

Town of Los Gatos Informal 2 Preliminary Review

Received 12/24/2023

Subsequent Informal 2: 2/01/24

***Green highlighting denotes HCD's Second Informal Preliminary Review Comments**

Prior Review: 12/01/2023

Prior HCD Finding	Page #	Prelim Rev 1	Page#	Prelim Rev 2	HCD Feedback Summary	Staff's Draft Responses as of 02/29/2024
Affirmatively Furthering Fair Housing						
<u>Income and Racial Concentration Area of Affluence (RCAA):</u> The element now includes actions to promote an inclusive community; however, the element must provide specific analysis of income and RCAA at a regional level (town compared to the broader region) to better formulate appropriate policies and programs. The analysis should at least address trends, conditions, coincidence with other fair housing factors (e.g., race, highest resource, overpayment), effectiveness or absence of past strategies (e.g., lack of publicly assisted housing and lack of multifamily zoning), local data and knowledge and other relevant factors.	A-69	~/No	A-71	Yes/~	Minimal revision. Prior Review: Minimal analysis added; should address trends, coincidence with other factors (e.g., income, TCAC), past strategies and effectiveness such as result of North 40 in the prior planning period, zoning, land use and other factors. These analyses should be incorporated into contributing factors	New language discussing the past effectiveness of diversifying the Town's housing stock was added in a grey highlight to Appendix A on Page A-19. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to verify the Town's draft approach to responding to this comment.
<u>Contributing Factors to Fair Housing Issues:</u> Based on a complete analysis, the element should re-assess and prioritize contributing factors to fair housing issues. For example, the Town is wholly a RCAA, highest resource and highest median incomes in contrast to the rest of the region. As a result, fair housing issues such as the lack of affordable housing and segregation from the rest of the region should be a high priority.	A-18	~	A20	Yes	Re-assess based on a complete analysis	
<u>Goals and Actions:</u> As noted above, the element must include a complete analysis of affirmatively furthering fair housing (AFFH). The element must be revised to add goals and actions based on the outcomes of a complete analysis. In addition, while the element includes some actions toward AFFH and enhancing housing mobility (e.g., choices and affordability), actions should be added,	10-43-10-50-10-6510-66	~/No	10-76	~	Include metric for home sharing action (Program Q). Program AY Prior Review: See Programs J, L, O, Q, T, AV	A quantified metric was included in a grey highlight for the homesharing action in Program Q on Page 10-53 of Chapter 10, as well as Program AY on Page 10-79 of Chapter 10. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to verify the Town's draft

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<p>numeric targets should be increased, and geographic targeting should be fine-tuned to better promote inclusive neighborhoods throughout the Town. This is particularly important since over 80 percent of the lower-income regional housing need allocation (RHNA) is isolated in two census tracts. As noted in HCD's prior review and the assessment of fair housing, the Town is wholly a racially concentrated area of affluence, highest resource and highest median incomes in contrast to the rest of the region.</p> <p>These conditions and circumstances warrant significant and robust actions (not limited to the RHNA) to promote housing mobility and increasing housing choices and affordability throughout the Town, including lower-density neighborhoods. Actions should be added and revised with aggressive numeric targets and geographic targets throughout the Town, including lower-density neighborhoods. Examples include creating more housing choices and affordability in single-family neighborhoods beyond complying with law (e.g., SB 9, ADUs) such as missing middle housing types, targeting affordable housing funding, homesharing, more than one unit of converted space within a single-family structure, increased multifamily capacity, enhanced efforts on religious institutional sites and other alternative land use and financing strategies.</p>					<p>Program J should clarify that capacity will be increased (not just zoning text), development standards will be adjusted to facilitate maximum densities and increase the objective (~150 units) or add strategies (religious institutional, JADU plus, SB 10)</p> <p>Consider adding JADU plus to ADU HCV homesharing program and increasing objective</p> <p>Program AV should go beyond complying with SB 9 (marketing, modification to development standards)</p> <p>For all housing mobility actions (Programs J, L, O, Q, T, AV), geographic targeting should be revised to clarify town-wide including highest median income areas and numeric targets should be reflected with geographic targeting (e.g., 100 units townwide and 50% in highest median income areas)</p>	<p>approach to responding to this comment.</p>
Sites Inventory, Analysis and Adequate Sites						
<p><u>Small Sites:</u> The element identifies several sites with parcels less than a half-acre (p. D-13) that have common ownership and, in some cases, expressed interest to redevelop the site. For small sites with expressed interest in redevelopment, the element should clarify that the expressed interest is also in consolidating the sites. For the remaining sites (Sites D-2 and D-5), the element should explain the circumstances leading to the potential for consolidation such as necessity to consolidate due to access, feasibility, shape, or site planning flexibility. Based on the outcomes of this analysis, the element</p>	D-2	Yes	D-11	N/A		

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should add or modify Program K (Lot Consolidation) to further promote lot consolidation, if appropriate.						
<p><u>Electronic Sites Inventory:</u> For your information, while the Town has submitted an electronic sites inventory as part of this submittal, pursuant to Government Code section 65583.3, the Town must submit an electronic sites inventory with its adopted housing element. Please see HCD's housing element webpage at https://www.hcd.ca.gov/planning-andcommunity-development/housing-elements for a copy of the form and instructions. The Town can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance</p>	N/A	FYI		FYI		
<p><u>Adequate Sites Programs:</u> As noted in the prior review, if necessary to make appropriate zoning available to accommodate the lower-income RHNA, programs must be revised to meet all requirements pursuant to Government Code section 65583.2, subdivisions (c), (h) and (i). The element includes Programs D (Program By Right Zoning Text Amendment to Accommodate RHNA), AR (General Plan Amendment) and AS (Adequate Sites for Housing) to address these requirements. With respect to sites identified in prior planning periods, the element meets statutory requirements, but these actions must be completed by January 31, 2024. With respect to a shortfall of adequate sites to accommodate the lower-income RHNA, the element includes Programs AR and AS. However, the Programs commit to the appropriate zoning given the rezoning occurs after the statutory deadline of January 31, 2023. HCD understands the Town completed the rezoning after the statutory deadline and, therefore, the rezoning must meet all by right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). Based on a cursory review, the rezoning does not appear to meet these requirements. As a result, these programs must clearly commit to meet all by-right requirements by January 31, 2024.</p>	Not Found	No/?		Yes	Rezone ordinance 2347, Ord 2348, Ord 2349, Ord 23507;	The second reading of the amendment to the Housing Element Overlay Ordinance will be heard by the Town Council on March 5, 2024.

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<p>In addition, please be aware, the recent California appellate decision in <i>Martinez v. City of Clovis</i> found that while overlays can be used in a rezone, when the base zone allows residential development, both the base zone and the overlay zone must comply with the minimum density requirements of Government Code section 65583.2, subdivision (h). The Town may need to adjust its rezoning strategy if the underlying zoning for sites that will be rezoned allows minimum densities less than 20 dwelling units per acre. <i>Martinez v. City of Clovis</i> (2023) 90 Cal.App.5th 193, 307 Cal.Rptr.3d 64.</p>						
Governmental Constraints						
<p><u>Land Use Controls:</u> HCD's prior review found that the Town must list and evaluate development standards in the North Forty Specific Plan and High Density Residential and Commercial designation. In response, the Town has now listed development standards by each zoning district but should also analyze those development standards for impacts on housing supply and cost and most importantly, the ability to encourage maximum densities without exceptions. For example, lot coverages, heights, and setbacks in the Multifamily Residential (RM) zone; and lot coverage heights and guest parking requirements in the North Forty Specific Plan could be constraints. Based on the outcomes of a complete analysis, the element should add or modify programs to include specific commitment to review and revise these development standards as necessary.</p>	C-1 C-5 10-62	?	10-43	No	<p>Program D includes action to remove guest parking in North Forty Specific plan; however, include a program to revise all MF guest parking requirements, specifically RM, CH zones.</p> <p>Prior Review: RM parking program? Guest parking reduced? Guest parking and lot coverage in the North Forty Specific Plan analyzed?</p>	<p>Additional language was added in a grey highlight to Program AA on Page 10-60 of Chapter 10 to clarify the intent of the program to amend the Zoning Code for guest parking requirements in all zones of the Town. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to verify the Town's draft approach to responding to this comment.</p>
<p><u>Local Processing and Permit Procedures:</u> The element now discusses decision-making bodies and lists approval findings for the Architecture and Site Application. However, the element should also analyze these processes to better inform programs to address identified constraint. For example, the element mentions the decision-making body depends on the scope of the application. The element should explain the scope, resulting decision-making body and impacts on approval timing and certainty. In addition, the element lists approval findings and</p>	10-62	No/?	C-41	~	<p>Brief statement made on approval body but must discuss and analyze the scope of the trigger for PC review.</p> <p>Program AQ</p> <p>Prior Review: See Program AQ</p> <p>Program should remove or modify Findings 4 and 6 of the architectural and site process</p>	<p>Additional language was added in a grey highlight to Page C-41 of Appendix C to clarify that the Planning Commission is the deciding body for all types of multi-family residential and mixed-use projects. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to verify the Town's draft</p>

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concludes some findings may be constraints then modifies Program AQ (Zoning Code Amendments) to amend approval findings (considerations). But the element should discuss which approval findings may be constraints to better inform implementation of Program AQ.					Scope trigger for approval body analyzed? Addressed?	approach to responding to this comment.
<u>Remove the housing unit cap Programs:</u> As noted above, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the Town may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, programs should be revised, as follows:		TBD		TBD	Depends on complete analysis	
<u>Program D (Additional Capacity for the North Forty Specific Plan):</u> The Program should also commit to establish or modify development standards to facilitate achieving maximum densities, regardless of the level of affordability and should specify to either remove the unit cap or increase the unit cap to allow maximum build out of each parcel, including State Density Bonus Law or other circumstances that might warrant increasing allowable densities.	10-41	~/No/?		No	<p>Include a specific commitment to increase or remove unit cap (within 6 months)</p> <p>Prior Review: No action included to modify development standards?</p> <p>No action to remove cap. Commitments should also not implement the cap to allow maximum build out of each parcel or other circumstances warranting increasing allowable densities</p>	The language of Program D on Page 10-43 of Chapter 10 was modified in a grey highlight to state that the North Forty Specific Plan will be amended to remove the unit cap. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to verify the Town's draft approach to responding to this comment.
<u>Program V (Housing opportunities for Persons living with Disabilities):</u> Given the importance of promoting housing access for persons with disabilities, the Program could be modified with a date earlier in the planning period (e.g., by December 2024).	?	No/?	10-57	Yes		
<u>Program AA (Reduce Parking Standards):</u> The Program currently commits to "Initiate a study to determine specific updates..." While initiating a study and making a determination are important steps by themselves, these actions do not result in outcomes. The Program should clearly commit to amending the municipal code. For example, the Program could commit to: "Initiate a study and outreach, including with developers, and amend the Municipal Code, as follows:..."	10-53	Yes		N/A		

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<p><u>Program AQ (Zoning Code Amendments):</u> The Program commits to apply the Housing Element Overlay Zone (HEOZ) to identified sites and modify development standards. HCD understands this action has been completed. Based on a cursory review of the Town's Ordinance 2347, some development standards such as heights may be a constraint on achieving maximum densities. As a result, this Program should commit to monitor and evaluate these development standards, including outreach with the development community, and making adjustments, as appropriate, by a specified date.</p>	10-61	~/No	10-70	Yes	Program AQ	
<p><u>Program AW (Story Poles and Netting Policy):</u> While the Program now commits to revise Story Poles and Netting Policy Requirements; these requirements are constraints and impact housing costs; supply (number of units) and approval certainty and should be removed or replaced with cost effective measures to promote certainty for the developers and the community. Further, the element should evaluate the effectiveness of any future requirements or measures, and making adjustments, as necessary, by a specified date (e.g., by 2028).</p>	10-65-	No	C-38	Yes	<p>Program AW</p> <p>Prior Review: Video rendering should be expanded to other visual methods Scope of alternative should be expanded to all multifamily and mixed use</p>	
Housing Programs: ADU						
<p><u>Program Q Accessory Dwelling Units (ADU):</u> While the Program now commits to amend the ADU Ordinance, it must also commit to establish incentives such as modifying development standards (e.g., heights), pursuing funding; waiving fees beyond ADU law; proactive marketing and establishing points of contact to ease permitting processes. In addition, the Program commits to monitor production and affordability of ADUs annually but should also commit to making adjustments by a specified date (e.g., within six months) if production and affordability are not meeting assumptions. Further, the Program should clearly commit to options beyond incentives such as rezoning if production and affordability far differs from assumptions.</p>	10-48-	Yes		N/A		

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Public Participation:						
<p>Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the Town should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD. HCD particularly encourages the Town to continue engaging commenters on this review. These comments contained valuable insights that can result in a more effective housing elements, especially related to programs and specific commitment. HCD's future reviews will continue to consider the extent to which the revised element documents how the Town solicited, considered, and addressed public comments in the element. The Town's consideration of public comments must not be limited by HCD's findings in this review letter.</p>		?	10-17	Yes/~	Summary of Public comments submitted.	<p>Town staff will continue to engage with the community regarding the Housing Element update process by maintaining the information posted on the Housing Element update website, through posting on the Town's various social media accounts, and evaluation of public comments received.</p>
Other (HCD use only)						
Program J		N/A		No	New language excluding missing middle housing types in multiple areas throughout the Town. The program should remove new language and proceed with previous program language informally reviewed.	<p>Modifications to the language of Program J and Program AY were made in response to the approved motion from the February 20, 2024, meeting in a grey highlight on Pages 10-46, 10-47, 10-77, and 10-78 of Chapter 10. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to discuss the Town's draft approach to responding to this comment.</p>

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Program AY		N/A		No	See comments above.	Modifications to the language of Program J and Program AY were made in response to the approved motion from the February 20, 2024, meeting in a grey highlight on Pages 10-46, 10-47, 10-77, and 10-78 of Chapter 10. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to discuss the Town's draft approach to responding to this comment.
Sb 9 units		N/A	10-9 D-2	No/?	Is the town now counting SB 9 units towards RHNA? Table D-2?	The Town is not counting SB 9 units towards the RHNA. Table D-2 of Appendix D has the SB 9 row struck out in the track changes version of the Draft Revised Housing Element. Town staff and the Housing Element consultant will be meeting with HCD on Friday, March 1, 2024, to clarify this comment.
Public comments		TBD		Yes	Additional comments? Prior Review: Must address new public comments	No additional comments at this time. Town staff will continue to engage with the community and evaluate public comments received.
Document availability		FYI		FYI		
Rezone timing		FYI		FYI	Can't be found in full compliance until all rezones are complete	The second reading of the HEOZ was adopted by the Town Council on December 5, 2023, and went into effect on December 21, 2023. A second reading of an amendment to the HEOZ will be considered by the Town Council on March 5, 2024.
50% nonvacant resolution		FYI		FYI		
Electronic sites inventory		FYI		FYI		
Overlay				No	Program AQ HE Overlay zone	N/A
Modification Authority		N/A		N/A	Informal submittal	N/A