



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 07/11/2018

ITEM NO: 2

DATE: JULY 6, 2018

TO: PLANNING COMMISSION

FROM: JOEL PAULSON, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CONSIDER AMENDMENTS TO CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING **AFFORDABLE HOUSING OVERLAY ZONES**. TOWN CODE AMENDMENT APPLICATION A-18-001. PROJECT LOCATION: **TOWN WIDE**. APPLICANT: TOWN OF LOS GATOS.

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding affordable housing overlay zones.

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendments to the Town Code will have a significant effect on the environment.

FINDINGS:

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Exempt, Section 15061(b)(3); and
- That the Town Code amendments are consistent with the General Plan.

BACKGROUND:

On March 5, 2012, the Town Council adopted the 2007-2014 Housing Element. The State Department of Housing Community Development (HCD) subsequently certified the Housing Element on September 20, 2012.

PREPARED BY: SALLY ZARNOWITZ, AIA, LEED AP
Planning Manager

Reviewed by: Community Development Director

BACKGROUND (Continued):

The key implementation program strategy for meeting the Town's Regional Housing Needs Allocation (RHNA) in the 2007-2014 Housing Element was Action HOU-2.1. Action HOU-2.1 required amendment of the Town Code to include an Affordable Housing Overlay Zone (AHOZ).

On November 11, 2013, the Town Council adopted Ordinance 2224 which amended the Town Code to include AHOZ and included five properties that were designated as AHOZ sites. The five properties were:

- Southbay Development, Knowles Drive east of Winchester Boulevard, APN 424-32-077
- Los Gatos Lodge, 50 Los Gatos Saratoga Road, APN 529-24-032
- Los Gatos Lodge, 50 Los Gatos Saratoga Road, APN 529-24-001
- Higgins Business Park, 400 Blossom Hill Road, APN 529-16-071
- Los Gatos Oaks Apts., 517 Blossom Hill Road, APN 529-16-042

On May 5, 2015, the Town Council adopted the 2015-2023 Housing Element. HCD subsequently certified the Housing Element on May 20, 2015.

DISCUSSION:

The 2015-2023 Housing Element did not rely as heavily on the AHOZ sites to meet the Town's RHNA as the 2007-2014 Housing Element. The 2015-2023 Housing Element identified other community strategies to meet the Town's RHNA (Exhibit 2). The community strategies did not include four of the five properties that were previously designated as AHOZ sites. The only AHOZ site to remain in the 2015-2023 Housing Element was the Southbay Development site.

The proposed amendments in Exhibit 3 are required to make the Town Code consistent with the Town's Housing Element and implement other requirements of Housing Element Action HOU-2.1.

The proposed amendments (Exhibit 3) will:

- Remove references to the four properties that are no longer AHOZ sites;
- Modify other Town Code language to make it consistent with the removal of the four properties that are no longer AHOZ sites;
- Replace the required affordable unit provisions by individual income categories with a minimum 40 percent affordable (defined as 40 percent affordable to households of low and/or very low income) housing requirement for the Southbay AHOZ site based on the total number of units in the project as required by Housing Element Action Hou-2.1; and

DISCUSSION (Continued):

- Modify Section 29.80.515 to clarify that the State Density Bonus is available and applicable to AHOZ sites as required by Housing Element Action Hou-2.1.

PUBLIC COMMENTS:

No written comments regarding the proposed amendments have been received.

CONCLUSION:

A. Summary

The proposed amendments are consistent with the General Plan, required to make the Town Code consistent with the Town's Housing Element, and implement other requirements of Action HOU-2.1., as noted above.

B. Recommendation

Staff recommends that the Planning Commission forward the draft Town Code amendments to the Town Council with a recommendation for adoption. The Commission should also include any comments or recommended changes to the draft Town Code amendments in taking the following actions:

1. Make the finding that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b) (3).] (Exhibit 1);
2. Make the required finding that the proposed amendments to the Town Code (Zoning Regulations) are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to the Town Code (Exhibit 2).

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the proposed amendments to the Town Code with modifications; or
2. Forward a recommendation to the Town Council for denial of the proposed amendments to the Town Code; or
3. Continue the matter to a date certain with specific direction.

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SUBJECT: CONSIDER AMENDMENTS THE TOWN CODE REGARDING AFFORDABLE
HOUSING OVERLAY ZONES. TOWN CODE AMENDMENT/A-18-001
JULY 6, 2018

EXHIBITS:

1. Findings
2. Summary of Community Strategies to Meet RHNA (Table 6-1)
3. Draft amendments to Chapter 29 of the Town Code

PLANNING COMMISSION – *July 11, 2018*
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-18-001

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding affordable housing overlay zones.

FINDINGS:

Required Findings for CEQA:

- It has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3): Review for exemption.

Required Findings for General Plan:

- The proposed amendments to Chapter 29 of the Town Code regarding affordable housing overlay zones are consistent with the General Plan.

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TOWN OF LOS GATOS
 2020 GENERAL PLAN
 2015-2023 HOUSING ELEMENT: TECHNICAL APPENDIX
 HOUSING SITES INVENTORY

TABLE 6-1 SUMMARY OF COMMUNITY STRATEGIES TO MEET RHNA

| | Very Low | Low | Mod. | Above Mod. | Total |
|--|-------------|------------|------------|---------------|------------|
| RHNA – Total Units Needed (2015-2023) | 201 | 112 | 132 | 174 | 619 |
| Approved Units | 0 | 2 | 6 | 49 | 57 |
| Southbay (AHOZ) | 45 | 9 | 68 | 26 | 148 |
| Second Units under the Town's Existing Program | 0 | 0 | 28 | 0 | 28 |
| Proposed Enhanced Second Unit Program: Non-Conforming Lots & Hillside Lots | 0 | 27 | 0 | 0 | 27 |
| Proposed North 40 Specific Plan | 156 | 84 | 30 | 0 | 270 |
| Vacant Housing Element Sites (based on existing zoning): Oka Road Sites | 0 | 0 | 0 | 99 | 99 |
| Total Units | 201 | 128 | 132 | 174 | 629 |
| Units Above RHNA | 0 | +10 | 0 | 0 | +10 |

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Draft Amendments to Chapter 29 – Affordable Housing Overlay Zone

DIVISION 5. - AFFORDABLE HOUSING OVERLAY ZONE

Sec. 29.80.505. - Intent.

The affordable housing overlay zone (AHOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability with in the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the affordable housing overlay zone encourages the development of housing affordable to all income levels on ~~fiveone~~ (15) property ~~ies~~ within the Town that ~~isare~~ deemed to be most appropriate for such uses. The housing element lists the ~~fiveone~~ (15) property ~~ies~~ within the Town of Los Gatos as a key housing opportunity ~~ies~~ sites for mixed income affordable housing projects. The designation of the ~~ei~~se sites will assist the Town in meeting its fair share of the regions housing needs required by the State.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.510. - AHOZ and underlying zoning.

A property that has the AHOZ designation may be developed either in the manner provided in this division or the manner provided in the underlying zone, but not both; use of the overlay zone and the underlying zone are mutually exclusive alternatives. Once the land has developed in the manner provided in the underlying zoning, the property owner shall relinquish the right to redevelop the land using the AHOZ overlay.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.515. - Applicability of regulations.

(a) This division applies to the ~~fiveone~~ (15) property ~~ies~~ listed on Table 6-1 of Chapter 6 (Housing Sites Inventory) of the 2007 ~~15-2314~~ Housing Element Technical Appendix and as identified below:

Affordable housing overlay zone (AHOZ) properties:

- (1) Southbay Development, Knowles Drive east of Winchester Boulevard, APN 424-32-077
- ~~(2) Los Gatos Lodge, 50 Los Gatos Saratoga Road, APN 529-24-032~~
- ~~(3) Los Gatos Lodge, 50 Los Gatos Saratoga Road, APN 529-24-001~~
- ~~(4) Higgins Business Park, 400 Blossom Hill Road, APN 529-16-071~~
- ~~(5) Los Gatos Oaks Apts., 517 Blossom Hill Road, APN 529-16-042~~

(b) The provisions of this division shall not apply if an applicant requests to use the a state-~~mandated density bonus, the Town's Density Bonus Program contained in section 29.10.405, or~~ General Plan Density Bonus Policy (HOU-1.3). If the applicant submits a development project application utilizing ~~one (1) of these~~ this density bonus programs, the base density on which the bonus is calculated shall be the density of the existing zoning of the property.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.520. - Qualification.

In order to qualify for the benefits of this overlay zone, residential development projects shall comply with all of the following:

- (a) Include the following minimum percentage of total units in the development with rents or sales prices that are restricted to the area median income household affordability levels noted below. The income limits shall be established based on the current year area median income for Santa Clara County as set by the appropriate State or Federal government housing agencies.

Required unit affordability levels

| Site | <u>Low and/or</u> Very Low and Below | Low | Moderate <u>and/or Above</u> <u>Moderate</u> | Above Moderate |
|---|--|-----------------|---|---|
| Southbay Development (APN 424-32-077) | 35 <u>40</u> % | 20 % | 25 <u>60</u> % | 20 % |
| Los Gatos Lodge (APN 529-24-032) | 35 % | 20 % | 25 % | 20 % |
| Los Gatos Lodge (APN 529-24-001) | 35 % | 20 % | 25 % | 20 % |
| Higgins Business Park (APN 529-16-071) | 35 % | 15 % | 30 % | 20 % |
| Los Gatos Oaks Apt. (APN 529-16-042) | 25 % | 25 % | 30 % | 20 % |

- (b) Based on a recommendation by the Planning Commission after its review of a project, the Town Council may approve a modification to the affordability ratios in subsection (a) if the applicant can demonstrate with actual project specific pro forma, financial and local market data, that a specific ratio is not financially feasible. The Town Council may only approve a modification to a ratio if the overall Regional Housing Needs Allocation (RHNA) unit production for an individual income category (e.g. very low, low and moderate income) has been achieved by the Town during the applicable housing element period.
- (c) Ensure that affordable units are deed-restricted for a period of not less than fifty-five (55) years, or for the longest feasible time. An affordable housing agreement shall be executed prior to recording any final map for the underlying property or prior to the issuance of any building permit for the housing development, whichever comes first, unless the Community Development Director approves an alternative phasing plan, at which time the affordable housing agreement shall be executed no later than the

issuance of the certificate for the fifty-first percent of the market rate units. The affordable housing agreement shall be binding on all future owners and successors of interests of the housing development.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.525. - Permitted uses in the AHOZ.

- (a) Multifamily dwellings;
- (b) Two-family dwellings;
- (c) Single-family dwellings.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.530. - Conditional uses permitted.

No conditional use permit shall be required for a housing development that meets the intent and regulations contained in this division.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.535. - Application.

Residential developments using the AHOZ standards shall be required to submit applications for architecture and site review. The application shall be subject to review by the Planning Commission with a recommendation to Town Council and the review by Town Council shall be final.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.540. - Affordable housing overlay zones general development standards.

Proposed development within the affordable housing overlay zones shall be designed and constructed in conformity with the development standards in Table 1A (Overlay Zones Development Standards) and Table 1B (Overlay Zones Development Setbacks).

Table 1A (Overlay Zones Development Standards)

| Site | Maximum Lot Coverage | Maximum Height Limit (ft) ¹ | Density Units Per Acre | Parking Ratio ² |
|---|----------------------|--|------------------------|---|
| Southbay Development (APN 424-32-077) | 40% | 30 feet w/ separate garage; 35 feet w/ integrated garage | 20 | 0—1 bedroom: 1 space 2—3 bedrooms: 2 spaces 4+ bedrooms: 2.5 spaces |
| Los Gatos Lodge (APN 529-24-032) | 40% | 30 feet w/ separate garage; | 20 | 0—1 bedroom: 1 space 2—3 bedrooms: 2 spaces |

| | | | | |
|---|----------------|---|---------------|--|
| | | 35 feet w/ integrated garage | | 4+ bedrooms: 2.5 spaces |
| Los Gatos Lodge (APN 529-24-001) | 40% | 30 feet w/ separate garage; 35 feet w/ integrated garage | 20 | 0—1 bedroom: 1 space 2—3 bedrooms: 2 spaces 4+ bedrooms: 2.5 spaces |
| Higgins Business Park (APN 529-16-071) | 40% | 30 feet w/ separate garage; 35 feet w/ integrated garage | 20 | 0—1 bedroom: 1 space 2—3 bedrooms: 2 spaces 4+ bedrooms: 2.5 spaces |
| Los Gatos Oaks Apt. (APN 529-16-042) | 40% | 30 feet w/ separate garage; 35 feet w/ integrated garage | 20 | 0—1 bedroom: 1 space 2—3 bedrooms: 2 spaces 4+ bedrooms: 2.5 spaces |

1. Building height is increased to 35 feet for residential products that integrate the garage on the first floor, underground or is constructed on a parking podium. Additional height increase may be granted through the architecture and site review process.
2. Tandem parking is permitted.

Table 1B (Overlay Zones Development Setbacks)

| Site | Required Setbacks |
|---|--|
| Southbay Development (APN 424-32-077) | 25 ft. from Knowles Avenue property line; 40 ft. from Los Gatos Creek property line; 25 ft. from Southwest Property Line; West and internal setbacks to be determined by architecture and site review process |
| Los Gatos Lodge (APN 529-24-032) | 25 ft. setback from Los Gatos-Saratoga Road property line; 20 ft. setback from Los Gatos High School property line; East property line setback adjacent to Bella Vista Avenue maintained at 360 ft. topographic contour line or 15 ft. whichever is greater; 20 ft. side and shared property line setbacks unless combined with |

| | |
|---|--|
| | adjoining lodge parking lot parcel; Internal setbacks to be determined by architecture and site review process |
| Los Gatos Lodge (APN 529-24-001) | 25 ft. setback from Los Gatos-Saratoga Road property line; 20 ft. setback from Los Gatos High School property line; East property line setback adjacent to Bella Vista Avenue maintained at 360 ft. topographic contour line or 15 ft. whichever is greater; 20 ft. side and shared property line setbacks unless combined with adjoining lodge main complex parcel; internal setbacks to be determined by architecture and site review process |
| Higgins Business Park (APN 529-16-071) | 15 ft. side and shared property line setback adjacent to Oak Rim site (unless combined with adjacent parcel); 10 ft. setback from Highway 17 property line; East property line setback to be based on future geologist's report. East property line setbacks and internal setbacks to be determined by architecture and site review process |
| Los Gatos Oaks Apt. (APN 529-16-042) | 15 ft. side and shared property line setback adjacent to Higgins site (unless combined with adjacent parcel); 10 ft. setback from Highway 17 property line; 25 ft. front setback on Blossom Hill Road; Internal slope setbacks based on future geologist's report; Internal setbacks determined by architecture and site review process |

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.545. - Affordable housing overlay zones development incentives.

(a) *Concessions and incentives.* Applications meeting the intent of the AHOZ will be automatically granted four (4) concessions at the applicant's sole discretion. The concessions are reductions in the development standards specified in this section, and processing fee waivers. The following development incentives are available to qualifying residential developments within an AHOZ:

- (1) *Parking standards.* Parking standards may be reduced if a parking reduction is requested as one (1) of the four (4) concessions. Parking may be reduced as follows:
 - a. Reduction to one (1) space per unit for units reserved for seniors or persons with disabilities.
 - b. Reduction to one (1) space per unit for developments within one-quarter (¼) mile to the proposed Vasona Light Rail Station.

- (2) *Property setbacks.* Any two (2) property setbacks may be reduced by up to fifty (50) percent if an applicant selects the setback reduction as one (1) of the four (4) concessions. The two (2) setback reductions are considered one (1) concession.
- (3) *Lot coverage.* The lot coverage may be increased up to fifty (50) percent if the applicant selects the lot coverage increase as one (1) of the four (4) concessions.
- (4) *Processing fees.* The Town shall waive or defer planning, engineering, and building processing fees, except those that are paid directly to Town consultants or for technical studies.

The developer can select one (1) of the following types of fees to be waived as one (1) of the four (4) available concessions:

- a. Planning and engineering application fees (but not Town consultant fees).
- b. Building plan check and inspection fees.
- c. Construction mitigation fee.

The fees selected shall be waived if the applicant selects a fee waiver as one (1) of the four (4) automatically granted concessions.

If the developer selects a deferral of all fees noted above rather than a waiver, the fees shall be deferred to the time of issuance of the certificate of occupancy for each unit.

- (5) *Priority processing.* The Town shall give qualifying projects the highest processing priority for planning entitlements, building plan check and building inspection.

(Ord. No. 2224, § I, 11-18-13)

Sec. 29.80.550. - Architecture and site review process.

(a) *Affordable housing overlay zone design guidelines.* All projects shall comply with the adopted affordable housing overlay zone design guidelines in effect at the time of entitlement approval.

(b) *Architecture and site approval.* All projects shall require an architecture and site application approval. The Planning Commission shall review each project and make a recommendation to the Town Council. The Town Council is the final decision making authority for AHOZ applications. The Town Council shall adopt a resolution that documents the architecture and site application decision.

- (1) *Architectural design.* Affordable units within a mixed affordable/market rate development may be allowed to vary in interior and exterior design and square footage from market rate units as long as the project remains architecturally harmonious as determined by the approval body. Attached units, smaller (in square footage) units and other design variations from market rate units may be permitted within reason to reduce costs of providing affordable units subject to the required architecture and site approval process.

(c) *Environmental review.* All projects shall be subject to the requirements of the California Environmental Quality Act.

(d) *Findings.* In order to qualify for a height increase over the maximum stated in Table 1A, the Planning Commission shall make a recommendation and the Town Council shall find that:

- (1) The building massing and dimensional ratios of proposed building components create a harmonious visual balance and contribute to the architectural character of the project or its surroundings.
- (2) The height increase is necessary to achieve excellence in architectural design and cannot be accommodated through alternative means such as reducing overall floor to ceiling heights.

(e) *Timing of affordable unit construction.* Affordable units must be constructed concurrently with market-rate units. The affordable units shall be integrated into the market rate component of the plan to the greatest extent feasible. If complete integration cannot be achieved, the applicant shall provide justification for not meeting the intent of this section and why such integration is not feasible. The applicant shall submit a plan of the affordable and market rate unit distribution in the development to the Town. The Planning Commission shall review and make a recommendation on the affordable and market rate unit distribution plan and the Town Council shall review the final plan for approval.

(Ord. No. 2224, § I, 11-18-13)

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