



Staff Report

TO: Town of Loomis Mayor and Town Council Members
FROM: Anders Hauge, Town of Loomis Costco Project Manager
DATE: **April 12, 2022**
RE: GENERAL PLAN AND ZONING CODE TEXT AMENDMENT FOR ACCESSORY USES – ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT CERTIFICATION, GENERAL PLAN AND ZONING CODE AMENDMENTS, AND CONDITIONAL USE PERMIT

REQUEST

Approve the Loomis Costco Project through the following actions.

1. Certify the Addendum to the Loomis Costco Environmental Impact Report (EIR), and adopt the CEQA Findings as per the California Environmental Quality Act (CEQA);
2. Amend the Town of Loomis General Plan;
3. Amend the Town of Loomis Zoning Code; and
4. Approve a Conditional Use Permit and design review for a warehouse retail use with an accessory fueling station, subject to the conditions of approval.

RECOMMENDATION

Staff recommends that the Town Council:

1. Conduct a public hearing on the proposed Addendum to the Loomis Costco Environmental Impact Report, General Plan and Zoning Code amendments, and Conditional Use Permit;
2. Introduce and read by title only Ordinance 290 repealing Ordinance 285 and adopting the Zoning Code Amendment.

BACKGROUND

Costco Wholesale submitted an application to the Town to build a membership-only warehouse retail use with an ancillary fueling station at a site along Sierra College Boulevard north of the Town limits (i.e., the Costco project). The environmental impacts of the Costco project were evaluated in a Draft Environmental Impact Report

circulated for review and comment in April 2018 (Costco 2018 DEIR), a recirculated DEIR for review and comment in December 2019 (Costco 2019 RDEIR), and a Final Environmental Impact Report (Costco FEIR) certified in August 2020. Together, these documents are collectively referred to as “the Costco EIR”. After the EIR was certified and the Costco project was adopted, three lawsuits were filed.

One lawsuit was dismissed and the other two went to hearing. The court subsequently determined that the Town committed a land use analysis error, as it did not analyze the Project’s inconsistency with the Town’s Zoning Code and General Plan due to the proposal to construct commercial parking, driveways, and landscaping on residential land. Specifically, the court disagreed with the Town’s interpretation of its Zoning Code and General Plan to allow support uses such as parking, driveways, lighting, and landscaping on properties owned by Costco and included as a relatively small portion of the project site that has residential zoning.

To address the inconsistencies found by the court, the Town proposes to amend the General Plan and Zoning Code text to codify the Town’s interpretation that commercial support uses, such as parking, driveways, lighting, and landscaping on residential property where the residential property is adjacent to and under common ownership with the commercial property and use (the Project). For clarity, the proposed actions also include repealing Ordinance 285 (which was approved by the Town Council as part of the original Costco project approvals) and re-adopting the exact same zone text changes contained in Ordinance 285 in the new ordinance along with the new zone text changes. Consistent with the General Plan and Zoning Code amendments, the Town also proposes to rescind Resolution 20-31 and adopt a CUP for the Costco project.

On March 8, 2022, the Loomis Town Council authorized processing of a General Plan amendment pursuant to Loomis Municipal Code Section 13.76.020 (Resolution 22-07).

On March 22, 2022, the Loomis Planning Commission recommended that the Town Council adopt the CEQA findings and certify the Addendum to the EIR; approve the General Plan Amendment; repeal Ordinance 285 and adopt the Zoning Code Amendment by Ordinance; and approve the Conditional Use Permit, subject to the findings and conditions of approval (Resolution 22-03).

PROJECT DESCRIPTION

In response to the court’s decision, the following underlined new text amendments to the General Plan and Zoning Ordinance are proposed:

General Plan Changes

Page 42 (III-19), new 7:

7. Commercial Development Along Sierra College Boulevard Between the Town Limits and Brace Road. The area bounded by Sierra College Boulevard on the west, Brace Road on the north, existing single-family homes on the east, and the Town limits on the south includes approximately 14.05 acres designated General Commercial, 3.62 acres designated Residential Medium High Density, and 0.37 acres designated Residential – High Density. Residentially designated property within the area described above may also be used to support, and to facilitate circulation and access for, the adjacent General Commercial property, subject to terms and conditions in the Zoning Code.

Zoning Code Changes

LMC 13.24.040, Table 2-2, add note (6) to the RM and RH columns:

(6) Property zoned RM or RH may be used to support commercial activity along Sierra College Boulevard between the Town limits and Brace Road if: (a) the RM or RH property is adjacent to the commercially zoned property; (b) the commercially zoned property is immediately adjacent to Sierra College Boulevard; (c) the RM or RH property and the adjacent commercial property are under common ownership; (d) use of the RM or RH property is limited to supporting uses such as commercial parking, commercial or emergency driveways or drive aisles, lighting and landscaping; and (e) no buildings are built on the RM or RH property. In the case of such use, the development standards applicable to the RM or RH property shall be those governing development of the adjacent commercial property.

LMC 13.36.090, revise Section 13.36.090.C as follows:

C. Location. Parking areas shall be located as follows:

1. Residential parking shall be located on the same parcel as the uses served.
2. Nonresidential parking shall be located on the same parcel as the uses served or within three hundred feet of the parcel (within five hundred feet in the downtown) if shared parking or public parking facilities are used to meet parking requirements. Nonresidential parking may also be located on residentially zoned property in accordance with the terms and conditions set forth in Note 6 of Table 2-2, Section 13.24.040.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Discretionary projects in California are required to undergo environmental review under the California Environmental Quality Act (CEQA) of 1970 (California Public Resources Code, Section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations Title 14, Section 15000 et seq. [14 CCR Section 15000 et seq.]). The Environmental Impact Report and Addendum to the Environmental Impact Report serve as the environmental review documents for this project, and their purpose is to provide information regarding the project and its impacts. CEQA does not approve or disapprove projects but provides a framework for sharing environmental information and evaluation of a project and receiving public input to disclose what, if any, impacts may occur with project implementation. Using this information, the Town then makes a decision on whether or not to approve a project. The CEQA document does not make decisions but informs the ultimate decision, which may also take into account other factors, such as need or community benefit. Decision makers are free to also weigh the data provided by the experts analyzing the project, as well as public opinion. This Addendum to the EIR and the CEQA process are meant to educate and inform decision makers as they evaluate the project and reach conclusions.

On August 11, 2020, the Town Council approved Resolution 20-29 certifying the Costco EIR, adopting the Findings of Fact and Statement of Overriding Considerations, and approving the Mitigation and Monitoring Reporting Program.

As described above, the Town's certification of the Costco EIR was challenged and the court determined the Town committed a land use analysis error, as it did not analyze the Project's inconsistency with the Town's Zoning Code and General Plan due to the proposal to construct commercial parking, driveways, and landscaping on residential land. The proposed General Plan and Zoning Code text changes are recommended to address the issues identified by the Court.

The Town of Loomis, acting as lead agency, prepared an Addendum (dated February 2022) to the Costco EIR (dated August 11, 2020) pursuant to Section 15164 of the CEQA Guidelines. The February 2022 Addendum addresses the potential environmental impacts that could occur from the Town's proposed changes to the Town's Zoning

Ordinance and General Plan Land Use Element (the Project).

The proposed legislative action analyzed in the Addendum would not require revisions to the Costco EIR because no new substantial impacts would result, nor would there be any increase the severity of environmental effects identified in the Costco EIR. The commercial support uses addressed by the proposed legislative action were expressly contemplated and fully analyzed in the Costco EIR. There are no changes in the circumstances under which the Costco Project would be undertaken based on the proposed legislative action that would require major revisions to the Costco EIR resulting from new or substantially increased significant environmental effects. In addition, no new information of substantial importance has been discovered that would trigger or require major revisions to the Costco EIR because of new or substantially increased significant environmental effects. No new mitigation measures, beyond those identified in the Costco EIR, would be required.

GENERAL PLAN AMENDMENT

The Project proposes changes to the Land Use Element which are provided in the attached General Plan Amendment Resolution (Attachment 2). The amendment would add a new Item 7 in the Land Use Element to allow commercial support uses such as parking area, driveways, landscaping, and associated lighting in the RH and RMH designated areas of properties adjacent to and under common ownership with commercial properties with primary commercial uses along Sierra College Boulevard between the Town limits and Brace Road. The amendment to the General Plan is consistent with and in compliance with the General Plan. The amended text to the General Plan is not detrimental to the public interest, health, safety, convenience, or welfare of the Town, as the changes allow for commercial support uses on residentially designated land, but in a limited manner with respect to location, ownership, and primary use of the property. The area affected by the amendment is physically suitable for the use as disclosed in the Addendum to the Costco EIR. The fiscal analysis prepared for the amendment indicates little to no fiscal change would result.

ZONING ORDINANCE AMENDMENT

The Project proposes changes/amendments to Sections 13.24.040 (new amendment to Table 2-2), 13.26.040, 13.30.080, 13.36.090 (new amendment to allow parking within residentially zoned properties under limited conditions), 13.36.100, 13.36.110, and 13.80.020, which are provided in the attached Zoning Ordinance (Attachment 3). Amendments to Sections 13.26.040, 13.30.080, 13.36.090.D, 13.36.100, 13.36.110, and 13.80.020 (which were previously approved by the Town Council in 2020 through Ordinance 285) are proposed for re-adoption, along with the new amendments to 13.24.040 and 13.36.090.C in a new ordinance. Amendments to the Zoning Ordinance are consistent with and in compliance with the General Plan. The changes to the Zoning Ordinance are not detrimental to the public interest, health, safety, convenience, or welfare of the Town, as the changes expand the potential range of uses or location of uses, but in a limited manner with respect to location, and as a conditional use to require further evaluation and consideration by the Town on a case-by-case basis with separate environmental review. No zoning change is proposed for the parcels or portions of parcels zoned RH or RM-5 as these parcels would be used for parking. Although parking is permitted in those zones, the amendments to Sections 13.24.040 (new amendment to Table 2-2) and 13.36.090 (new amendment to allow parking within residentially zoned properties under limited conditions) clarify that commercial parking and associated support features such as landscaping or lighting would be allowed in these residential zones when adjacent to and under common ownership with an associated primary commercial use within a limited area of the Town. There is sufficient vacant residential land to meet Regional Housing Needs Assessment (RHNA) numbers as discussed in the Findings (Exhibit 3B). Although the new amendments apply to a specific area of Town and under limited conditions, this change is not associated with impermissible spot zoning as discussed in the Findings, as it does

not limit the uses in the zones, applies to multiple properties, is consistent with the General Plan, and is in the interest of the public.

CONDITIONAL USE PERMIT

The conditional use permit including the Town's design review are addressed in Attachment 4. Design Review was conducted to evaluate Project consistency with the Town's Design Guidelines and to identify conditions of approval needed to ensure compliance. This evaluation identified issues to be addressed through general plan and zoning amendments as additional clarification is required to address commercial support uses on residentially zoned and designated properties (See Attachments 2 and 3). Since the warehouse retail conditional use permit was previously approved (Resolution 20-31), the attached resolution and consistency analysis focus on the additional modifications addressing the allowance for commercial support uses on commonly owned RH and RM zoned parcels along Sierra College Boulevard between the Town limits and Brace Road (the new amendments); however the entire previously approved resolution and conditions of approval are recommended to be repealed and reapproved with the addition of the new amendments. Please refer to Attachment 4 for the complete consistency analysis with the general plan and zoning ordinance and conditions of approval for the Loomis Costco Project, including the new amendments. Design Review associated with the Conditional Use Permit was originally conducted in 2018, by former Planning Director Bob King, and with comments from the Planning Commission provided to the applicant on May 1, 2018 and May 31, 2018.

COMMENTS RECEIVED FOR THE MARCH 22 PLANNING COMMISSION MEETING

The following written comments were received prior to the March 22 Planning Commission meeting. The letters are summarized below with responses provided after the summary.

Gary Jarvis March 15, 2022

Letter Summary: Supports a Costco in Loomis.

Response: Comment noted.

Kim Fettke March 19, 2022

Letter Summary: Why is the Town amending the General Plan and Zoning text rather than rezoning the portion of the properties that are not commercial? Explain why the amendment approach is being taken. This will set a precedent for future projects to ignore the land use designation and zoning in favor of text amendments.

Commercial parking, driveways, and lighting are not residential uses.

Response: The proposal codifies and clarifies the Town's interpretation of its general plan and zoning code, and it does so in a geographically limited area to avoid potential conflicts between uses that could arise in other parts of Loomis. This approach addresses the Court's ruling adequately and appropriately without having to deal with additional ramifications of rezoning residentially-designated land. There are other examples of non-residential parking and driveways on residential properties, including uses approved by the Town after incorporation, such as church uses, private recreational uses, public uses, and utility uses; therefore, the amendment clarifies the Town's long-standing interpretation of the general plan and zoning code in response to the Court's ruling. The residential properties affected by these changes are not identified in the vacant land survey included in the Town's Housing Element, and residential development of the properties is unlikely. Nevertheless, that option to development these residential properties is preserved by this approach.

Tim Onderko March 22, 2022

Letter Summary: Supports approval of the addendum, General Plan and Zoning amendments, and CUP.

Response: Comment noted.

Sonja Cupler March 22, 2022

Letter Summary: Opposes the recommendations to certify the Addendum, General Plan and Zoning amendments, and conditional use permit.

Response: Comment noted.

Cheryl Benson March 22, 2022

Letter Summary: The Town plan to rezone residential property to commercial property is not right and affects existing residential neighborhoods. This places commercial parcels closer to residential parcels. The General Plan amendment will create a “free for all”. The Town says it only applies to the Costco site, but that isn’t true.

Response: The Town’s proposal does not rezone the residential property, but amends the zoning text to allow for commercial parking, access, lighting, and landscaping under limited circumstances and within a limited area of the Town. Because the zoning map is not being amended the distance between commercial and residential parcels does not change. The amendment allows for the commercial support uses on existing residentially zoned portions of a larger site under common ownership that includes both residential and commercially-zoned parcels, and does not place commercially zoned property any closer to residentially zoned property than what was existing. The amendment language is written to apply to a limited area, specifically: Property zoned RM or RH may be used to support commercial activity along Sierra College Boulevard between the Town limits and Brace Road if: (a) the RM or RH property is adjacent to the commercially zoned property; (b) the commercially zoned property is immediately adjacent to Sierra College Boulevard; (c) the RM or RH property and the adjacent commercial property are under common ownership; (d) use of the RM or RH property is limited to supporting uses such as commercial parking, commercial or emergency driveways or drive aisles, lighting and landscaping; and (e) no buildings are built on the RM or RH property. In the case of such use, the development standards applicable to the RM or RH property shall be those governing development of the adjacent commercial property. The new amendment language has limited application and would only affect those properties on Sierra College Blvd between the Town Limits and Brace Road that meet the ZTA criteria which includes a portion of the Costco site. The only zoning text changes that apply beyond the parcels included in the ZTA are changes that were previously approved by the Town Council as part of the original Costco project approvals in 2020.

Robert Auguscik March 22, 2022

Letter Summary: SB 330 prohibits local jurisdictions from reducing the legal limit on housing. The General Plan and Zoning amendments attempt to circumvent SB 330 and disregard the adjacent residential property thereby violating State Planning and Zoning laws. Imposing commercial parking and truck access driveways detrimentally affects the Sierra Meadows apartment residents and places the apartments in a residential island. SB 330 prevents rezoning and this is an attempt to circumvent SB 330 and inhibit housing development.

Response: The amendments are not circumventing SB 330. There is no change to the zoning or land use designation on those residential properties, and they may be used for housing in the future at the same density that is currently allowed should Costco choose to forego parking and access in those areas or should Costco sell the parcels. The adjacent parcels are not disregarded and the commercial support uses proposed on the contiguous and commonly owned are the same uses that were evaluated in the 2020 Costco EIR. Please refer to the text in Exhibit 3B starting on page 4 in regard to SB 330 compliance (page 3B-4).

Don Mooney (Citizens for Responsible Growth) March 22, 2022

Letter Summary: The Town’s proposed actions are significantly flawed because they are: 1) inconsistent with the Court’s Judgement and Peremptory Writ of Mandate; 2) violate SB 330; and 3) violate Government Code section 65852. The amendment approach fails to comply with CEQA and the Town’s Zoning Ordinance. The court directed Loomis to vacate and rescind the Project approvals, including certification of the FEIR. The Town cannot approve an addendum without first vacating and rescinding the FEIR. The Town cannot refuse to vacate and set aside Resolutions 20-29, 20-30, and 20-31, along with Ordinance 285, and the Court previously rejected this approach. The amendments violate SB 330 and the Staff Report does not discuss compliance with SB 330. Although the properties are not rezoned, the content of the amendments effectively change the land use from residential to commercial. The text lessens the intensity of housing on those parcels. The Zoning text amendment violates the requirement for uniformity of regulations per Government Code section 65852, which indicates all regulations shall be uniform for each class or kind of building or use of land throughout each zone. The amendment violates that uniformity by providing allowances within the RH and RM zones on only those parcels owned by Costco.

Response: The Town’s compliance with the Judgment and Writ will be determined at the return to writ proceeding. That said, the Town’s actions are consistent with the Judgment and Writ; an addendum is sufficient to address the amendments. Please refer Exhibit 3B in the Staff Report which addresses SB 330 (page 3B-4). The proposed amendments would not violate SB 330 as no change to the density or intensity of use would occur and the density and intensity of use would persist for future residential use. The amendments establish that commercial support uses, such as parking lots, driveways, lighting, and landscaping may be allowed on contiguous and commonly owned RH and RM properties, but do not restrict residential use or prevent residential use on such properties. It should be noted that other non-residential uses are currently allowed on residentially zoned properties within the Town, such as churches, private recreation facilities and their associated parking areas, driveways, and support uses. Therefore, the amendments further this practice on commonly owned properties associated with a commercial use. Exhibit 3B Page 3B-5 addresses Government Code section 65852. The Town’s General Plan and, in consistency with the General Plan, the Town’s Zoning Ordinance include policies for specific locations within the Town. The Zoning Ordinance must be consistent with the General Plan and its practice of area-specific policies; therefore, the zoning amendment is complying with Government Code section 65860. With the intent of Government Code section 65852 being the prevention of irrational discrimination, the amendments are lawful as they would not result in irrational discrimination in land use decision making.

The following oral comments were received during the March 22 Planning Commission meeting. The public comments are summarized below with responses provided.

NAME	STREET NAME	COMMENT SUMMARY	RESPONSE
Cheryl Benson	Brace	Potential zone changing loophole issues	The new amendment language has limited application and would only affect those properties on Sierra College Blvd between the Town Limits and Brace Road that meet the ZTA criteria which includes a portion of the Costco site, not

NAME	STREET NAME	COMMENT SUMMARY	RESPONSE
			the entire Town.
Dan Cucchi City of Rocklin Representative		Addendum not consistent to court's direction, Housing Crisis Act in relation to down-zoning housing property,	The Town's compliance with the Judgment and Writ will be determined at the return to writ proceeding. That said, the Town's actions are consistent with the Judgment and Writ; an addendum is sufficient to address the amendments. The amendment does not change the zoning density allowance or development capacity and therefore no down-zoning or other action inconsistent with the Housing Crisis Act would result. Please see the text in Exhibit 3B starting on page 4 in regard to SB 330 compliance.
Sonia Cupler		Aspects of amendment not Costco specific, outdated EIR.	The zoning amendment changes (other than the changes previously approved by the Town Council in 2020) have limited application and would only affect those properties on Sierra College Blvd between the Town Limits and Brace Road that meet the ZTA criteria which includes a portion of the Costco site. The EIR was certified in 2020 and is not outdated and considered accessory commercial uses on RH ad RM zoned land.
David Ring		Potential issue of apartments being purchased by Costco and becoming part of parking.	The amendment language does not exclude the apartments; however, Costco has sufficient parking and has not indicated any interest in purchasing the apartments or need to expand the parking area by removing the apartments. There would be no cost benefit to Costco to

NAME	STREET NAME	COMMENT SUMMARY	RESPONSE
			provide more parking than needed while purchasing and demolishing an apartment complex.
Scott Touissant	Delmar	Mentioned property rights of owner at time of purchase and feelings of residents to be considered, opposes Costco due to traffic issues, town growth	Town decision makers consider all input and opinions from the public as well as the land use regulations the Town has adopted and applies to various projects. Traffic and growth were addressed through the 2020 Costco EIR. The approval of the Costco Project is not at issue. Rather the Town is considering adopting the proposed amendments to its General Plan and zoning code to address accessory commercial uses on residentially zoned property under very specific circumstances to support adjacent commercial uses.
Bob Augusick	Brace Rd Apt owner	Truck entrance concerns, amendments effect on residential zone, potential future legal issues from amendment	Commercial driveways include truck access as addressed in Town standards. The impact of the amendments is addressed in the addendum. The addendum and project do not propose a new driveway location not addressed in the 2020 Costco EIR. The new amendment language has limited application and would only affect those properties on Sierra College Blvd between the Town Limits and Brace Road that meet the ZTA criteria which includes a portion of the Costco site. The commenter's implication that this will cause future legal issues is noted. Please see the

NAME	STREET NAME	COMMENT SUMMARY	RESPONSE
			text in Exhibit 3B starting on page 4 in regard to SB 330 compliance.
Richard Fenbert	Barton	Zone as commercial vs. amendment	The preference for rezoning over an amendment is noted and will be considered by the Town's decision-makers.
John C. Bailey		Possibility for Town growth, tax relief possibility for residents	Comment in favor of Costco operations in Loomis is noted.
Mike Boberg	Hunter Oaks	Revenue generation from Costco, traffic already existing	Comment in favor of Costco operations in Loomis is noted.
Beth Williams Ruskauff	Dias Ln	Traffic issues, truck receiving challenges, noise issues,	Traffic, noise and onsite circulation are addressed in the Costco EIR. The amendment language does not change the location of deliveries proposed and considered in the 2020 Costco EIR. The nighttime truck deliveries would occur at the main driveway on Sierra College Boulevard and not at the Brace Road driveway, which would only receive daytime truck delivery traffic. The approval of the Costco Project is not at issue. Rather the Town is considering adopted the proposed amendments to its General Plan and zoning code to address accessory commercial uses on residentially zoned property under very specific circumstances to support adjacent commercial uses.
Michelle Frye	Brace Rd	Traffic issues, noise issues,	Traffic, noise and onsite circulation are addressed in the 2020 Costco EIR. The approval of the Costco Project is not at issue. Rather the Town is considering adopted

NAME	STREET NAME	COMMENT SUMMARY	RESPONSE
			the proposed amendments to its General Plan and zoning code to address accessory commercial uses on residentially zoned property under very specific circumstances to support adjacent commercial uses.
Dottie Robinson	Mallard Ct	Opposed to zoning change not Costco, noise issues	The amendment language has limited application and would only affect those properties on Sierra College Blvd between the Town Limits and Brace Road that meet the ZTA criteria which includes a portion of the Costco site. Noise impacts were addressed with mitigation measures in the 2020 Costco EIR. The approval of the Costco Project is not at issue. Rather the Town is considering adopted the proposed amendments to its General Plan and zoning code to address accessory commercial uses on residentially zoned property under very specific circumstances to support adjacent commercial uses.

RECOMMENDATION

Staff and the Planning Commission recommend the Town Council hold the noticed public hearings on the Addendum to the EIR (Resolution 22-09), the General Plan Amendment (Resolution 22-10), the Zoning Code Amendment (Ordinance No. 290), and the Conditional Use Permit (Resolution 22-11). The Town Council is also recommended to introduce and read by title only Ordinance No. 290.

ATTACHMENTS

1. Exhibit 1
Exhibit 1A: Town Council Resolution 22-09 to adopt the CEQA Addendum to the Loomis Costco Environmental Impact Report

Exhibit 1B: Addendum to the Environmental Impact Report for the Loomis Costco Project

Exhibit 1C: CEQA Findings of Fact

2. Exhibit 2

Exhibit 2A: Town Council Resolution 22-10 on the General Plan Text Amendment

Exhibit 2B: General Plan Amendment Findings

3. Exhibit 3

Exhibit 3A: Ordinance No. 290

Exhibit 3B: Zoning Ordinance Amendment Findings

4. Exhibit 4

Exhibit 4A: Town Council Resolution 22-11 on the Conditional. Use Permit and Design Review

Exhibit 4B: Findings on the Conditional Use Permit and Design Review

Exhibit 4C: Conditions of Approval for the Conditional Use Permit and Design Review

NOTE: Notice published in the Loomis News on April 1, 2022 and Notices mailed to all Town properties on March 31, 2022.