



AGENDA REPORT SUMMARY

Meeting Date: February 14, 2023

Subject: Housing Element Implementing Resolutions. Elimination of Third Party Independent Architectural Review and Elimination of Story Pole Requirement.

Prepared by: Nick Zornes, Development Services Director

Approved by: Gabe Engeland, City Manager

Attachment(s): 1. Draft Resolution - Elimination of Third Party Independent Architectural Review
2. Draft Resolution - Elimination of Story Pole Requirement

Initiated by: City Council.

Fiscal Impact

No fiscal impacts to the City of Los Altos are associated with the two draft resolutions.

Environmental Review

The proposed resolutions are exempt from environmental review pursuant to General Rule, Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment. The resolutions being considered implements Program 3.H & 3.L of the City's adopted 6th Cycle Housing Element (2023-2031) which has already undergone environmental review.

Staff Recommendation

1. Adopt City Council Resolution No. CC-2023-XX Eliminating Third Party Independent Architectural Review.
2. Adopt City Council Resolution No. CC-2023-XX Eliminating Story Pole Requirement.

Summary and Key Considerations

The draft resolutions before the City Council are implementing adopted programs from the City's 6th Cycle Housing Element 2023-2031. Both actions are explicitly called out in the adopted

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GE

City Attorney

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housing element and were designed to remove any barriers or impediments to the creation of new housing within Los Altos.

Background

On January 24, 2023, the Los Altos City Council adopted the City's 6th Cycle Housing Element 2023-2031. As required by law the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives.

Programs must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the city's specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

Analysis

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 3.H. The housing program contains several deliverables one of which the elimination of third-party architectural reviews (this has been highlighted in yellow below). The draft resolution included in this agenda packet effectively completes this deliverable as explicitly called out within the housing program.

Program 3.H: Amend design review process and requirements.

The City's Design Review Commission and Planning Commission had previously been one commission with a Design Review Committee comprised of two assigned Planning Commissioners. In recent years the purview of land use and design review was split into two separate commissions, currently the Planning Commission and Design Review Commission. The current structure of the Design Review Commission is a five-person body appointed by the City Council, while the Planning Commission is a seven-person body. Recent changes in State law drastically reduced the Design Review Commission's purview, and the City's well-developed objective design standards for a variety of development types (adopted in 2021) effectively created an Administrative Design Review that has been well implemented by City staff. In order to remove constraints arising from design review, the City will:



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- *Consolidate the Design Review Commission and Planning Commission into one body comprised of a maximum of seven appointed residents which will review mixed-use, multi-family and commercial developments, consistent with the majority of jurisdictions throughout the County of Santa Clara;*
- *Eliminate 3rd party independent architect review (which applies to projects in the downtown);*
- *Amend its Zoning Code to allow any design review and discretionary approvals for a project of five or fewer units to be approved by the Development Services Director;*
- *When hearings are required, limit the number of hearings for solely design review approval (i.e., not including subdivision maps or other applications that may be involved) to no more than three hearings;*
- *Develop standard conditions of approval to provide consistency and certainty to applicants and approving bodies;*
- *Modify its design review process and applicability thresholds so that City Council serves only as the decision-making authority for appeal of design review and land use decisions, consistent with the majority of jurisdictions throughout the County of Santa Clara;*
- *Clarify that decisions on appeals of housing developments must be based on objective standards consistent with State law and any appeal filed with the City shall be done within 14 calendar days post project approval; and*
- *Amend its Zoning Code to ensure that housing developments and emergency shelters are only subject to objective design standards consistent with State law.*

Responsible Body: Development Services Department, Planning Commission, City Council

Funding Source: General Fund

Time Frame: Any code amendments required to be completed by December 2023; Design Review Commission to be dismissed and duties reassigned to Development Services Director upon local adoption of the 6th Cycle Los Altos Housing Element or sooner. Evaluate progress and take additional action if improvements in the design review process have not resulted by January 2027.

Objective: The time for City review of and action on residential, mixed-use and multi-family developments will be shortened compared to typical processing times (see Appendix C, Table C-8) with the reduction of discretionary reviews and commissions.



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The City's adopted 6th Cycle Housing Element 2023-2031, included Program 3.L. The housing program contains one specific deliverable which is the elimination of the city's story pole requirement (this has been highlighted in yellow below). The draft resolution included in this agenda packet effectively completes this deliverable as explicitly called out within the housing program.

Program 3.L: Eliminate the requirement of story poles.

The requirement of story poles adds subjectivity, extends the review process of all development, and adds to the additional cost of a project. Existing submittal requirements include, renderings and 3D Modeling which effectively provide the same information story poles would (the relationship of the proposed building heights). The requirement of story poles installations will be eliminated for all development applications.

Responsible Body: Development Services Department, City Council

Funding Source: General Fund

Time Frame: March 2023

Discussion

The actions included within the attached resolutions are requirements pursuant to the City's adopted 6th Cycle Housing Element. Once a jurisdiction takes final action by adopting its housing element this requires immediate action in order to remain compliant with State housing law. The City of Los Altos Housing Element contains **26** major action items or milestones that must be completed within the first 12-months post adoption. The two resolutions will effectively accomplish 2 of the 26 items or milestones to be achieved in the first 12-months.

Should the Los Altos City Council vote not to proceed with the implementing actions discussed in this report the City will be vulnerable to penalties and consequences of housing element noncompliance. HCD is authorized to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local governments actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:



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- **General Plan Inadequacy:** the housing element is a mandatory element of the General Plan. When a jurisdiction's housing element is found to be out of compliance, its General Plan could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.
 - **Legal Suites and Attorney Fees:** local governments with noncompliant housing elements are vulnerable to litigation from housing rights' organization, developers, and HCD. If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff's attorneys in addition to the fees paid by its own attorneys. Potential consequences of lawsuits include: mandatory compliance within 120 days, suspension of local control on building matters, and court approval of housing developments.
 - **Loss of Permitting Authority:** courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction's General Plan and housing element into substantial compliance with State law. The court may suspend the locality's authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring its housing element into compliance.
 - **Financial Penalties:** court-issued judgement directing the jurisdictions to bring its housing element into substantial compliance with state housing element law. If a jurisdiction's housing element continues to be found out of compliance, courts can multiply financial penalties by a factor of six.
 - **Court Receivership:** courts may appoint an agent with all powers necessary to remedy identified housing element deficiencies and bring the jurisdiction's housing element into substantial compliance with housing element law.

Next Steps

Once adopted the two resolutions will be reported to HCD on the City's 2023 Annual Progress Report for Housing Element Implementation.