



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/6/2024

ITEM NO: 6

DATE: February 1, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review and Discuss the Proposed Revisions to the Draft Revised 2023-2031 Housing Element. Location: Town-Wide. General Plan Amendment Application GP-22-003.

RECOMMENDATION:

Discuss and provide direction to staff on the proposed revisions to the Draft Revised 2023-2031 Housing Element.

BACKGROUND:

On December 1, 2023, the Town received the California Department of Housing and Community Development's (HCD) findings/comment letter (previously provided as Attachment 3 to the January 16, 2024 Staff Report) on the Town's Draft Revised Housing Element as submitted to HCD on October 2, 2023, along with the modifications submitted on November 28, 2023.

On December 19, 2023, the Town Council unanimously voted to follow a five-step process regarding the 2023-2031 Housing Element update, which includes the following actions:

1. Prioritizing the comments from the December 1, 2023 HCD comment letter;
2. Addressing the most challenging comments first and presenting the draft text of the Draft Revised Housing Element to the Town Council for review, including examples from two to three certified Housing Elements. Additionally, the Town Council hearing will provide the public with an opportunity to comment on the draft text with staff addressing the public comments in subsequent meetings, as needed;
3. Scheduling Town Council meetings with staff and the Housing Element consultant on a regular basis to complete the edits;
4. Reviewing the proposed edits with HCD, as frequently as HCD is able to meet with Town staff, and the Housing Element consultant and providing written feedback to the Council about HCD's responses; and

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Jocelyn Shoopman, Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and the Community Development Director

BACKGROUND (continued):

5. Conducting public engagement with the Housing Element Advisory Board (HEAB) after the Town Council completes its review of the draft text to the Draft Revised Housing Element.

The Town Council also unanimously voted to review the Draft Revised Housing Element prior to a resubmittal to HCD.

On January 16, 2024, the Town Council met to review and discuss the proposed revisions to the Draft Revised Housing Element in response to the December 1, 2023 HCD comment letter. The discussion section below describes the Town Council's direction for each HCD comment.

On January 18, 2024, staff and the Housing Element consultant met with the Town's HCD reviewer and received an informal preliminary review matrix, provided in Attachment 9. The informal preliminary comments are based on the proposed edits made to the Draft Revised Housing Element and provided to the Town's HCD reviewer for initial feedback on December 24, 2023. The proposed edits were in response to HCD's comment letter provided to the Town on December 1, 2023.

On January 18, 2024, the Housing Element Advisory Board (HEAB) met to review and discuss the proposed revisions to the Draft Revised Housing Element in response to the December 1, 2023 HCD comment letter; Town Council direction provided on January 16, 2024; and HCD's informal preliminary review matrix provided on January 18, 2024. The discussion section below describes HEAB's recommendations for revisions to the Draft Revised Housing Element.

DISCUSSION:

The primary purpose of this agenda item is for the Town Council to review and discuss the proposed revisions that staff, the Housing Element consultant, and the Town's outside legal counsel have made to the Draft Revised Housing Element in a green highlight (Attachment 7) and the Draft Response Table (Attachment 8), that address the following:

- HCD comment letter provided on December 1, 2023 (Attachment 3);
- Town Council direction provided on January 16, 2024 (Section A, below);
- Suggested edits provided by the Town's outside legal counsel, Goldfarb & Lipman, LLP, with staff's responses (Attachment 10);
- Informal preliminary review matrix (Attachment 9) and additional direction provided by HCD on January 18, 2024 (Section B, below); and
- Recommendations provided by the HEAB on January 18, 2024 (Section C, below).

DISCUSSION (continued):

A. Town Council Meeting – January 16, 2024

On January 16, 2024, the Town Council met to review and discuss the proposed revisions to the Draft Revised Housing Element in response to the December 1, 2023 HCD comment letter (Attachment 3). The following provides the Town Council’s direction for each HCD comment and staff’s response in italics:

Category 1: Requires Sufficient Engagement and Feedback from HCD

1. Comment 1c. – Motion by Council Member Moore to bundle the steps the Town is taking to increase housing mobility similar to Program 6.G in the City of Los Altos’ certified Housing Element and to modify Program J to change language from “in all neighborhoods” to “in a variety of neighborhoods.” Seconded by Council Member Ristow. Motion passed 3-2. Mayor Badame and Vice Mayor Hudes voted no.

Staff Response: Program 6.G from the City of Los Altos’ Housing Element was replicated in a green highlight on Pages 10-76 through 10-78 of Chapter 10 in the Draft Revised Housing Element as Program AY. Additional edits to Programs E, J, L, Q, S, T, and AV were made in a green highlight to reflect the new language provided in Program AY.

Program J on Page 10-46 of Chapter 10 was modified in a green highlight to revise the wording of “in all neighborhoods” to “a variety of neighborhoods.”

Attachment 11 provides proposed language for Program AY, Housing Mobility. The track changes version shows modifications made to the language provided by the Vice Mayor (Attachment 5 of the January 16, 2024 Desk Item) suggesting revisions to Program 6.G from the City of Los Altos’ Housing Element.

Category 2: Ready for HCD Feedback

1. Comment 1b. – Motion by Vice Mayor Hudes to address Comment 1b. by using the example of Table 49 and Table 50 from the Town of Los Altos Hills certified Housing Element. Seconded by Council Member Moore. Motion passed unanimously.

Staff Response: Table 49 from the Town of Los Altos Hills certified Housing Element was replicated as Table A-1 on Pages A-20 and A-21 of Appendix A in a green highlight. The existing Affirmatively Furthering Fair Housing (AFFH) matrix on Pages 10-79 through 10-82 of Chapter 10 was modified in a green highlight to replicate Table 50 from the Town of Los Altos Hills’ certified Housing Element.

DISCUSSION (continued):

2. Comment 2c. – An amended Housing Element Overlay Zone Ordinance (HEOZ) has been prepared by staff and the Town’s outside legal counsel, Goldfarb & Lipman, LLP.

Staff Response: On January 24, 2024, the Planning Commission unanimously recommended approval of an amendment to Chapter 29 of the Town Code to define “by right approvals” and to amend the HEOZ based on the comments provided in the December 1, 2023 HCD comment letter. The Town Council is expected to consider the item on February 20, 2024. The Town’s outside legal counsel, Goldfarb & Lipman, LLP, and HCD have reviewed the amended HEOZ zoning ordinance language.

3. Comment 3b. – The Town’s outside legal counsel, Goldfarb & Lipman, LLP, suggested minor changes in order to analyze how the development standards accumulatively function as a constraint on housing development. Town Council directed staff and the Housing Element consultant, Veronica Tam and Associates, to refine per suggestions by outside legal counsel.

Staff Response: Attachment 10 describes the suggested minor changes to the Draft Revised Housing Element by the Town’s outside legal counsel, Goldfarb & Lipman, LLP, with staff’s responses describing where revisions have been made in the document.

4. Comment 3c., Program D – Town Council directed staff, the Housing Element consultant, and the Town’s outside legal counsel to continue to work on addressing HCD’s comment regarding modifying development standards to achieve maximum densities in the North Forty Specific Plan Area.

Staff Response: Revisions to Program D on Pages 10-43 and 10-44 of Chapter 10 were completed in December 2023 in a blue highlight to include an action to amend the North Forty Specific Plan to include a policy, specifying that additional units resulting from density bonus, SB 330, or other applicable State laws will not count toward the unit cap. Based on the feedback provided by the Town’s HCD reviewer in the informal preliminary review matrix (Attachment 9), Program D was further modified in a green highlight to include language describing that the housing unit cap will not prevent developments the ability to reach the maximum allowable density plus the additional units due to density bonus and other applicable regulations and providing a timeline for modifying the unit cap as it was found to be a constraint to housing production.

DISCUSSION (continued):

5. Comment 3c., Programs V, AQ, and AW – Revisions have been completed.

Staff Response: Revisions to the timeframe of Program V were completed in December of 2023 and can be located on Page 10-57 of Chapter 10 in a blue highlight.

Revisions to Program AQ were completed in December of 2023 in a blue highlight and can be located on Pages 10-69 through 10-71 of Chapter 10. Additional revisions to Program AQ based on the suggested edits from the Town's outside legal counsel, Goldfarb & Lipman, LLP, and the informal preliminary review matrix provided by the Town's HCD reviewer on January 18, 2024, have been made in a green highlight (Attachments 9 and 10).

Staff discussed the proposed revised language with HCD on December 13, 2023. Additional narrative was added to Implementation Program AW on pages 10-75 and 10-76 of Chapter 10 to describe the further modifications made to the Story Pole Policy by the Town Council on December 5, 2023. Additional revisions to pages 10-75 and 10-76 of Chapter 10 were made in a green highlight address the comment provided in the informal preliminary review matrix provided by the Town's HCD reviewer on January 18, 2024 (Attachment 9).

Category 3: More Work to Do and Return to Town Council for Review

1. Comment 1a. – Town Council directed staff, the Housing Element consultant, and the Town's outside legal counsel to continue to work on addressing HCD's comment.

Staff Response: Revisions to Appendix A on Pages A-18, A-19, A-71, and A-72 in a green highlight have been made in response to the comment regarding the Town's location as an Income and Racial Concentration Area of Affluence (RCAA).

2. Comment 2a. – Town Council directed staff, the Housing Element consultant, and the Town's outside legal counsel to continue to work on addressing HCD's comment.

Staff Response: Revisions were made on Page D-11 of Appendix D in a blue highlight in response to the comment regarding small sites. The informal preliminary review matrix provided by the Town's HCD reviewer on January 18, 2024, noted this comment as "yes," meaning that no further revisions were required (Attachment 9).

3. Comment 3a. – Town Council directed staff, the Housing Element consultant, and the Town's outside legal counsel to continue to work on addressing HCD's comment.

DISCUSSION (continued):

Staff Response: Revisions were made in December of 2023 in a blue highlight with additional narrative on pages C-8 and C-9 of Appendix C to identify the increased development standards, such as building height and lot coverage for sites within the HEOZ. Further revisions were provided in a green highlight to discuss open space requirements for a multi-family or mixed-use project. The Housing Element already includes an action to develop standards to achieve maximum density, including reducing parking requirements. Additional narrative was also added to Implementation Program J on Pages 10-46 and 10-47 of Chapter 10 in a blue highlight to identify a new action to establish a maximum average unit size.

Based on the feedback provided the Town's HCD reviewer in the informal preliminary review matrix (Attachment 9), Program D on Pages 10-46 and 10-47 was further modified in green highlight to include language that the guest parking requirements and development standards will be modified to facilitate achieving the maximum densities.

4. Comment 3c., Program AA – Staff described the proposed revised language for reduced parking with HCD on December 13, 2023.

Staff Response: Staff and the Housing Element consultant met with the Town's HCD reviewer on January 18, 2024, and verbally clarified that Program AA had been previously modified in the December 2023 version in a blue highlight to address the removal of guest parking requirements.

5. Comment 4 – Town Council directed staff, the Housing Element consultant, and the Town's outside legal counsel to continue to work on addressing HCD's comment and add monitoring and apply for grant opportunities.

Staff Response: The informal preliminary review matrix provided by the Town's HCD reviewer on January 18, 2024, noted this comment as "yes," meaning that no further revisions were required (Attachment 9). However, based on feedback from the Town Council and the Town's outside legal counsel, Program Q on Pages 10-52 and 10-53 of Chapter 10 was modified to include the following new text in a green highlight:

- *The Town will actively apply for grant programs, as funds are made available to assist property owners in the construction of ADU's/JADU's.*
- *The Town will proactively promote information made available through the Santa Clara County Planning Collaborative, a joint initiative of all 16 jurisdictions in the county on the Town's website with resources for interested property owners.*

DISCUSSION (continued):

- *More defined action language regarding the Town's effort to commit to developing strategies if the ADU or JADU assumptions differ from the Housing Element projections.*

B. HCD Communications

On January 18, 2024, staff and the Housing Element consultant met with Town's HCD reviewer and received an informal preliminary review matrix, provided in Attachment 9. The informal preliminary comments are based on proposed edits made to the Draft Revised Housing Element and provided to the Town's HCD reviewer on December 24, 2023. The proposed edits were in response to HCD's comment letter provided to the Town on December 1, 2023.

Attachment 8 provides a response matrix of all comments listed in the December 1, 2023 HCD comment letter. The matrix also includes the comments provided by HCD on January 18, 2024, in their informal preliminary review matrix; a summary of the informal, verbal feedback received at the meeting; and staff's responses to each outstanding comment.

The Town's HCD reviewer has reviewed and provided feedback to the Town Attorney and the Town's outside legal counsel, Goldfarb & Lipman, LLP, on the amended HEOZ zoning ordinance language.

On February 1, 2024, the Housing Element consultant requested informal feedback from the Town's HCD reviewer on Town's draft approach as presented in this staff report. Staff is awaiting a response back from HCD with preliminary feedback. If feedback is received from HCD, an Addendum or Desk Item will be prepared for the Town Council prior to the meeting.

C. HEAB Recommendations

On January 18, 2024, the HEAB met to review and discuss the proposed revisions to the Draft Revised Housing Element in response to the December 1, 2023 HCD comment letter; suggested edits provided by the Town's outside legal counsel, Goldfarb & Lipman, LLP; the Town Council direction provided on January 16, 2024; and HCD's informal preliminary review matrix provided on January 18, 2024. The HEAB discussed each of HCD's comments and the proposed responses and agreed with the response approach. The following provides HEAB's specific recommendations and staff's response in italics:

1. Motion by Planning Commissioner Thomas to increase the quantified objective of Program J from 50 units to 150 units over the eight-year planning period per HCD's direction. Seconded by Board Member Chen. Motion passed unanimously.

DISCUSSION (continued):

Staff Response: Revisions were made to Program J on Page 10-46 of Chapter 10 in a green highlight to increase the quantified objective to 150 units.

2. Motion by Planning Commissioner Thomas to replace the phrase “in all neighborhoods” with the word “townwide” in Program J so that it reads, “to expand housing choices townwide.” Seconded by Board Member Janoff with an amendment to the motion to include replacing the phrase “throughout Los Gatos” with the word “townwide” in Program 6.G, in the introductory paragraph and bullet four, from the City of Los Altos’ Housing Element. The maker of the motion accepts the amendment. Motion passed unanimously.

Staff Response: Staff is requesting direction from the Town Council regarding the HEAB’s motion to modify the language of Program J from “in a variety of neighborhoods” to “townwide.”

3. Add narrative in the Housing Element where the Town presently goes beyond State law, e.g., the Accessory Dwelling Unit (ADU) Ordinance or Senate Bill 9 (SB 9) Ordinance.

Staff Response: Program Q on Pages 10-52 and 10-53 and Program AV on Page 10-75 of Chapter 10 was modified in a green highlight to include narrative describing how the Town’s ADU and SB 9 Ordinances go beyond the requirements of State law by allowing a 10 percent increase in the floor area ratio standards.

4. Add narrative to the Housing Element describing the Town’s Diversity, Equity, and Inclusion Commission (DEIC).

Staff Response: Revisions were made on Page 10-15 of Chapter 10 in a green highlight to describe the DEIC and the function of the Commission to advise the Town Council regarding matters pertaining to creating equitable opportunities and a sense of belonging within Town.

5. Add a summary of the general topics of public comments that have been provided on the Housing Element using the City of Los Altos Hills Housing Element as an example.

Staff Response: A summary of the general topics of public comments that have been provided on the Housing Element update process was added on Pages 10-17 through 10-18 of Chapter 10.

DISCUSSION (continued):

6. Consider requiring an ADU with the construction of new single-family residence to increase the production of affordable units in low density designations, if the Town's ADU production does not meet the projected objectives.

Staff Response: Program Q on Page 10-52 of Chapter 10 includes the monitoring of ADU and JADU production, and the development of strategies and incentives to address any potential shortfall in the proposed objectives of the Housing Element.

All changes recommended by HEAB have been included in Attachment 7, with the exception of the modified language to Program J, as noted in the staff response to HEAB recommendation 2, above.

The recorded audio of the January 18, 2024, HEAB meeting is available at the following website link: <https://losgatos-ca.municodemeetings.com/>.

E. Next Steps

This agenda item provides the Town Council an opportunity to discuss the proposed revisions to the Draft Revised Housing Element. The Housing Element consultant will be available, remotely, to answer Council Members' questions. As required by AB 215, revisions to the Draft Revised Housing Element must be made available to the public for a seven-day review period prior to a formal resubmittal to HCD.

Should the Town Council be satisfied with the proposed revisions to the Draft Revised Housing Element, the seven-day review period could be started on Thursday, February 8, 2024, ending on Wednesday, February 14, 2024, with a formal resubmittal to HCD by Friday February 21, 2024. Subsequent review by HCD will take up to 60 days.

CONCLUSION:

Staff looks forward to the Town Council's discussion and direction.

PUBLIC COMMENTS:

Public comments received between 11:01 a.m., Thursday, January 16, 2024, and 11:00 a.m., Thursday, February 1, 2024, are included as Attachment 12.

COORDINATION:

The Community Development Department coordinated with the offices of the Town Attorney and Town Manager in the preparation of this report.

ENVIRONMENTAL ASSESSMENT:

An Environmental Analysis was prepared for the Housing Element update and available on the Town's Housing Element website at: <https://www.losgatosca.gov/EnvironmentalAnalysis>. All potentially significant effects have been analyzed adequately in the Town of Los Gatos 2040 General Plan Environmental Impact Report (EIR), pursuant to applicable standards including CEQA Guidelines Section 15168(c)2, because the Housing Element update is consistent with the growth projections evaluated in the General Plan EIR.

ATTACHMENTS:

Previously Received with the January 16, 2024 Staff Report:

1. Draft Revised Housing Element, Track Changes Copy
2. Draft Response Table
3. December 1, 2023 HCD's Findings Comment Letter
4. Public Comments Received Between 11:01 a.m., Tuesday, December 19, 2023, and 11:00 a.m., Thursday, January 11, 2024

Previously Received with the January 16, 2024 Desk Item:

5. Comments from the Vice Mayor
6. Public Comments Received Between 11:01 a.m., Thursday, January 11, 2024, and 11:00 a.m., Tuesday, January 16, 2024

Received with this Staff Report:

7. Draft Revised Housing Element, Track Changes – January 2024
8. Draft Response Table – January 2024
9. HCD Informal Preliminary Review Matrix with Staff's Responses
10. Goldfarb & Lipman, LLP Feedback Table with Staff's Responses
11. Track Changes and Clean Version of Program AY Housing Mobility
12. Public Comments Received Between 11:01 a.m., Tuesday, January 16, 2024, and 11:00 a.m., Thursday, February 1, 2024