



## AGENDA REPORT SUMMARY

**Meeting Date:** November 28, 2023

**Subject** Housing Element Implementation Ordinance 2.0

**Prepared by:** Nick Zornes, Development Services Director

**Reviewed by:** Jolie Houston, City Attorney  
Jon Maginot, Assistant City Manager

**Approved by:** Gabe Engeland, City Manager

**Attachment(s):**

1. Draft Ordinance #1
2. Draft Ordinance #1 – Appendix A
3. Draft Ordinance #1 – Appendix B
4. Draft Ordinance #1 – Appendix C
5. Draft Ordinance #1 – Appendix D
6. Draft Ordinance #2
7. Draft Ordinance #2 – Appendix A
8. Draft Ordinance #3
9. Draft Ordinance #3 – Appendix A
10. Draft Ordinance #3 – Exhibit, Zone Map Change

**Initiated by:**

The City of Los Altos adopted 6<sup>th</sup> Cycle Housing Element, Programs 1.A, 1.B, 1.C, 1.E, 1.F, 1.G, 3.I, and 3.J.

**Fiscal Impact:**

No fiscal impacts are associated with the adoption of these implementing regulations.

**Environmental Review:**

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

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City Manager

GE

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Reviewed By:

City Attorney

JH

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**Summary:**

The draft ordinance incorporates regulations to rezone for the RHNA shortfall, facilitation of higher density housing in the commercial thoroughfare district, allow housing in the office administrative district, repeal of the Loyola Corners Specific Plan in its entirety, rezone Village Court parcel and repeal its entirety the PUD specific to the parcel, rezone housing sites from previous housing elements, allow residential care facilities consistent with State law, and explicitly allow manufactured homes consistent with State law. The draft ordinance integrates regulations into the Los Altos Municipal Code, which addresses all required provisions from the Housing Element programs previously noted.

**Staff Recommendation:**

Adoption of Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 1.A: Rezone for RHNA Shortfall; Program 1.B: Facilitate Higher Density Housing in the Commercial Thoroughfare (CT) District; Program 1.C: Allow Housing in the Office Administrative (OA) District; Program 1.E: Update the Loyola Corners Specific Plan; Program 1.F: Rezone Village Court Parcel; Program 1.G: Rezone Housing Sites from Previous Housing Elements; Program 3.I: Allow Residential Care Facilities Consistent with State law; Program 3.J: Explicitly Allow Manufactured Homes Consistent with State law; and consideration of the City of Los Altos Planning Commission's October 19, 2023 decisions and find that the proposed amendments are exempt from environmental review pursuant to 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.

**Prior Consideration:**

On November 14, 2023, the Los Altos City Council Introduced and Waived Further Reading of the proposed ordinances. The following actions were taken:

**Action #1 – Ordinance #1** – An Ordinance of the City Council of the City of Los Altos amending Chapter 13.34, Chapter 13.36, Chapter 14.50, and Chapter 14.63 of the Los Altos Municipal Code to Implement Program 1.A, Program 1.B, Program 1.C, Program 1.G, Program 3.I, and Program 3.J of the Sixth Cycle Housing Element Update.

The Los Altos City Council introduced the ordinance the following vote:

**AYES:** Meadows, Weinberg, Fligor, Daily, Lee Eng

**NOES:**

**Action #2 – Ordinance #2** – An Ordinance of the City Council of the City of Los Altos repealing in its entirety the Loyola Corners Specific Plan, Chapter 14.42 of the Los Altos Municipal Code,



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and Resolution No. 2017-41 and reinstating the underlying zoning districts to all effected parcels to Implement Program 1.E of the Sixth Cycle Housing Element Update.

The Los Altos City Council introduced the ordinance the following vote:

**AYES:** Meadows, Weinberg, Fligor, Daily

**NOES:** Lee Eng

**Action #3 – Ordinance #3** – An Ordinance of the City Council of the City of Los Altos amending Chapter 14.88 of the Los Altos Municipal Code Pertaining to Rezoning of a Parcel Located at 4546 El Camino Real (APN: 16712042) from R1-10 to Commercial Thoroughfare (CT) and Repealing in its entirety Planning Unit Development (62-PUD/C7) to Implement Program 1.F Rezone Village Court Parcel of the Sixth Cycle Housing Element Update.

The Los Altos City Council introduced the ordinance the following vote:

**AYES:** Meadows, Weinberg, Fligor, Daily

**NOES:** Lee Eng

**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.

The draft ordinance under consideration implementing Programs 1.A, 1.B, 1.C, 1.E, 1.F, 1.G, 3.I, and 3.J is required to be adopted no later than January 31, 2024.

On October 19, 2023, the Los Altos Planning Commission were presented with a staff report, and presentation at a duly noticed public hearing. At the regularly scheduled meeting the Planning Commission asked clarifying questions of the Development Services Director, opened the Public Hearing and received public testimony, and discussed the amendments presented to the commission. Three separate actions were taken that evening, and are summarized below:

**Action #1 – Ordinance #1** – An Ordinance of the City Council of the City of Los Altos amending Chapter 13.34, Chapter 13.36, Chapter 14.50, and Chapter 14.63 of the Los Altos Municipal Code



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to Implement Program 1.A, Program 1.B, Program 1.C, Program 1.G, Program 3.I, and Program 3.J of the Sixth Cycle Housing Element Update.

The Los Altos Planning Commission passed the recommendation by the following vote:

**AYES:** Steinle, Roche, Doran, Ahi, Beninato

**NOES:** Disney

**ABSENT:** Mensinger

**Action #2 – Ordinance #2** – An Ordinance of the City Council of the City of Los Altos repealing in its entirety the Loyola Corners Specific Plan, Chapter 14.42 of the Los Altos Municipal Code, and Resolution No. 2017-41 and reinstating the underlying zoning districts to all effected parcels to Implement Program 1.E of the Sixth Cycle Housing Element Update.

The Los Altos Planning Commission passed the recommendation by the following vote:

**AYES:** Steinle, Roche, Doran, Ahi, Beninato, Disney

**NOES:**

**ABSENT:** Mensinger

**Action #3 – Ordinance #3** – An Ordinance of the City Council of the City of Los Altos amending Chapter 14.88 of the Los Altos Municipal Code Pertaining to Rezoning of a Parcel Located at 4546 El Camino Real (APN: 16712042) from R1-10 to Commercial Thoroughfare (CT) and Repealing in its entirety Planning Unit Development (62-PUD/C7) to Implement Program 1.F Rezone Village Court Parcel of the Sixth Cycle Housing Element Update.

The Los Altos Planning Commission passed the recommendation by the following vote:

**AYES:** Steinle, Roche, Doran, Ahi, Beninato, Disney

**NOES:**

**ABSENT:** Mensinger

**Analysis:**

The City's adopted 6<sup>th</sup> Cycle Housing Element 2023-2031 included various programs which requires the proposed ordinance amendments to implement the various commitments contained within the Housing Element as Certified by the State of California Housing and Community Development Department (HCD). The following programs are being implemented in various components of the draft ordinance.



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The following program has already been partially implemented in that the City of Los Altos has already increased development capacity and overall density in zones such as CN, CRS, CD/R3 to accommodate moderate-income level units, and now in the CT and OA Districts.

***Program 1.A: Rezone for RHNA shortfall.***

*To accommodate the remaining above moderate-income RHNA of 19 units, the City will identify and rezone sufficient vacant land or land with redevelopment potential to provide capacity for this shortfall. Appendix B (Sites Inventory and Methodology) identifies potential parcels for rezoning to address this shortfall and provide excess capacity throughout the planning period. Separate programs detail specifics of various rezoning actions that would provide additional capacity for all income levels.*

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

***Funding Source:*** General Fund

***Time Frame:*** Sites rezoned to address shortfall by January 2024 ***Objective:*** The City will amend the Zoning Map and/or Zoning Code to create the opportunity for at least 19 above moderate-income housing units; proposed rezoning would accommodate an assumed capacity of 64 above-moderate income housing units

***Geographic Targeting:*** Create additional opportunities for housing capacity throughout the city, which is identified as high and highest resource by TCAC opportunity maps.

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance removes the zoning code limit on maximum density allowed within the zone (68 units/acre or 179% of maximum allowed density has been the average development trend for recently approved/constructed projects), eliminates excess setback requirements for adjacencies, increases the building heights, and makes residential and mixed-use developments allowed by-right.

***Program 1.B: Facilitate higher density housing in the Commercial Thoroughfare (CT) District.***

*The Commercial Thoroughfare (CT) Zone is located along El Camino Real with a maximum density of 38 units per acre and a maximum height of 45 feet. Development trends in this area are showing much higher densities and heights being built. To continue to facilitate housing in the CT District, the City will remove or increase the density maximum and increase the height allowed in the CT District by at least 10 feet and one story which will result in a maximum height of 55 feet and 5-stories to ensure the increased maximum density can be accommodated. Objective design standards for the CT District will be modified as necessary to accommodate higher density, and the*



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*increased setback standards when across the street from or abutting a residential zoning district will be removed.*

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

**Funding Source:** General Fund

**Time Frame:** December 2024

**Objective:** Approve housing development projects along El Camino Real at densities above 38 units per acre anticipating at least 80 total housing units with at least 20 low-income units.

**Geographic Targeting:** Increase housing opportunity in a mixed-use, transit-accessible area. See Program 4.J for place-based improvements, specifically relative to the Los Altos Loop, that will be prioritized in this area east of San Antonio Road.

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance specifies the allowed density of a minimum of 20 units per acre and a maximum of 30 units per acre, modifies the required setbacks to provide ample buffer and spatial distance from single family zoning districts by reducing side and front yard setbacks while increasing the rear yard setback to an acceptable maximum of 30 feet, and makes residential and mixed-use developments allowed by-right.

***Program 1.C: Allow housing in the Office Administrative (OA) District.***

*The Office Administrative (OA) District, primarily located along South San Antonio Road (east of Downtown), does not currently allow residential uses. However, given the high demand for housing in Los Altos and the opportunity to provide for housing in a mixed-use environment with access to transit, the sites identified in the OA District (Appendix B, Table B-11) will be amended to allow multi-family development. Residential uses will be allowed at a minimum density of 20 dwelling units per acre and a maximum density of 30 dwelling units per acre.*

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

**Funding Source:** General Fund

**Time Frame:** December 2024 **Objective:** Permit housing on OA District parcels during the planning period comprising at least 40 total housing units with at least eight low-income units in the highest resource areas of the city.

**Geographic Targeting:** Create additional opportunities for housing capacity in a highest resource area located adjacent to Downtown, transit (bus line along San Antonio Road), and single-family neighborhoods.





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The following program implements the requirements identified within the adopted housing element in that the proposed ordinance repeals in its entirety the Loyola Corners Specific Plan which has been an impediment to the creation of housing as well as any large-scale revitalization of the area since its inception. Additionally, the action will repeal in its entirety City Council Resolution 2017-41 which was an action that further restricted development potential within the specific plan area.

***Program 1.E: Update the Loyola Corners Specific Plan.***

*The Loyola Corners Specific Plan will be rescinded and revert to underlying zoning (CN District) to facilitate housing production. Regardless of whether the Specific Plan is updated or rescinded, this program includes removal of all standards that are more restrictive than those applicable within the CN District. Standards to be eliminated include the 20-unit density cap (enforcement of this limitation is currently precluded by the Housing Crisis Act), the dwelling unit size requirement of between 1,500 and 8,000 square feet, the two-story height limitation in addition to a 30-foot maximum height (Resolution 2017-41), and any subjective design standards applicable to residential. The eliminated standards will provide regulations that allow development at greater densities than what is presently allowed today, increased building heights and greater flexibility in unit sizes. The Loyola Corners Specific Plan is considered a highest resource area with the most positive educational outcomes (see Appendix F, Section F.2.5 (Access to Opportunity)).*

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

***Funding Source:*** General Fund

***Time Frame:*** December 2024 ***Objective:*** Eliminate restrictive development standards within Loyola Corners Specific Plan for density, height, and unit size no later than December 2024. Also eliminate any subjective design standards applicable to residential no later than December 2024. Permit housing units in the Loyola Corners Specific Plan above the current 20-unit cap and with a mixture of unit sizes during the planning period. Target approval of at least 40 total housing units with at least eight low-income units.

***Geographic Targeting:*** Remove barriers to increase housing opportunity in Loyola Corners neighborhood, a highest resource area with commercial, transit (bus line along Foothill Expressway), and single-family homes.

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance executes the required Zone Change to one (1) affected parcel at the “Village Court” development. The existing parcel(s) has “split” or “shared” zoning districts which further creates confusion and irregular development potential of the site. Additionally, as a part of the Zone Change Planned Residential Development 62-PUD/C7



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is repealed in its entirety which has limited development potential of the site since its inception. Due to the split or shared zoning of the parcel at Village Court there is not feasible or practical way for the PUD to be maintained and carry the new zoning of the Commercial Thoroughfare District on all portions of the parcels.

***Program 1.F: Rezone Village Court parcel.***

*To facilitate housing, the Village Court parcel at 4546 El Camino Real (APN 16712042) will be rezoned from R1-10 to Commercial Thoroughfare (CT), and modifications made to the Planned Unit Development (62-PUD/C7), as necessary for consistency with the CT District. The City will consult with adjacent property owners and interested parties throughout the Village Court rezone program.*

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

***Funding Source:*** General Fund

***Time Frame:*** December 2025

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance the rezoning of the sites identified in the program has been accomplished by allowing for the use of residential and mixed-use development by-right within the CT District and by the Zone Change of the Village Court parcel.

***Program 1.G: Rezone housing sites from previous Housing Elements.***

*Under AB 1397, certain rezoning requirements apply if a lower income housing site identified in the sites inventory (Appendix B) was identified as a housing site (for any income level) in a previous housing element's site inventory. The following vacant and nonvacant lower income sites are subject to the rezoning requirements:*

- *Vacant lower income sites that have been included in at least two consecutive housing element sites inventories.*
- *Nonvacant lower income sites that have been included in a prior housing element sites inventory.*

*The City will make necessary zoning amendments to allow development by right pursuant to Government Code §65583.2(i) when 20 percent or more of the units are affordable to lower income households on sites identified in Table IV-1. These identified sites meet the density requirements for lower-income households and allow at least 30 units per acre.*

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

***Funding Source:*** General Fund





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***Time Frame:*** January 2024

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance by the creation of Article 6 of the Specialized Housing Regulations Chapter in the Zoning Code by integration of definitions and allowances which are articulated in State law.

***Program 3.I: Allow residential care facilities consistent with State law.***

*To comply with State law, the City will amend the Zoning Code to permit residential care facilities for six or fewer persons in all residential zoning districts, as well as districts where single-family homes are allowed by-right and treat them as a residential use. The Zoning Code will also be amended to allow large residential care facilities (seven or more persons) in all residential zones without discretionary review (i.e., subject only to objective standards). Residential care facilities will not be limited to individuals of 60 years of age or over, and a barrier-free definition of “family” that encompasses unrelated individuals living together as a single residential unit will be added consistent with State law.*

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

***Funding Source:*** General Fund

***Time Frame:*** March 2024

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance by the creation of Article 5 of the Specialized Housing Regulations Chapter in the Zoning Code by asserting that all manufactured housing shall be considered the same as conventional stick-built construction.

***Program 3.J: Explicitly allow manufactured homes consistent with State law.***

*Government Code §65852.3 requires manufactured and mobile homes on a permanent foundation to be allowed in the same manner and in the same zone as a conventional stick-built structure. While it is the City’s practice to treat manufactured homes on a foundation as a conventional single-family home, the Zoning Code does not reflect this practice. The City will amend the Zoning Code to explicitly allow manufactured homes on a permanent foundation, subject to the same regulations as single-family homes and in the same zones as single-family homes.*



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

**Funding Source:** *General Fund*

**Time Frame:** *March 2024*

**Discussion:**

The actions included within the attached draft ordinance are requirements pursuant to the City's adopted 6<sup>th</sup> 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 several major action items or milestones that must be completed by specific dates as determined within the adopted Housing Element. The draft ordinance before the City Council tonight will effectively accomplish the majority of **8 items or milestones**.

Since the City of Los Altos was not found to be in substantial compliance with Housing Element Law within 120-days post the statutory due dates of January 31, 2023, the City of Los Altos must complete **all** rezoning within 1-year (by 1-31-2024). Since adoption of the Housing Element in January 2023:

- (19) programs have been **completed**
- (8) programs are **in-progress** as a part of the amendments before the City Council tonight
- (6) programs are **in-progress** and anticipated to be completed by early to mid-2024 (on-time with HEU due dates)
- (38) programs remaining to begin within next 12-24 months (some programs are ongoing and do not have a target completion date)

**Failure to Implement Adopted Housing Element Programs**

Should the Los Altos City Council not introduce and adopt the draft ordinances 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 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 government's actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:

- 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



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could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.

- **Legal Suits 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 jurisdiction 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.