



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 11/13/2024

ITEM NO: 8

DATE: November 8, 2024
TO: Planning Commission
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Make a Recommendation to the Town Council on Adoption of a Replacement Units Ordinance and Adoption of a Resolution Adopting Replacement Units Guidelines, Pursuant to Implementation Program AU of the 2023-2031 Housing Element. Adoption of this Ordinance is Exempt Pursuant to CEQA, Section 15061(b)(3) in that it can be Seen with Certainty that it will not Impact the Environment, Because the Town is Already Subject to State Law. Town Code Amendment Application A-24-007. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council regarding adopting a Replacement Units Ordinance and adopting Replacement Units Guidelines by resolution, pursuant to Implementation Program AU of the 2023-2031 Housing Element.

CEQA:

Adoption of this Ordinance is exempt pursuant to CEQA, Section 15061(b)(3) in that it can be seen with certainty that it will not impact the environment, because the Town is already subject to state law.

BACKGROUND:

Implementation Program AU of the Town's certified 2023-2031 Housing Element states that the Town will adopt a policy requiring replacement housing units in specified instances. State law does not require an ordinance, but some grant programs do require an ordinance. For that reason, staff is recommending that the Town adopt its replacement units requirements in a codified ordinance. The purpose of adopting a Replacement Units Ordinance is to insure that, when housing units are removed by a development project, those housing units get replaced. In

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Town Attorney

Reviewed by: Planning Manager and Community Development Director

addition, staff is recommending that the Town adopt Replacement Units Guidelines by resolution. The proposed resolution authorizes staff to update the Guidelines if required by future changes to state law.

DISCUSSION:

The proposed Ordinance and Guidelines reflect state law requirements. In summary, those state law requirements are:

1) State Density Bonus Law

Per Government Code Sections 65915-65918, housing developers may receive more favorable development requirements from cities and towns in exchange for providing specified percentages of affordable housing with their projects. With regard to replacement housing units, when a project proposes to demolish existing housing, or where rental housing existed on the site within the previous five years, the applicant must replace those units.

2) Housing Element Law

Per Housing Element law (Government Code Section 65583.2(g)(3), whenever a housing project is proposed on a site listed in the Sites Inventory of the Town's certified 2023-2031 Housing Element, the Town must determine whether the site contains existing rental housing or contained rental housing within the past five years. If so, the rental units must be replaced.

3) Housing Crisis Act of 2019

The existing replacement housing unit requirements of the Housing Crisis Act of 2019 have been expanded to include nonresidential developments. In addition, displaced, low-income residents are entitled to relocation benefits and a right of first return.

CONCLUSION:

A. Summary

The proposed Replacement Units Ordinance and Guidelines align with existing state law requirements and respond to Implementation Program AU of the 2023-2031 certified Housing Element.

B. Recommendation

Staff recommends that the Planning Commission forward a recommendation to the Town Council for adoption of a Replacement Units Ordinance codifying replacement unit requirements and Replacement Units Guidelines by resolution. The Planning Commission should also include any comments or recommended changes to the Ordinance or Guidelines in taking the following actions:

1. Make the finding that the proposed amendment is exempt pursuant to CEQA, Section 15061(b)(3), in that it can be seen with certainty that it will not impact the environment, and because the Town is already subject to state law (Exhibit 1);
2. Make the required finding that the amendments to Chapter 29 of the Town Code in the Draft Ordinance are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for adoption of an Ordinance to codify replacement unit requirements (Exhibit 2) and a resolution adopting Replacement Units Guidelines (Exhibit 3).

C. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for adoption of the Ordinance and/or resolution with modifications; or
2. Forward a recommendation to the Town Council for no changes to the Town Code; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Proposed Ordinance Codifying Replacement Units Requirement
3. Proposed Resolution Adopting Replacement Units Guidelines with Attachment A

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