



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 09/28/2020

ITEM NO: 3

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DATE: September 18, 2020

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for Approval of Modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines Regarding the Visibility Analysis, Town Wide. Applicant: Town of Los Gatos.

**RECOMMENDATION:**

Forward a recommendation to the Town Council for approval of modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines (HDS&G) regarding the visibility analysis.

**CEQA:**

The project is Categorical 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 this project 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
- The modifications to the HDS&G are consistent with the General Plan.

**PREPARED BY:** JOCELYN SHOOPMAN  
Associate Planner

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Reviewed by: Planning Manager and Community Development Director

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BACKGROUND:

On February 2, 2016, the Town Council adopted modifications to Chapter V. of the HDS&G regarding light reflectivity value (LRV) and returned modifications to Section B. of Chapter II. of the HDS&G regarding the visibility analysis to staff with direction.

In response to the Council's direction, the Policy Committee held five meetings on April 20, 2017, May 18, 2017, June 26, 2017, July 20, 2017, and December 14, 2017 to discuss modifications to the visibility analysis.

On December 19, 2017, the Town Council approved the modifications to Chapter II. (Constraints Analysis), Section B. of the HDS&G regarding the visibility analysis.

On March 3, 2020, the Town Council considered an appeal of an Architecture and Site application for the construction of a hillside home that was 24 percent visible. The appeal was based in part on the appellant's concern about the inclusion of retaining walls and exterior features of the home in the elevation drawing for the purposes of the visibility analysis. At this meeting, the Town Council voted to refer an evaluation of Chapter II. (Constraints Analysis), Section B. of the HDS&G, regarding the visibility analysis to the Policy Committee.

Modifications to the HDS&G regarding the visibility analysis were forwarded to the Policy Committee on July 28, 2020. The Policy Committee continued discussion of the modifications to allow for additional public comment to be provided (Exhibit 2). On August 11, 2020, the Policy Committee reviewed five items, detailed in the Discussion section of this report regarding the visibility analysis. After discussion, the Committee recommended approval of modifications to Chapter II. (Constraints Analysis), Section B. and Chapter III. (Site Planning), Section D. of the HDS&G. The Committee had a split vote on the remaining items regarding modifications to, Chapter II. (Constraints Analysis), Section B. related to recent amendments to Chapter 9 (Fire Prevention and Protection) of the Town Code and Chapter 29, Division 2 (Zoning Regulations) of the Town Code, and modifications to Chapter IX. (Project Review and Approval Process) regarding the approval process (Exhibit 4).

DISCUSSION:

Chapter II. (Constraints Analysis), Section B. contains the required steps for completing a visibility analysis. The Chapter defines a visible home as a single-family residence where 24.5 percent or more of an elevation can be seen from any of the Town's established viewing areas (Exhibit 6).

Ordinance 2301 (Exhibit 9) was adopted by the Town Council on January 21, 2020, to amend Chapter 9 (Fire Prevention and Protection) to require that a defensible space of 100 feet be maintained from each side and from the front and rear of any building or structure, but not beyond the property line except as provided by law. Ordinance 2303 (Exhibit 10) was adopted

DISCUSSION (continued):

by the Town Council on January 21, 2020 to amend Chapter 29, Division 2 (Zoning Regulations) of the Town Code, to state that the removal or maintenance of an existing tree as required by Chapter 9 of the Town Code, is exempt and may be removed or severely pruned without Town approval or issuance of a tree removal permit.

Chapter III. (Site Planning), Section D. contains standards and guidelines for incorporating defensible space into site planning and landscape design. The chapter provides figures to illustrate the required zones of defensible space that should be maintained around a single-family residence (Exhibit 7).

Chapter IX. (Project Review and Approval Process), Section B. stipulates the deciding body for a project depending on a project's compliance with the HDS&G, the Town Code, and potential impacts on surrounding properties and the overall community (Exhibit 8).

A. Modifications to Chapter II. (Constraints Analysis) Regarding Elevations

Based on the direction provided by the Policy Committee, staff has prepared a modification to Chapter II., Section B. of the HDS&G for the Planning Commission's consideration. The potential amendment, shown in underline font in Exhibit 6, would make the following change:

- Provide written guidelines as to what elements of an exterior can be included in an elevation for purposes of the visibility analysis. An elevation would be defined as only pertaining to the visible building elevations of a home, not including exterior features such as walls, decks, and detached accessory structures.

B. Modifications to Chapter II. (Constraints Analysis) Regarding Trees Subject to Clearing

Chapter 9 of the Town Code requires that a defensible space of 100 feet be maintained from each side and from the front and rear of any building or structure, but not beyond the property line except as provided by law (Exhibit 9). In conformance with Santa Clara County Fire Department Guidelines, the 100 feet of defensible space is segregated into the following zones (Exhibit 11):

- Zone 1: New construction must create a noncombustible area a minimum of five feet from structures.
- Zone 2: Maintain an effective defensible space by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet of such buildings or structures. This includes removing all dead vegetation and dead or dry leaves, trimming

DISCUSSION (continued):

trees regularly to keep branches a minimum of six feet from the grade, tree branches a minimum of ten feet from other trees, and ten feet away from a chimney.

- Zone 3: Maintain an additional reduced fuel zone of 70 feet from all buildings and structures with an emphasis on vertical and horizontal separation of fuels/vegetation. A distance beyond 70 feet may be required when the Fire Chief or his/her designee, determines that due to steepness of terrain or other conditions, a distance of 70 feet is insufficient. This includes creating horizontal and vertical spacing between shrubs and trees, removing dead plants, tree material, and vegetation adjacent to accessory structures within the area, and maintaining distances between canopy tops.

Staff requested input from the Policy Committee regarding whether existing trees or branches subject to clearing in Zone 2 and Zone 3 should be included in a visibility analysis. The Policy Committee had a split vote regarding this item and requested that the item be forwarded to the Planning Commission for discussion noting the disagreements of the Committee (Exhibit 4).

C. Modifications to Chapter II. (Constraints Analysis) Regarding Exceptions for Tree Removal

Chapter 29, Division 2 of the Town Code states that the removal or maintenance of an existing tree as required by Chapter 9 of the Town Code, is an exception and may be removed or severely pruned without Town approval or issuance of a tree removal permit (Exhibit 10):

29.10.0970. Exceptions.

- (1) A fruit or nut tree that is less than eighteen (18) inches in diameter (fifty-seven-inch circumference).
- (2) Any of the following trees that are less than twenty-four (24) inches in diameter (seventy-five (75) inches in circumference):
  - (1) Black Acacia (*Acacia melanoxylon*)
  - (2) Tulip Tree (*Liriodendron tulipifera*)
  - (3) Tree of Heaven (*Ailanthus altissima*)
  - (4) Blue Gum Eucalyptus (*E. globulus*)
  - (5) Red Gum Eucalyptus (*E. camaldulensis*)
  - (6) Other Eucalyptus (*E. spp.*) - Hillsides only
  - (7) Palm (except *Phoenix canariensis*)
  - (8) Privet (*Ligustrum lucidum*)
- (3) Any removal or maintenance of a tree to conform with the implementation and maintenance of Defensible Space per Chapter 9 – Fire Prevention and Protection with the exception of any tree listed in subcategories (3) and (10) of Sec.29.10.0960 – Scope of Protected Trees.

DISCUSSION (continued):

Staff requested input from the Policy Committee regarding whether existing trees meeting the exceptions listed in Section 29.10.0970 of the Town Code that are proposed to remain as part of an application should be included in a visibility analysis. The Policy Committee had a split vote regarding this item and requested that the item be forwarded to the Planning Commission for discussion noting the disagreements of the Committee (Exhibit 4).

D. Modifications to Chapter III. (Site Planning) Regarding Image Update

Based on the direction provided by the Policy Committee, staff has prepared a modification to Chapter III. of the HDS&G for the Planning Commission's consideration. The potential amendment, shown in underline font in Exhibit 7, would make the following change:

- Update the image on Page 29, Section D. to be in compliance with the amended defensible space zones based on the amendments made to Chapter 9 (Fire Prevention and Protection) and Chapter 29, Division 2 (Tree Protection) of the Town Code.

E. Modifications to Chapter IX. (Project Review and Approval Process) Regarding Approvals

A single-family home that meets the allowable floor area ratio and is not visible from any established viewing area may be approved by the Development Review Committee (DRC). Through completion of a visibility analysis, if a home is determined to be visible, the maximum allowable height is 18 feet. Currently, review by the Planning Commission is required for a visible single-family home regardless of the height (Exhibit 8).

The Policy Committee had a split vote regarding whether a visible home that meets the allowable floor area ratio and the maximum allowable height of 18 feet should be allowed to be approved by the DRC, as opposed to the current requirement for Planning Commission approval. The Committee requested that this item be forwarded to the Planning Commission for discussion noting the disagreements of the Committee (Exhibit 4).

PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, September 18, 2020 are included as Exhibit 12.

CONCLUSION:

A. Recommendation

Based on the direction of the Town Council Policy Committee, staff recommends that the Planning Commission review the information included in the staff report and forward a

CONCLUSION (continued):

recommendation to the Town Council for approval of the modifications to Chapter II. (Constraints Analysis) and Chapter III. (Site Planning) of the HDS&G, with any additional modifications to Chapter IX. (Project Review and Approval Process) of the HDS&G. The Commission should also include any comments or recommended changes in taking the following actions:

1. Make the required finding that the modifications to the Hillside Development Standards and Guidelines are consistent with the General Plan (Exhibit 1); and
2. Forward a recommendation to the Town Council for approval of the proposed modifications to Chapters II, III, and IX of the HDS&G (Exhibits 6 through 8).

B. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Forward a recommendation to the Town Council for denial of the proposed modifications to Chapters II, III, and IX of the Hillside Development Standards and Guidelines.

EXHIBITS:

1. Required Findings
2. Town Council Policy Committee July 28, 2020 Minutes
3. Town Council Policy Committee July 28, 2020 Planning Staff Report (with Attachments 1 through 6)
4. Town Council Policy Committee August 11, 2020 Minutes
5. Town Council Policy Committee August 11, 2020 Planning Staff Report (with Attachment 7)
6. Draft Modifications to Chapter II (Constraints Analysis) of the HDS&G
7. Draft Modifications to Chapter III (Site Planning) of the HDS&G
8. Chapter IX (Project Review and Approval Process) of the HDS&G
9. Ordinance 2301 Chapter 9 (Fire Prevention and Protection) of the Town Code
10. Ordinance 2303 Chapter 29, Division 2 (Tree Protection) of the Town Code
11. Town of Los Gatos, 2020, *Be Wildfire Ready*, <<https://www.losgatosca.gov/2581/Be-Wildfire-Ready>>
12. Public comments received by 11:00 a.m., Friday, September 18, 2020