applicable time period, including if a major transit stop no longer meets the criteria in Public Resources Code section 21064.3.<sup>22</sup>

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**Transit Service Frequency**

**15. Can different bus routes be combined for calculating service frequency?**

No, except for "colinear line families" (see Question 16). For the purposes of AB 2097, a major transit stop must have two or more bus routes present, and each route must stop at the intersection with a frequency of service interval of 20 minutes or less during peak morning and afternoon commute periods.

See Section 6 (Peak Period Bus Service Interval Frequency) for HCD recommendation on calculating interval frequency.

are combined and considered as one service route for service frequency. A line family that creates a loop (e.g., clockwise and counterclockwise service) is also considered one route for service frequency, even if each direction has a unique route number. Line families are intended to function as one bus route, where transit riders typically board the first bus available whether it is a local or rapid/express line, or whether the route loops. Only the intersections where the buses stop with a frequency interval of 20 minutes or less during morning and afternoon peak periods may qualify as major transit stops. Note: to qualify as an intersection of two or more major bus routes, a colinear line family must intersect with another qualifying major bus route that is not part of the line family. See [HCD Technical Assistance Letter to the City of Los Angeles](#), dated March 8, 2024.

**16. Can a local and rapid or express bus line schedule be combined for calculating service frequency?**

For purposes of applying AB 2097, "colinear line families" (i.e., bus routes that share the same route, such as local and rapid lines)

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<sup>21</sup> Pub. Res. Code, § 21064.3, subd. (b).

<sup>22</sup> Pub. Res. Code, § 21155, subd. (b).



**17. Can different bus routes be combined to calculate frequency for the portion of a shared route (“trunk line”) but calculated separately where the routes are split?**

Aside from colinear line families (see Question 16), each bus route is individually assessed for frequency, including unique bus lines that share the same course for a portion of their route.

## SECTION 6. RECOMMENDED METHODOLOGIES

HCD presents the following recommendations to assist local agencies in their implementation of AB 2097. These recommendations, while not required, are intended to facilitate consistent implementation of the law. HCD acknowledges there are certain methodological details absent from the law for which local agencies must necessarily “fill in the gaps” to process development applications. The recommendations in this section are intended to reduce barriers to development due to required parking minimums.

### Peak Morning and Afternoon Commute Periods

Where available, HCD recommends public agencies refer to the peak hours in their applicable RTP to account for regional variability. Public Resources Code section 21064.3, subdivision (c) identifies a threshold bus service interval of 20 minutes or less “during the morning and afternoon peak commute periods” but does not indicate definitive ranges of time. The most commonly identified peak hours from a sampling of MPOs and their RTPs were 6:00 to 9:00 am and 3:00 to 7:00 pm (see Figure 1 below).

**Figure 1. Sampling of MPO Peak Morning and Afternoon Peak Commute Periods (2024)**

	Morning (AM)								Afternoon (PM)							
MPO <sup>23</sup>	6:00		7:00		8:00		9:00		3:00		4:00		5:00		6:00	
AMBAG																
BCAG																
Fresno COG																
Kern COG																
MTC																
SACOG																
SANDAG																
SBCAG																
SCAG																
Tahoe RPA																
TCAG																

<sup>23</sup> For a full list of MPOs, see <https://calcog.org/our-members>.

### Peak Period Bus Service Interval Frequency

HCD recommends averaging bus service intervals across the combined morning and afternoon peak periods for the purposes of maximizing housing production potential and to account for peak-directional service (e.g., more frequent inbound morning service). The average frequency must be 20 minutes or less across both peak periods. In other words, two or more bus routes must stop at a given location at least 21 times in a seven-hour period to qualify for AB 2097 prohibition on minimum parking requirements. Public Resources Code section 21064.3, subdivision (c) identifies a statutory threshold of “two or more major bus routes with a frequency of service interval of 20 minutes or less” during the morning and afternoon peak commute periods but does not provide a methodology for calculating peak frequency.

### Intersections of Two or More Major Bus Routes

HCD recommends that a location or parcel should be considered within one-half mile of a major transit stop if it is served by two or more major bus routes that are within 500 feet of each other (about 0.1 mile) measured in a straight line. Public Resources Code section 21064.3, subdivision (c) identifies an “intersection of two or more major bus routes” as one criterion that may qualify as a major transit stop, but the statute does not provide a definition of “intersection.” Based on feedback from MPOs and Caltrans, acceptable distances for a passenger to transfer between transit routes on foot range between 150 feet and 500 feet. Therefore, any two or more unique bus routes that stop within 500 feet walking proximity to one another would be considered “intersecting.” See Section 5, Question 9 for measurement of one-half mile distance.

### Bus Rapid Transit (BRT) Stations

HCD recommends that a BRT station may qualify as a major transit stop if the station itself is adjacent to a full-time dedicated transit lane, since AB 2097 is based on distance from a major transit stop as opposed to a corridor. Public Resources Code section 21064.2, subdivision (a) defines “major transit stop” to include a site that contains an existing BRT station, which in turn is defined as a bus station served by BRT.<sup>24</sup> In addition to frequent peak service intervals, transit signal priority, and other boarding features, BRT is considered a faster bus-based system because the service includes operation in a full-time dedicated bus lane or separate right-of-way dedicated for public transportation.<sup>25</sup> However, the statute does not indicate whether the entirety of the BRT route, a majority portion of the BRT route, or just the station itself must be within or adjacent to a separate lane from other vehicular traffic.

## SECTION 7. LINKS TO OTHER STATE RESOURCES

Please note that the CEQA Site Check map uses Caltrans data, which is updated regularly and may vary in methodology from those recommended in Section 6 above.

- **California Office of Land Use and Climate Innovation (LCI). CEQA Site Check Map.** Layer: Existing Major Transit Stops per Public Resources Code sections 21155 and 21064.3.  
<https://sitecheck.opr.ca.gov/>

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<sup>24</sup> Pub. Res. Code, § 21060.2, subd. (b).

<sup>25</sup> Pub. Res. Code, § 21060.2, subd. (a).



- **Caltrans. High Quality Transit Stops Online Map**, Layer: “Major Transit Stop.”  
<https://data.ca.gov/dataset/ca-hq-transit-stops>
- **California Coastal Commission AB 2097 Memorandum.**  
<https://www.coastal.ca.gov/lcp/mrfcj/housing.html>

## **SECTION 8. AB 2097 STATUTE (GOVERNMENT CODE SECTION 65863.2)**

### **65863.2.**

- (a) A public agency shall not impose or enforce any minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of public transit.
- (b) Notwithstanding subdivision (a), a city, county, or city and county may impose or enforce minimum automobile parking requirements on a project that is located within one-half mile of public transit if the public agency makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on any of the following:
  - (1) The city’s, county’s, or city and county’s ability to meet its share of the regional housing need in accordance with Section 65584 for low- and very low income households.
  - (2) The city’s, county’s, or city and county’s ability to meet any special housing needs for the elderly or persons with disabilities identified in the analysis required pursuant to paragraph (7) of subdivision (a) of Section 65583.
  - (3) Existing residential or commercial parking within one-half mile of the housing development project.
- (c) For a housing development project, subdivision (b) shall not apply if the housing development project satisfies any of the following:
  - (1) The development dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities.
  - (2) The development contains fewer than 20 housing units.
  - (3) The development is subject to parking reductions based on the provisions of any other applicable law.
- (d) Notwithstanding subdivision (a), an event center shall provide parking, as required by local ordinance, for employees and other workers.
- (e) For purposes of this section:
  - (1) “Housing development project” means a housing development project as defined in paragraph (2) of subdivision (h) of Section 65589.5.
  - (2) “Low- and very low-income households” means the same as “lower income households” as defined in Section 50079.5 of the Health and Safety Code.
  - (3) “Moderate-income households” means the same as “persons and families of moderate income,” as defined in Section 50093 of the Health and Safety Code.

- (4) “Public agency” means the state or any state agency, board, or commission, any city, county, city and county, including charter cities, or special district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision.
- (5) “Public transit” means a major transit stop as defined in Section 21155 of the Public Resources Code.
- (6) “Project” does not include a project where any portion is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except where a portion of a housing development project is designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.
- (f) This section shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development that is located within one-half mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this section did not apply.
- (g) When a project provides parking voluntarily, a public agency may impose requirements on that voluntary parking to require spaces for car share vehicles, require spaces to be shared with the public, or require parking owners to charge for parking. A public agency may not require that voluntarily provided parking is provided to residents free of charge.
- (h)
  - (1) Subdivision (a) shall not apply to commercial parking requirements if it conflicts with an existing contractual agreement of the public agency that was executed before January 1, 2023, provided that all of the required commercial parking is shared with the public. This subdivision shall apply to an existing contractual agreement that is amended after January 1, 2023, provided that the amendments do not increase commercial parking requirements.
  - (2) A project may voluntarily build additional parking that is not shared with the public.
- (i) The Legislature finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions. Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.

## **ATTACHMENT 2**

*State HCD Technical Assistance Letters to Los Angeles*

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

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



March 28, 2024

Lisa Webber, AICP, Deputy Director of Project Planning  
City of Los Angeles  
200 North Spring Street, Suite 525  
Los Angeles, CA 90012

Dear Lisa Webber:

**RE: Los Angeles AB 2097 Implementation – 12124 Pacific Avenue – Letter of  
Technical Assistance**

Thank you for providing clarification on the circumstances surrounding the proposed project at 12124 Pacific Avenue (Project). The California Department of Housing and Community Development (HCD) previously provided a Letter of Technical Assistance relating to this Project on November 17, 2023 (attached). The purpose of this letter is to expand upon the technical assistance provided in the previous letter.

As you are aware, Public Resources Code (PRC) section 21155, subdivision (b) – which serves as the basis for the definition of public transit in Assembly Bill (AB) 2097 (Chapter 459, Statutes of 2022) – defines major transit stops as equivalent to those in PRC section 21064.3, “except that, for purposes of this section, it also includes major transit stops that are *included in the applicable regional transportation plan*” (emphasis added). This indicates that any major transit stop that is identified in a regional transportation plan (RTP) can and should serve to qualify nearby sites for the purposes of AB 2097. The law does not distinguish between planned and existing major transit stops, or indeed place any qualifiers on the major transit stops other than their “inclusion” within the RTP. Therefore, a site that qualifies on the basis of its proximity to a major transit stop that is included in the RTP does not need to meet the 15-minute qualification standard of PRC section 21064.3, nor should it be evaluated for that purpose.

In the context of the Project, the Venice Boulevard/Centinela Avenue stop is shown in (i.e., is “included in”) the 2020 Southern California Association of Governments (SCAG) Regional Transportation Plan.<sup>1</sup> SCAG staff has confirmed that this stop qualified as a planned major transit stop for the 2020 plan based on the methodology employed at the

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<sup>1</sup> Page 75 of the Connect SoCal 2020 Transit Technical Report. Connect SoCal 2020 is the current RTP for the SCAG region and will remain in effect until it is next updated.

time of its adoption. This stop is therefore currently considered a major transit stop for the purposes of AB 2097.

During a meeting between HCD and the City on February 27, 2024, City staff explained that the City is hesitant to process the Project application because it is currently updating/syncing various other local programs that rely on designated transit stops to establish project eligibility. In consultation with SCAG, the City is studying various methodologies that can be used to identify and categorize transit stops. While HCD recognizes the importance of these long-range planning efforts, they do not constitute a legal basis to deny the Project applicant the benefits of AB 2097 to which they are entitled. **The City must confirm the applicant's eligibility under the law in writing and without further delay.**

HCD remains committed to supporting the City of Los Angeles in implementing state law and hopes the City finds this clarification helpful. HCD would also like to remind the City that HCD has enforcement authority over AB 2097, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law (Gov. Code, § 65585, subd. (j).) If you have questions or need additional information, please contact David Ying at [david.ying@hcd.ca.gov](mailto:david.ying@hcd.ca.gov).

Sincerely,

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

Shannan West  
Housing Accountability Unit Chief

Enclosure: Letter of Technical Assistance RE: Los Angeles AB 2097 Implementation,  
November 17, 2023

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

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



November 17, 2023

Lisa Webber, AICP, Deputy Director of Project Planning  
City of Los Angeles  
200 North Spring Street, Suite 525  
Los Angeles, CA 90012

Dear Lisa Webber:

**RE: Los Angeles AB 2097 Eligibility – Letter of Technical Assistance**

HCD received a request for technical assistance from Jeffer Mangles Butler & Mitchell LLP (JMBM) on September 27, 2023, regarding the application of Assembly Bill (AB) 2097 (Chapter 459, Statutes of 2022). AB 2097 limits the ability of a public agency to impose minimum automobile parking requirements for residential, commercial, or other qualifying development projects if they are located within one-half mile of public transit, as defined. The purpose of this letter is to provide technical assistance for the benefit of both the City of Los Angeles (City) and JMBM.

**Project Description and Background**

HCD understands that the proposed Project,<sup>1</sup> located at 12124 Pacific Avenue, would provide 74 housing units, including 11 units affordable to very low-income households. The Project application, which was submitted on November 10, 2022, was approved by the City Planning Commission on August 23, 2023. After the Project was approved, the applicant became aware of the provisions of Government Code section 65863.2 (i.e., AB 2097). The applicant currently seeks to use this statute as a basis to terminate an existing parking covenant on the property. In email discussions that HCD has reviewed, the City has taken the position that the Project is not eligible under AB 2097 because it relies on a *planned* transit stop, rather than an existing transit stop, to establish eligibility under the law. The City does not dispute that the project site is located within one-half mile of the planned Venice Boulevard/Centinela Avenue major transit stop, as shown in the regional transit plan (RTP) adopted by the Southern California Association of Governments (SCAG).

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<sup>1</sup> City permit number CPC-2022-8256-CU-DB-PHP-HCA

## Interpretation of AB 2097

Government Code section 65863.2 requires that eligible projects be located within 0.5 miles of “public transit” to qualify for the parking exemption. “Public transit,” in this instance, means a “major transit stop” as defined in Section 21155 of the Public Resources Code. The definition of “major transit stop” referenced in Public Resources Code section 21155, subdivision (b), provides the following:

“A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, *it also includes major transit stops that are included in the applicable regional transportation plan.*” (Emphasis added)

Finally, Public Resources Code section 21064.3 defines a major transit stop per the following:

“Major transit stop” means a site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) *The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.* (Emphasis added)

Therefore, the question at hand is: **Can a planned “major transit stop,” as identified in an RTP, serve to qualify a site for a parking exemption pursuant to AB 2097, despite the fact that bus service frequency interval cannot yet be observed and therefore verified?**

The answer is “yes,” for the following reasons. First, Public Resources Code section 21155, subdivision (b), does not condition the eligibility of planned major transit stops on their current existence. The statute only specifies that the stops be “included” in the applicable region’s RTP (in this case, SCAG’s). It is presumed that planning documents, by their very nature, will anticipate future infrastructure and conditions that do not yet exist.

Second, it is reasonable to assume that by referencing Public Resources Code section 21155, subdivision (b), the Legislature intended for the law to include both current and planned major transit stops. Had the Legislature intended for the parking exemption to apply only to major transit stops that currently exist, it could have defined applicability using only Public Resources Code section 21064.3.

## Conclusion

In summary, HCD finds that the project is within the one-half mile radius of a major transit stop and therefore meets the basic eligibility requirements for a parking exemption under AB 2097. HCD remains committed to supporting the City of Los Angeles in achieving planning objectives and hopes the City finds this clarification helpful. If you have questions or need additional information, please contact David Ying at [david.ying@hcd.ca.gov](mailto:david.ying@hcd.ca.gov).

Sincerely,

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

Shannan West  
Housing Accountability Unit Chief



### **ATTACHMENT 3**

*Los Angeles Memorandum Regarding AB2097 Implementation*

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: October 23, 2023

TO: Interested Parties  
Department of City Planning Staff

FROM: Vincent P. Bertoni, AICP  
Director of Planning  
Department of City Planning



Osama Younan, P.E. *O.Y.*  
General Manager  
Department of Building and Safety

SUBJECT: **IMPLEMENTATION OF AB 2097 (2022)**

On September 22, 2022, the Governor signed Assembly Bill (AB) 2097, which added Government Code Section (§) 65863.2. AB 2097 prohibits a public agency from imposing or enforcing any minimum automobile parking requirement on any residential, commercial, or other development project that is within one-half mile of a major transit stop, with minor exceptions detailed below. A development project, for purposes of this bill, includes any project requiring a discretionary entitlement or building permit to allow the construction, reconstruction, alteration, addition, or change of use of a structure or land.

This updated memorandum supersedes the memorandum dated December 29, 2022 and will serve as guidance for staff and project applicants on the implementation of AB 2097 for discretionary and ministerial projects until the time this memo is superseded. Staff and interested parties are encouraged to refer to state law in Government Code §65863.2 for additional information as this memo is not exhaustive.

**AB 2097 Eligibility and Restrictions**

AB 2097 prohibits a public agency from imposing minimum automobile parking requirements on most types of development within half a mile of a major transit stop. AB 2097 specifies that the parking reductions in this bill do not apply to projects that designate (i.e., create or expand) any portion of the project as a hotel, motel, bed and breakfast inn or other transient lodging use, or reduce parking spaces designated for this use. A residential hotel as defined in Section 50519 of the Health and Safety Code is not considered transient lodging and can use AB 2097. Furthermore the parking reductions do not apply to employee parking for an event center, or publicly accessible commercial parking, that is not obligated to specific use, in a contractual agreement with a public agency executed before January 1, 2023.

In addition, a public agency has the option to impose minimum parking requirements if it can make written findings within 30 days of receipt of a completed application (e.g., a complete application for an entitlement was filed and fees were paid to DCP) for a discretionary development project. These findings may not be made against the following housing development projects that:

- Include a minimum of 20 percent of the total dwelling units for very low, low, or moderate income households, students, the elderly, or persons with disabilities.
- Contain fewer than 20 dwelling units.
- Are subject to parking reductions of any other applicable law (by satisfying the applicable eligibility requirements).

Any public agency findings to impose parking minimums must be supported by a preponderance of evidence in the record, showing that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, on any of the following:

1. The City's ability to meet its share of the Regional Housing Needs Assessment (RHNA) for low and very low income households.
2. The City's ability to meet any special housing needs for the elderly or persons with disabilities.
3. Existing residential or commercial parking within one-half mile of the housing development project (defined in Govt. Code Sec. 65589.5).

As part of the implementation of AB 2097, the Department of City Planning will be collecting data during the first year of implementation of the statute, and will be evaluating whether invoking either of the two housing-related findings is appropriate after such time. This will include tracking the number of projects utilizing the parking relief, the number of affordable and senior/disabled units proposed, as well as the utilization of affordable housing incentive programs. This data is critical to determine the impacts of the legislation on affordable and special needs housing production as well as to gather the data needed to determine whether or not the City sees evidence and a future rationale to invoke the exception findings related to housing production for the City's share of RHNA numbers or special needs housing. The utilization of these findings will be based on the information collected by the City and be based on the development trends shown by this data and other City collected housing production data.

In regards to the general finding that a project may create substantial negative impacts on "existing residential or commercial parking within one-half mile of the housing development project," members of the public and other interested parties may submit evidence to the record within 25 days of the project being accepted by the Department (the earlier the better) by emailing [planning.ab2097@lacity.org](mailto:planning.ab2097@lacity.org), with the subject line including "Evidence" followed by the project case number, or if not available the street address of the project. Evidence submitted by the general public will only be considered for discretionary development projects processed by the Department of City Planning and will be considered alongside other citywide policy priorities around equity, housing, mobility and sustainability, as well as opportunities for other mitigation strategies and the state legislative intent. The intent of the bill, as described in § 65863.2(i) states:

*(i) The Legislature finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increase greenhouse gas emissions. Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.*

A parking study must be provided by the public or other interested parties as part of the evidence of a parking impact for a given project. The parking impact evidence must conform to the following industry standards utilized by LADOT for review of a parking study or analysis. To provide a complete picture of overall usage and whether a consistent parking impact is present, the analysis should include the total amount of parking supply within the study area using the following parameters:

- Parking Study Area
  - Minimum radius of 1,000 feet or two city blocks, whichever is greater, around the project
  - The study area should be enlarged proportionally to the size of the project
- Parking Inventory
  - Counts of both on-street and off-street parking spaces
  - Counts of both public and restricted parking spaces
- Parking Duration
  - Monitor occupancy at three 4-hour intervals between 8am and 8pm on both weekends and weekdays
  - Record both occupancy duration and turnover of parking spaces during intervals
- Parking Analysis
  - Areas with more than 85% utilization throughout the day should be highlighted
  - Mitigation measures should be recommended

Parking studies should be reviewed and stamped by a licensed traffic engineer, though they are not required to be completed by one. LADOT will determine whether evidence for parking impacts exists, in collaboration with the Department of City Planning. Substantial negative impacts will be weighed alongside potentially positive impacts on a variety of citywide policy priorities, as well as individual circumstances. Any findings under section 65863.2(b) must be made in writing within 30 days of a completed application and supported by a preponderance of evidence in the record.

In line with state and local objectives, such as reduced Vehicle Miles Traveled (VMT) and Greenhouse Gas (GHG) policy goals as well as housing equity goals, projects located in the following areas will be accorded substantial consideration against imposing or enforcing parking minimum standards on these projects:

1. Projects located within one-half mile of a fixed rail or bus rapid transit (BRT) line
2. Projects located in high and highest resource areas in the Tax Credit Allocation Committee (TCAC) Opportunity [Maps](#)

#### Electric Vehicle Charging Stations (EVCS) and Disabled Access Parking Spaces

Government Code Section 65863.2(f) of the law states that AB 2097 does not invalidate any otherwise applicable requirements regarding the provision of electric vehicle (EV) supply and charging equipment installed in parking spaces or to provide parking spaces that are accessible to persons with disabilities. The EV requirements are stated in the LAMC section beginning with Section [99.04.106.4.2](#) and Disabled Access requirements are found in Chapter 11A or 11B of the Los Angeles Building Code (LABC). Since EV and Disabled Access requirements apply to parking spaces otherwise "provided" by the development project, if any parking spaces are voluntarily provided, EV and Disabled Access standards should be complied with when applicable.

#### Additional Standards for Voluntarily Provided Vehicle Parking

When a project provides parking voluntarily, the state law specifies that the City may impose certain other applicable requirements, including that the voluntary parking require spaces for car share vehicles, require spaces to be shared with the public (e.g., not obligated to a specific use or business), or require parking owners to charge for parking. A public agency may not require that voluntarily provided parking is provided to residents free of charge.

If parking is not required but voluntarily provided, AB 2097 does not preclude the application of standards relating to accessing those spaces, their size, design and similar standards designed to ensure safety. (e.g. LAMC Section 12.21 A.5 - Design of Parking Facilities). Those standards are not affected by AB 2097 and shall remain in effect. However, restrictions on the number or percentage of compact stalls per LAMC 12.21 A.5(c), shall not be enforced. A project may provide any combination of standard or compact stalls for non-required, voluntarily provided parking as long as they also meet EV and Disabled Access requirements.

### Bike Parking

AB 2097 addresses automobile parking in areas near transit, and does not affect required bicycle parking. Therefore, the City will continue to require bicycle parking for residential and non-residential uses pursuant to the bicycle parking provisions in LAMC Section 12.21 A.16.

### Offsite Parking Affidavits, Offsite Parking Lease Agreements and Valet Parking

For an existing offsite parking affidavit, if the project site for which the parking is to be provided for is eligible to use AB 2097, the affidavit may be terminated by contacting Building and Safety for review and permitting. For an existing offsite parking lease agreement approved by City Planning, if the project site for which the parking is to be provided for is eligible to use AB 2097, the lease agreement requirement may be removed by contacting DCP and Building and Safety for review and permitting. While offsite and valet parking can not be imposed or enforced if qualified under the law, any volunteered valet parking system must follow the provisions of LAMC 103.203 including the requirement for a Valet Parking Operator permit.

### Coastal Zone

For properties located in the Coastal Zone, please refer to the [June 30, 2023 memo](#) by the California Coastal Commission. It acknowledges that minimum automobile parking requirements may not be imposed or enforced but that all other Coastal Act provisions remain, including those protecting, enhancing, and maximizing public access and recreation.

### Commercial Parking Subject to Existing Contractual Agreements

AB 2097's ban on imposing or enforcing parking minimums does not apply to any commercial parking requirements that are subject to an existing contractual agreement of the public agency that was executed before January 1, 2023, so long as the required commercial parking is shared with all members of the public.

### Event Center

The bill provides that an event center is not subject to all of the parking reductions permitted in this bill and is required to provide automobile parking required by local ordinance for employees and other workers. Since the LAMC does not currently have separate parking requirements for employees or other workers, this provision does not apply. AB 2097 does not define "event center" nor does the LAMC. California Health and Safety Code Section 40717.8 defines the term to mean "a community center, activity center, auditorium, convention center, stadium, coliseum, arena, sports facility, racetrack, pavilion, amphitheater, theme park, amusement park, fairgrounds, or other building, collection of buildings, or facility which is used exclusively or primarily for the holding of sporting events, athletic contests, contests of skill, exhibitions, conventions, meetings, spectacles, concerts, or shows, or for providing public amusement or entertainment." The City will use this definition until it creates its own.

## Implementation

On January 1, 2023, the AB 2097 provisions became effective and available to any qualified project, provided it meets the criteria in state law. The City's Zone Information and Map Access System (ZIMAS) identifies parcels within a one-half mile radius of a major transit stop under the Planning and Zoning tab within the table of contents.

For Planning projects that intend to utilize AB 2097, the applicant will need to print the ZIMAS AB 2097 Eligibility map with a date-stamp that is within 180 days of the date of submission of a City Planning application, along with a written request to utilize AB 2097, preferably at the time of application. Please note that the ZIMAS AB 2097 Eligibility map printout includes an automatic date stamp. AB 2097 may also be requested after a City Planning application has been filed but prior to issuance of a letter of determination. This may result in the need for a revised application and/or plans to be submitted to the Project Planning team. In this instance, a written request is required along with the printed ZIMAS AB 2097 Eligibility map showing a date within 180 days of the date of a revised submission. Furthermore, staff verification of AB 2097 eligibility may be required to ensure accuracy with current transit and bus line data. ZIMAS is provided as a public service, and due to the dynamic nature of zoning and transportation information verification of information may be required.

For projects with an approved entitlement, the applicant shall submit the following: revised plans showing the changes made as a result of reducing automobile parking spaces; a date-stamped ZIMAS AB 2097 Eligibility map (dated within 180 days of the submission date); and, a written request to utilize AB 2097, to the Senior Planner of the Project Planning team that processed the entitlement. Project modifications may require additional review and payment of fees. For projects that are already existing and operating, please contact the Los Angeles Department of Building and Safety for instructions on how to implement AB 2097.

For a project which is submitted for a permit application with LADBS, if it is eligible to use AB 2097 at any point between submittal date and permit issuance date, or if a ZIMAS AB 2097 Eligibility map is printed with a date-stamp within 180 days prior to submittal date and provided to the assigned Plan Check Engineer, or if a Planning entitlement indicates eligibility for AB 2097, it is eligible to utilize AB 2097 for the duration of the project until the permit is finalized and/or Certificate of Occupancy is issued. Verification of AB 2097 eligibility may be required to ensure accuracy with current transit and bus line data. If a project is already in plan check or under construction, and would like to utilize AB 2097, revised plans showing the changes as a result of reducing automobile parking spaces will need to be submitted to Building and Safety for a supplemental permit. Furthermore, if there is a Planning entitlement that needs to be updated for AB 2097 eligibility, a Planning clearance approval will need to be obtained. A fee may be required to process this request.

**From:** [Mahesh Gurikar](#)  
**To:** [City of Cupertino Planning Commission](#)  
**Subject:** Fwd: Westport Project Changed  
**Date:** Friday, April 18, 2025 6:48:58 PM

---

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Resend

Begin forwarded message:

**From:** Mahesh Gurikar <mgurikar@yahoo.com>  
**Date:** April 17, 2025 at 6:17:07 PM PDT  
**To:** lukec@cupettion.gov, piug@cupertino.gov,  
planningcomission@cupertino.org  
**Subject: Westport Project Changed**

Members of the Planning Commission,

Westport's proposal to reduce the retail space and eliminate underground parking

Please do not allow the requested changes to the project.

4000 sq fr retail space is too small.  
One restaurant may take 4000 sft.  
We need several retail businesses here.  
May be it can be reduced to about 12000 Sft.

If underground parking is eliminated, those vehicles compete for parking on Mary Avenue.

Please recommend Westport stick to original plan approved.

Thank you,  
Mahesh Gurikar  
Resident of Cupertino

**From:** [David Rolnick](#)  
**To:** [City of Cupertino Planning Commission](#)  
**Subject:** Westport Changes  
**Date:** Sunday, April 20, 2025 4:05:41 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Commissioners,

**Please reject the proposed modifications to the Westport development.**

The city has already come to a compromise development agreement with the developer – one which reduced retail from 20,000 square feet to 12,000 square feet. Now the developer is trying to break the agreement in major ways. If the Planning Commission and City Council give into this developer, it will open the floodgates for other developers to come back and reduce or eliminate retail, avoid park dedication fees, and provide insufficient parking for residents and guests.

This developer needs to be held accountable to what it agreed to. They have likely made hefty profits from subdividing the property and selling off portions to other developers for apartments and townhouses. If the developer doesn't want to build what they agreed to, they can just let the land sit idle (making the project even less economical), or better yet, sell it to the city for a park or pickleball courts.

Regards,

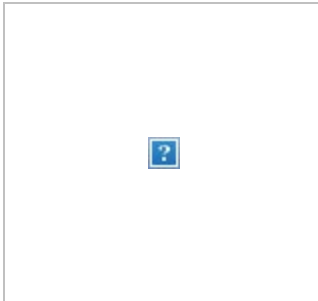
David Rolnick  
Resident of Cupertino



**From:** [Piu Ghosh \(she/her\)](#)  
**To:** [Michael Woo](#); [Luke Connolly](#); [Lindsay Nelson](#); [Benjamin Fu](#)  
**Subject:** Fwd: HAC re Westport  
**Date:** Monday, April 21, 2025 10:21:23 AM  
**Attachments:** [HAC Letter re Westport.pdf](#)

---

FYI...



**Piu Ghosh (she/her)**

Planning Manager  
Community Development  
[PiuG@cupertino.gov](mailto:PiuG@cupertino.gov)  
(408) 777-3277



Begin forwarded message:

**From:** Corey Smith <[corey@housingactioncoalition.org](mailto:corey@housingactioncoalition.org)>  
**Date:** April 21, 2025 at 10:14:34 AM PDT  
**To:** Santosh Rao <[srao@cupertino.org](mailto:srao@cupertino.org)>, Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>, "Piu Ghosh (she/her)" <[PiuG@cupertino.gov](mailto:PiuG@cupertino.gov)>  
**Subject:** HAC re Westport

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chair Rao,

On behalf of the Housing Action Coalition, please see our attached letter regarding the Westport project.

Let me know if you have any questions.

Respectfully,  
Corey Smith  
Executive Director, Housing Action Coalition

--

**Corey Smith** 陈锐 | Pronouns: He/Him

Executive Director | Housing Action Coalition  
555 Montgomery Street, Suite 720, San Francisco, CA 94111  
Cell: (925) 360-5290 | Office: (415) 300-0967



Email: [corey@housingactioncoalition.org](mailto:corey@housingactioncoalition.org) | Web: [housingactioncoalition.org](http://housingactioncoalition.org)

**Please note the new email and website.**

To opt out of all HAC emails, respond to this email with "unsubscribe all".



555 Montgomery Street  
Suite 720  
San Francisco, CA 94111  
info@housingactioncoalition.org  
housingactioncoalition.org

April 21, 2025

Santosh Rao  
Chair  
City of Cupertino Planning Commission  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
srao@cupertino.org

Re: April 22 Hearing on the Westport Cupertino Project

Dear Chair Rao:

The Housing Action Coalition does not support the City's position in the staff report for the proposed modifications to the Westport Cupertino project that the project cannot use AB2097 to reduce its previously approved parking because AB2097 does not allow retroactive application to previously approved projects. There is no basis in the text of AB2097 supporting this position. Instead, AB2097 provides for limited circumstances where previously approved commercial projects cannot use the law, but otherwise clearly provides the broad use of the law for existing, approved, or newly proposed projects, particularly housing projects.

The staff report position on AB2097 is inconsistent with the clear intent of law and would be contrary to published guidance from State HCD and the housing production goals of the state.

We encourage the Planning Commission read the clear text of AB2097 and reject the staff report's position that AB2097 is unavailable to the Westport Cupertino project.

A handwritten signature in black ink, appearing to read "Corey Smith", is displayed within a light gray rectangular box.

**Corey Smith**, *Executive Director*  
Housing Action Coalition (HAC)

**CC:**

Piu Ghosh



555 Montgomery Street  
Suite 720  
San Francisco, CA 94111  
[info@housingactioncoalition.org](mailto:info@housingactioncoalition.org)  
[housingactioncoalition.org](http://housingactioncoalition.org)

Planning Manager  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
[piug@cupertino.gov](mailto:piug@cupertino.gov)

Gian Martire  
Senior Planner  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
[GianM@cupertino.org](mailto:GianM@cupertino.org)



555 Montgomery Street  
Suite 720  
San Francisco, CA 94111  
[info@housingactioncoalition.org](mailto:info@housingactioncoalition.org)  
[housingactioncoalition.org](http://housingactioncoalition.org)

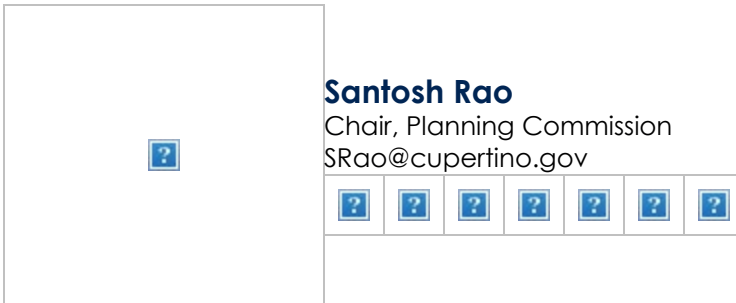
**From:** [Santosh Rao](#)  
**To:** [Lindsay Nelson](#); [Piu Ghosh \(she/her\)](#); [Luke Connolly](#)  
**Subject:** Fw: HAC re Westport  
**Date:** Monday, April 21, 2025 11:39:36 AM  
**Attachments:** [HAC Letter re Westport.pdf](#)

---

Dear City Clerk, Staff,

Would you please include the below in written communications for the 04/22/25 planning commission meeting and also share with the planning commissioners.

Thank you.



---

**From:** Corey Smith <corey@housingactioncoalition.org>  
**Sent:** Monday, April 21, 2025 10:13 AM  
**To:** Santosh Rao <srao@cupertino.org>; Gian Martire <GianM@cupertino.org>; Piu Ghosh (she/her) <piug@cupertino.gov>  
**Subject:** HAC re Westport

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chair Rao,

On behalf of the Housing Action Coalition, please see our attached letter regarding the Westport project.

Let me know if you have any questions.

Respectfully,  
Corey Smith  
Executive Director, Housing Action Coalition

--

**Corey Smith** 陈锐 | Pronouns: He/Him

Executive Director | Housing Action Coalition  
555 Montgomery Street, Suite 720, San Francisco, CA 94111

Cell: (925) 360-5290 | Office: (415) 300-0967



Email: [corey@housingactioncoalition.org](mailto:corey@housingactioncoalition.org) | Web: [housingactioncoalition.org](http://housingactioncoalition.org)

**Please note the new email and website.**

To opt out of all HAC emails, respond to this email with "unsubscribe all".



555 Montgomery Street  
Suite 720  
San Francisco, CA 94111  
info@housingactioncoalition.org  
housingactioncoalition.org

April 21, 2025

Santosh Rao  
Chair  
City of Cupertino Planning Commission  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
srao@cupertino.org

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We encourage the Planning Commission read the clear text of AB2097 and reject the staff report's position that AB2097 is unavailable to the Westport Cupertino project.

A handwritten signature in black ink, appearing to read "Corey Smith", is displayed on a light gray rectangular background.

**Corey Smith**, *Executive Director*  
Housing Action Coalition (HAC)

**CC:**

Piu Ghosh





555 Montgomery Street  
Suite 720  
San Francisco, CA 94111  
[info@housingactioncoalition.org](mailto:info@housingactioncoalition.org)  
[housingactioncoalition.org](http://housingactioncoalition.org)

Planning Manager  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
[piug@cupertino.gov](mailto:piug@cupertino.gov)

Gian Martire  
Senior Planner  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3255  
[GianM@cupertino.org](mailto:GianM@cupertino.org)



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Suite 720  
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[housingactioncoalition.org](http://housingactioncoalition.org)

Dear Cupertino Planning Commission,

The California Housing Defense Fund ("CalHDF") submits the attached public comment re item 4 for 4/22/25 Planning Commission meeting, the proposed 272-unit housing development project at 21267 Stevens Creek Boulevard, which includes 29 units affordable to very low-income households.

Sincerely,

James M. Lloyd  
Director of Planning and Investigations  
California Housing Defense Fund  
[james@calhdf.org](mailto:james@calhdf.org)  
CalHDF is grant & donation funded  
Donate today - <https://calhdf.org/donate/>



Cupertino - 21267 S...  
PDF



**Apr 21, 2025**

**City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014**

**Re: Proposed Housing Development Project at 21267 Stevens Creek Boulevard**

**By email: [srao@cupertino.org](mailto:srao@cupertino.org); [Tkosolcharoen@cupertino.gov](mailto:Tkosolcharoen@cupertino.gov); [dfung@cupertino.gov](mailto:dfung@cupertino.gov);  
[slindskog@cupertino.gov](mailto:slindskog@cupertino.gov); [SScharf@cupertino.gov](mailto:SScharf@cupertino.gov);  
[planningcommission@cupertino.gov](mailto:planningcommission@cupertino.gov)**

**CC: [piug@cupertino.gov](mailto:piug@cupertino.gov); [planning@cupertino.gov](mailto:planning@cupertino.gov); [CityAttorney@cupertino.gov](mailto:CityAttorney@cupertino.gov);  
[CityManager@cupertino.gov](mailto:CityManager@cupertino.gov); [CityClerk@Cupertino.gov](mailto:CityClerk@Cupertino.gov)**

Dear Cupertino Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the City of its obligation to abide by all relevant state housing laws when evaluating the proposed 272-unit housing development project at 21267 Stevens Creek Boulevard, including 29 units affordable to very low-income households. These laws include the Housing Accountability Act (“HAA”), the Density Bonus Law (“DBL”), and AB 2097.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subds. (d), (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would render the project infeasible or reduce the project’s density unless, again, such written findings are made. (*Id.* at subd. (d).) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA’s ambit, and it complies with local zoning code and the City’s general plan. Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA. (Gov. Code, § 65589.5, subd. (j)(3).) The HAA’s protections therefore apply, and the City may not reject the project except based on health and safety standards, as outlined above.

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in

**360 Grand Ave #323, Oakland 94610  
[www.calhdf.org](http://www.calhdf.org)**

residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to ground floor retail, in addition to the previously approved waivers and concessions, unless it makes written findings as required by Government Code, section 65915, subdivision (e)(1) that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, or as required by Government Code, section 65915, subdivision (d)(1) that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. The City, if it makes any such findings, bears the burden of proof. (Gov. Code, § 65915, subd. (d)(4).) Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id.* at subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Finally, the project is exempt from off-street parking pursuant to AB 2097 given its location near transit. CalHDF understands that City staff is contesting the applicability of the law to the project, given that the previous version of the project was entitled before the law came into effect.

First, the project is seeking amended entitlements, and staff have accordingly forced the project to go through additional environmental review accordingly. It is unclear why staff feels that this amended entitlement process does not provide the applicant an opportunity to invoke the law.

Additionally, AB 2097 clearly states “Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.” (Gov. Code, § 65863.2, subd. (i).) The Legislature has clearly articulated its intent that local agencies should interpret the law as prohibiting parking requirements.

Furthermore, the California Department of Housing and Community Development (“HCD”) has issued [guidance](#) that AB 2097 can, in fact, be applied retroactively. From page 6 of the linked January 2025 memorandum:

Can AB 2097 be used to eliminate an existing parking agreement?

Yes, with the exception of contractual commercial parking agreements with a public agency that were executed before January 1, 2023.

The parking in question is not a contractual commercial parking agreement with a public agency, and therefore the HCD guidance is that AB 2097 can be used to eliminate the parking agreement between the applicant and the city.

Finally, it is unclear why staff are fighting to impose parking requirements on assisted living and memory care units, where residents are likely unable to drive or choose not to.

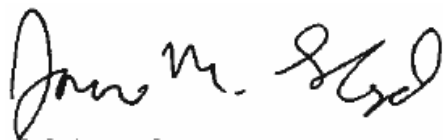
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit;; it will provide badly-needed affordable housing; it will bring increased tax revenue and new customers to local businesses; and it will reduce displacement of existing residents into homelessness. Most importantly, it will allow seniors to age with dignity by providing invaluable assisted living and memory care housing. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the City to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at [www.calhdf.org](http://www.calhdf.org).

Sincerely,



Dylan Casey  
CalHDF Executive Director



James M. Lloyd  
CalHDF Director of Planning and Investigations

**From:** [James Lloyd](#)  
**To:** [Santosh Rao](#); [Tracy Kosolcharoen](#); [David Fung](#); [Seema Lindskog](#); [Steven Scharf](#); [City of Cupertino Planning Commission](#)  
**Cc:** [Piu Ghosh \(she/her\)](#); [City of Cupertino Planning Dept.](#); [City Attorney's Office](#); [Cupertino City Manager's Office](#); [City Clerk](#)  
**Subject:** public comment re item 4 for 4/22/25 Planning Commission meeting  
**Date:** Monday, April 21, 2025 4:52:21 PM  
**Attachments:** [Cupertino - 21267 Stevens Creek Boulevard - HAA Letter.pdf](#)

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits the attached public comment re item 4 for 4/22/25 Planning Commission meeting, the proposed 272-unit housing development project at 21267 Stevens Creek Boulevard, which includes 29 units affordable to very low-income households.

Sincerely,

James M. Lloyd  
Director of Planning and Investigations  
California Housing Defense Fund  
[james@calhdf.org](mailto:james@calhdf.org)  
CalHDF is grant & donation funded  
Donate today - <https://calhdf.org/donate/>



**Apr 21, 2025**

**City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014**

**Re: Proposed Housing Development Project at 21267 Stevens Creek Boulevard**

**By email: [srao@cupertino.org](mailto:srao@cupertino.org); [Tkosolcharoen@cupertino.gov](mailto:Tkosolcharoen@cupertino.gov); [dfung@cupertino.gov](mailto:dfung@cupertino.gov);  
[slindskog@cupertino.gov](mailto:slindskog@cupertino.gov); [SScharf@cupertino.gov](mailto:SScharf@cupertino.gov);  
[planningcommission@cupertino.gov](mailto:planningcommission@cupertino.gov)**

**CC: [piug@cupertino.gov](mailto:piug@cupertino.gov); [planning@cupertino.gov](mailto:planning@cupertino.gov); [CityAttorney@cupertino.gov](mailto:CityAttorney@cupertino.gov);  
[CityManager@cupertino.gov](mailto:CityManager@cupertino.gov); [CityClerk@Cupertino.gov](mailto:CityClerk@Cupertino.gov)**

Dear Cupertino Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the City of its obligation to abide by all relevant state housing laws when evaluating the proposed 272-unit housing development project at 21267 Stevens Creek Boulevard, including 29 units affordable to very low-income households. These laws include the Housing Accountability Act (“HAA”), the Density Bonus Law (“DBL”), and AB 2097.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subds. (d), (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would render the project infeasible or reduce the project’s density unless, again, such written findings are made. (*Id.* at subd. (d).) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA’s ambit, and it complies with local zoning code and the City’s general plan. Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA. (Gov. Code, § 65589.5, subd. (j)(3).) The HAA’s protections therefore apply, and the City may not reject the project except based on health and safety standards, as outlined above.

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in

**360 Grand Ave #323, Oakland 94610  
[www.calhdf.org](http://www.calhdf.org)**



residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to ground floor retail, in addition to the previously approved waivers and concessions, unless it makes written findings as required by Government Code, section 65915, subdivision (e)(1) that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, or as required by Government Code, section 65915, subdivision (d)(1) that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. The City, if it makes any such findings, bears the burden of proof. (Gov. Code, § 65915, subd. (d)(4).) Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id.* at subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Finally, the project is exempt from off-street parking pursuant to AB 2097 given its location near transit. CalHDF understands that City staff is contesting the applicability of the law to the project, given that the previous version of the project was entitled before the law came into effect.

First, the project is seeking amended entitlements, and staff have accordingly forced the project to go through additional environmental review accordingly. It is unclear why staff feels that this amended entitlement process does not provide the applicant an opportunity to invoke the law.

Additionally, AB 2097 clearly states “Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.” (Gov. Code, § 65863.2, subd. (i).) The Legislature has clearly articulated its intent that local agencies should interpret the law as prohibiting parking requirements.

Furthermore, the California Department of Housing and Community Development (“HCD”) has issued [guidance](#) that AB 2097 can, in fact, be applied retroactively. From page 6 of the linked January 2025 memorandum:

Can AB 2097 be used to eliminate an existing parking agreement?

Yes, with the exception of contractual commercial parking agreements with a public agency that were executed before January 1, 2023.

The parking in question is not a contractual commercial parking agreement with a public agency, and therefore the HCD guidance is that AB 2097 can be used to eliminate the parking agreement between the applicant and the city.

Finally, it is unclear why staff are fighting to impose parking requirements on assisted living and memory care units, where residents are likely unable to drive or choose not to.

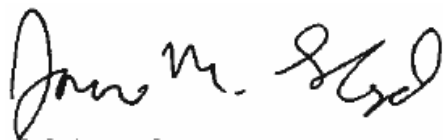
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit;; it will provide badly-needed affordable housing; it will bring increased tax revenue and new customers to local businesses; and it will reduce displacement of existing residents into homelessness. Most importantly, it will allow seniors to age with dignity by providing invaluable assisted living and memory care housing. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the City to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at [www.calhdf.org](http://www.calhdf.org).

Sincerely,



Dylan Casey  
CalHDF Executive Director



James M. Lloyd  
CalHDF Director of Planning and Investigations

**From:** [Jean Bedord](#)  
**To:** [City of Cupertino Planning Commission](#); [City of Cupertino Planning Dept.](#); [Cupertino City Manager's Office](#)  
**Cc:** [Simsik, Balint](#); [Zak, Cascade](#)  
**Subject:** Agenda Item 4, Planning Commission, Apr. 22: Modifications for Westport Development Assisted Living  
**Date:** Tuesday, April 22, 2025 10:48:50 AM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Commission and Planning Staff,

I urge you to approve the application for modification of this previously approved project, **WITHOUT the additional condition of adding 20 more parking spaces. Retention of the retail space for restaurants is crucial to this location.** The city lost Hobees, Coffee Society, Togos, Jamba Juice, an ice cream shop, and an Indian restaurant at this location. It was a community gathering place for both residents and DeAnza College. A new event center is being built across the street at DeAnza Community College, but there is no food service to entice the attendees to spend money in Cupertino, which they did at Hobees when Flint Center was operational. DeAnza also has another theatre and Euphrat Art Center across the street. Students and staff at DeAnza congregate at eating places. The **Bistro planned at the corner of Mary and Stevens Creek is crucial for the Senior Center.** Our members want a place to go to have coffee and lunch with their friends since the Senior Center does not have food service. Later in the day, DeAnza students need a place to get something besides student union food, which closes before evening classes are over. The pickleball and tennis players would like a place to eat, as well as other users of Memorial Park. Currently this location is a food desert, in an area that could be a vibrant center and a revenue generator for the city. **Failing to retain the 4,000 sq. ft. of retail in this project would doom the retail already included in the Westport BMR housing due to lack of foot traffic.**

I realize that parking in this area has been contentious, but no matter how much parking is built, there will always be complainers. Same is true for traffic. Depending on the time of day, traffic and parking on Mary is not heavy. I urge the city to rethink parking management. Why is the **city prioritizing car space over people space?** Isn't it time to figure out how to manage **"shared parking" with multiple uses?** Spaces do not have to be used 24/7 for the same use. Specifically:

- Retail spaces are empty after closing hours and overnight
- Residential spaces need overnight parking but are largely empty during the day while residents are working
- Service providers for seniors and IDD clients generally work during the day, not on weekends.
- Visitors to assisted living/memory care do not stay long, and are usually afternoon and evening
- Festivals utilize the abundant **FREE public parking at DeAnza Community College**
- Abundant **FREE overflow public parking** is available at DeAnza Community College
- Senior Center parking lot is empty in the evenings and weekends, other than festivals

The parking dilemma needs to be addressed **holistically by the city, rather than attempting to burden individual housing projects.** New state laws, specifically AB2097, are aimed at

forcing cities to reduce parking requirements. **Why isn't Cupertino adjusting its requirements?**

Cupertino needs to build more housing, specifically for its aging senior population, so this project needs to move ahead without additional delays. It's already been **five years since the initial approval which couldn't be financed**. In the meantime, COVID impacted the project and now interest rates, tariffs and rising construction costs threaten to derail it once again. Keep in mind that the **city issued only 80 building permits for new housing units in 2024, leaving a deficit of 4,431 units to fulfill the city's RHNA number of 4,588 housing units by Jan. 31, 2031, in only six years**. I urge Planning to remove obstacles to building housing, not create obstacles.

Very concerned long-time resident,  
Jean Bedord  
Cupertino Senior Center Advisory Council President  
Age Friendly Cupertino task force member

**From:** [radler.digiplaces.com](mailto:radler.digiplaces.com)  
**To:** [City of Cupertino Planning Commission](#)  
**Subject:** Slide for Public Comment at Planning Commission meeting, 4.22, re Item #4  
**Date:** Tuesday, April 22, 2025 10:49:56 AM  
**Attachments:** [Richard Adler 4.22.25.pptx](#)

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Attached is a Powerpoint slide that I plan to use in making a public comment at this evening's planning commission meeting regarding Agenda Item #4, regarding the Westport Development plan modifications.

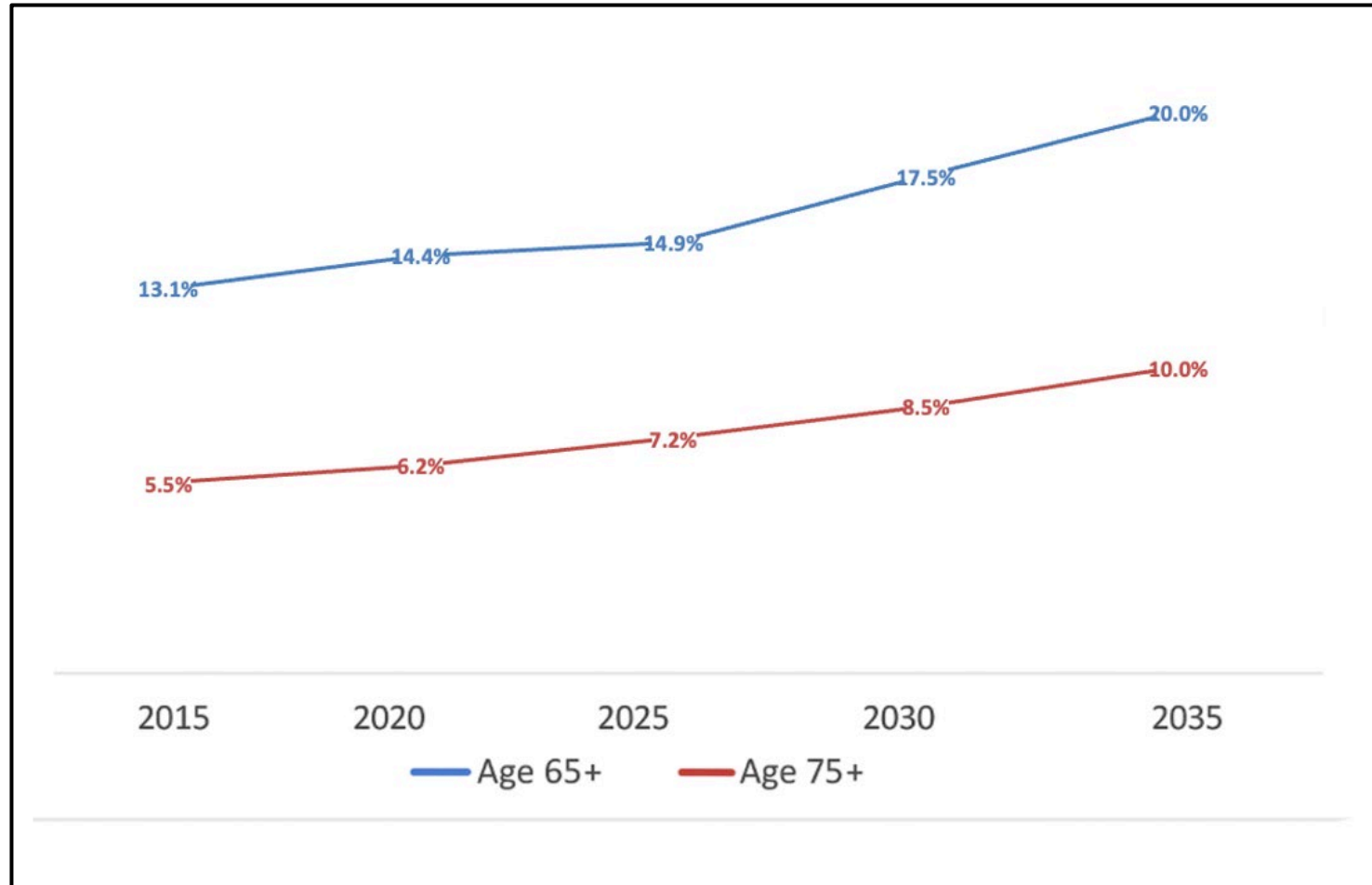
I am currently planning to participate by Zoom, but may participate in person if I can.

Richard Adler

Age Friendly Cupertino  
650-520-3045



# Cupertino's 65+ and 75+ Population 2015-2035



# Data Sources

2015      City of Cupertino Parks and Recreation Master Plan Demographic Analysis (2016)

2020      Same as above (updated for 2020)

2025      Neilsberg demographic insights

2030–2035 Projections:

- Santa Clara County Office of Aging Reports
- State of California Department of Finance population projections
- U.S. Census Bureau trends and regional aging patterns in Silicon Valley



**From:** [Jennifer Griffin](#)  
**To:** [City of Cupertino Planning Commission](#); [City Clerk](#)  
**Cc:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com); [City Council](#)  
**Subject:** Westport Underground Parking, Retail, Park Dedication Fees and Mary Avenue  
**Date:** Tuesday, April 22, 2025 1:25:03 PM

---

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

(Please include the following comments as public input for Item Number 4 on the 4/22/25 Cupertino Planning Commission Agenda for Westport. )

Dear Planning Commission:

Most of the Westport Community (formerly the Oaks) has been developed. I am very Happy to see the young oak trees planted to replace the historic oak trees that were on site Before the development.

The only part of the Westport Community that needs to be finished is the section next To Mary Avenue (west side). This is being called Building 1.

I am very concerned about the proposed changes at Building 1.

A. Underground Parking. It looks as if the developer is not wanting to build the underground Parking under Building 1 that would provide promised parking for the residents of Building 2, provide Parking for the residents and support folks (family members, doctors, nurses, helpers, technicians, Emergency personnel, security, food delivery etc.) of Building 1, and parking for the retail for Building 1.

Not providing adequate parking for Building 1 and Building 2 and Retail is an extremely bad plan. This parking was promised in the original discussions of this project over ten years ago. The parking Garage was a selling point to the city and public. I attended all those meetings. The current project Needs that parking. It is a disgrace to say everyone can walk 1/2 mile, especially when you are Dealing with seniors. To have Building 1 be regarded and marketed as an up-to-date state of the art senior care Facility there must be adequate parking. Families paying 5,000 to 8,000 dollars a month for Family members expect there to be adequate parking on site or else they may decide to Place family members elsewhere in other cities who care about the needs of patients and Their families.

B. Loss of Proposed Retail. The proposal to drastically reduce the ground floor retail on Building 1 is not a good plan. This site, as the Oaks, previously provided Cupertino with a lot of ground Floor retail, and the decision to try to eliminate so much promised retail for Building 1 is not A good fit for the city of Cupertino and residents who want to shop in their own city.

C. Loss of Park Dedication Fees. It is not a good idea to not provide parkland or pay the Park Dedication fee for Building 1. There is the need for new open space and parkland For the number of people being housed in Building 1. Parkland should be provided on Site or fees paid to allow the purchase of parkland for everyone in the city. That is the Expectation of the residents of Cupertino.

D. Mary Avenue Traffic Management. Mary Avenue is going to be greatly affected by Building 1 and careful attention needs to be paid to make sure Mary Avenue is able To carry this traffic load, especially with its complicated intersection with Stevens Creek Blvd, Highway 85 and DeAnza College ramps to Stevens Creek Blvd crossing

This intersection.

Providing adequate underground parking, retaining a lot of retail, paying park fees and Carefully configuring Mary Avenue will ensure that Building 1 at Westport will be a Success for everyone.

Thank you.

Best regards,

Jennifer Griffin  
Cupertino Resident

**From:** [Jennifer Griffin](#)  
**To:** [City Clerk](#)  
**Cc:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com); [City of Cupertino Planning Commission](#); [City Council](#)  
**Subject:** Fwd: Westport Underground Parking, Retail, Park Dedication Fees and  
**Date:** Tuesday, April 22, 2025 1:27:54 PM

---

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Dear City Clerk: Please include the following comment as public input for Item Number 4 In the Planning Commission Agenda for the 4/22/25 Planning Commission meeting on Westport. Thank you.

----- Original Message -----

**Subject:** Westport Underground Parking, Retail, Park Dedication Fees and Mary Avenue  
**From:** Jennifer Griffin <[grenna5000@yahoo.com](mailto:grenna5000@yahoo.com)>  
**Sent:** Tuesday, April 22, 2025, 1:24 PM  
**To:** [planningcommission@cupertino.org](mailto:planningcommission@cupertino.org), [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org)  
**CC:** [grenna5000@yahoo.com](mailto:grenna5000@yahoo.com), [citycouncil@cupertino.org](mailto:citycouncil@cupertino.org)

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Thank you.

Best regards,

Jennifer Griffin  
Cupertino Resident

**From:** [radler.digiplaces.com](mailto:radler.digiplaces.com)  
**To:** [Santosh Rao](#)  
**Cc:** [City of Cupertino Planning Commission](#)  
**Subject:** Slides for Public Comment at Planning Commission meeting, 4.22, re Item #4 -- Revised version  
**Date:** Tuesday, April 22, 2025 2:09:07 PM  
**Attachments:** [Richard Adler 4.22.25 V2.pptx](#)

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I have added a second slide to my presentation, so please substitute this version (labelled V2) for the one I sent previously. I have added a list of references for this data following my two slides, but I don't plan to show them, during my presentation.

---

**From:** Santosh Rao <SRao@cupertino.gov>  
**Sent:** Tuesday, April 22, 2025 11:08 AM  
**To:** radler [digiplaces.com](mailto:radler.digiplaces.com) <radler@digiplaces.com>  
**Subject:** Re: Slide for Public Comment at Planning Commission meeting, 4.22, re Item #4

Thank you Richard for sharing your slides ahead of time and for your engagement on the item.



---

**From:** radler [digiplaces.com](mailto:radler.digiplaces.com) <radler@digiplaces.com>  
**Sent:** Tuesday, April 22, 2025 10:48 AM  
**To:** City of Cupertino Planning Commission <planningcommission@cupertino.gov>  
**Subject:** Slide for Public Comment at Planning Commission meeting, 4.22, re Item #4

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Richard Adler

Age Friendly Cupertino  
650-520-3045

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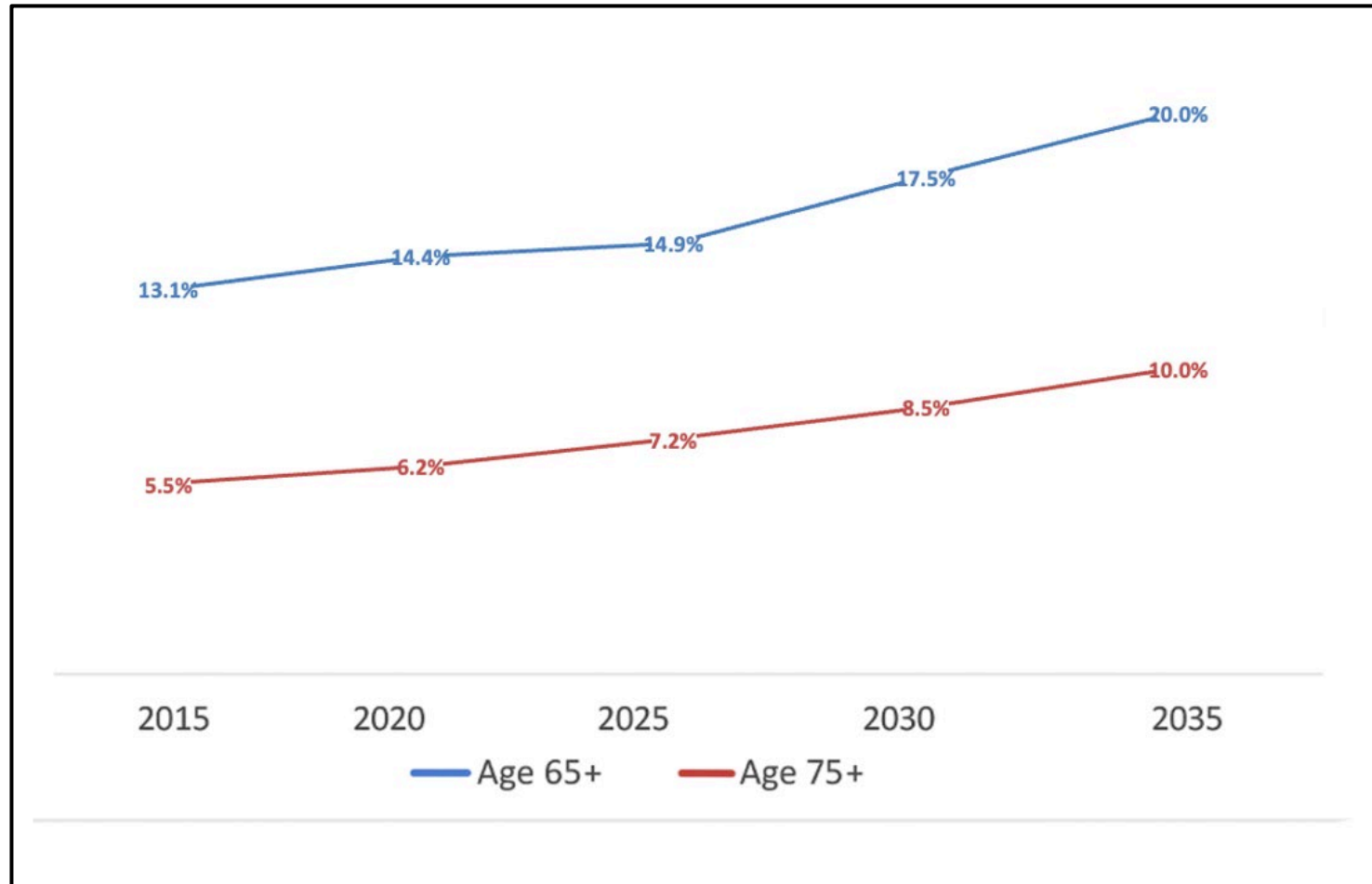


# Presentation to Cupertino Planning Commission

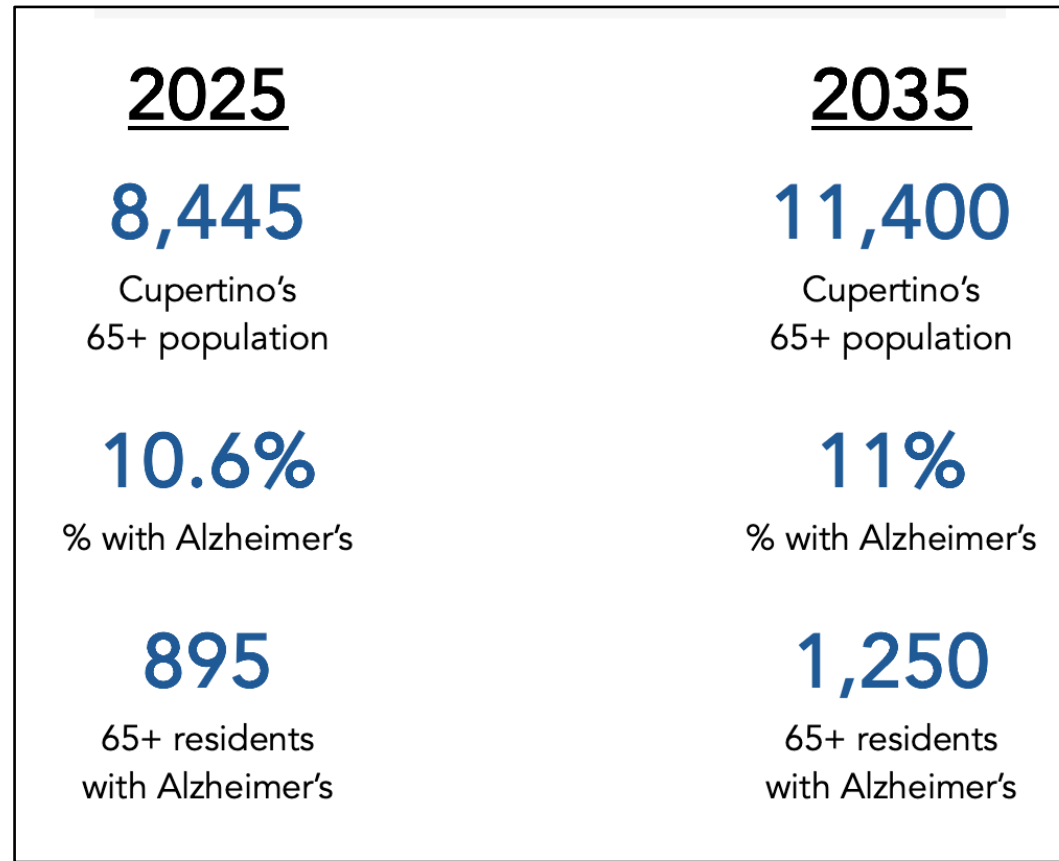
Richard Adler  
Age Friendly Cupertino  
April 22, 2024

V2

# Cupertino's 65+ and 75+ Population 2015-2035



# Prevalence of Alzheimer's in Cupertino's 65+ Population



**From:** [Peggy Griffin](#)  
**To:** [Gian Martire](#); [Piu Ghosh \(she/her\)](#); [Luke Connolly](#)  
**Cc:** [City of Cupertino Planning Commission](#)  
**Subject:** 2025-04-22 Planning Commission Mtg - ITEM 4 Westport - PLEASE POST 2 PRESENTATIONS  
**Date:** Tuesday, April 22, 2025 8:55:12 PM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PLEASE INCLUDE THIS EMAIL AS PART OF THE WRITTEN COMMUNICATIONS FOR THIS ITEM.

Dear Gian, Piu and Luke,

Would you please post both Gian's and the developer's presentations to the city website for this meeting so people like myself can review them more slowly?

Thank you very much,  
Peggy Griffin