



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/07/2023

ITEM NO: 16

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DATE: November 1, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve a Recommendation of the Planning Commission to Adopt a Resolution to Amend the General Plan to Include a Description of the Housing Element Overlay Zone and Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Replace the Affordable Housing Overlay Zone Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,' With the Housing Element Overlay Zone As Division 5 of Article VIII, 'Overlay Zones and Historic Preservation.'" An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Town Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. Applicant: Town of Los Gatos. Project Planners: Jocelyn Shoopman and Erin Walters.

**RECOMMENDATION:**

Approve a recommendation of the Planning Commission to adopt a resolution (Attachment 1) to amend the General Plan to include a description of the Housing Element Overlay Zone and introduce an ordinance (Attachment 2) titled "An Ordinance of the Town Council of the Town of Los Gatos amending Chapter 29, 'Zoning Regulations,' of the Town Code to replace the Affordable Housing Overlay Zone Division 5 of Article VIII, 'Overlay Zones And Historic Preservation,' with the Housing Element Overlay Zone as Division 5 of Article VIII, 'Overlay Zones and Historic Preservation.'"

**PREPARED BY:** Jocelyn Shoopman, Associate Planner and  
Erin Walters, Associate Planner

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Reviewed by: Town Manager, Community Development Director, Planning Manager, and Town Attorney

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BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing and Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income groups within the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle planning period is 1,993 units.

On January 30, 2023, the Town Council adopted the 2023-2031 Housing Element with modifications to the Sites Inventory, finding that it was in substantial compliance with State law. Two of the Implementation Programs contained in the Housing Element adopted by Town Council are the basis for the items under consideration and described in further detail below.

On May 30, 2023, the Town received HCD's findings/comment letter on the Revised Draft Housing Element. The findings/comment letter is in reference to the Town's Housing Element submitted to HCD on March 31, 2023.

On July 20, 2023, at a special meeting, the General Plan Committee (GPC) reviewed the requests described below and recommended approval of the General Plan amendments to the Planning Commission and Town Council.

On August 23, 2023, the Planning Commission met to discuss the amendments to the 2020 General Plan Land Use Element and Chapter 29 of the Town Code and made a recommendation to the Town Council. The Planning Commission received and considered public comments on the proposed amendments, reviewed the proposed modifications, and unanimously recommended approval to Town Council (Attachments 4 through 7).

On October 3, 2023, the Town Council adopted a resolution to amend the General Plan to include a description of the Housing Element Overlay Zone and introduced an ordinance to amend the Town Code to modify the Affordable Housing Overlay Zone to be the Housing Element Overlay Zone, consistent with the staff recommendation. Due to an error in the description of the project for the legal advertisement not including the Planning Commission's recommendation, the item has been re-noticed for the Town Council's consideration.

At the October 3, 2023, Town Council meeting, a Council Member asked for information about how the text from other locally certified Housing Elements had been incorporated into the Town's most recent Draft Revised Housing Element. A draft response table to HCD's May 30, 2023, comment letter was provided to the Housing Element Advisory Board (HEAB) at their July

SUBJECT: General Plan Amendment and Housing Element Overlay Zone/Z-23-002 and GP-23-002

DATE: November 1, 2023

BACKGROUND (continued):

20, 2023, meeting with this information included in Attachment 7 and available at the following link: <https://www.losgatosca.gov/AgendaCenter/ViewFile/Agenda/07202023-2313>.

Since the October 3, 2023, Town Council meeting, staff has made further edits to the ordinance to clarify that a mixed-use project must contain a residential use that occupies more than 50 percent of the total floor area pursuant to Government Code Section 65583.2(h) (Attachment 2). No changes have been made to the resolution included in Attachment 1 since the October 3, 2023, Town Council meeting.

DISCUSSION:

In August, the Planning Commission reviewed and discussed the proposed amendments to the 2020 General Plan Land Use Element and Chapter 29 of the Town Code and had no recommended modifications.

A. General Plan Land Use Designation

The 2023-2031 Housing Element includes Implementation Programs that involve an overlay zoning of parcels within the Town to provide modified development standards for residential and mixed-use developments. The purpose of these modified development standards is to provide the development capacity required by State law and the Town's RHNA, as mentioned above. The first step in creating the new minimum and maximum densities referenced in these Implementation Programs is the addition of the Housing Element Overlay Zone (HEOZ) and the associated development standards in the 2020 General Plan Land Use Element. In addition to density, those development standards also include lot coverage, floor area, and height, as provided below in Table LU-2 and included in the draft resolution (Attachment 1).

The Town received public comments suggesting a future need to add sites to the Sites Inventory as a result of the No Net Loss law. In response to these comments, the modifications shown below in underlined text to Table LU-2, *HEOZ Development Standards* were considered and recommended for approval by the Planning Commission to ensure that standards are included for all land use designations. Given the requirements of the No Net Loss law, the addition of sites to the Sites Inventory may be required in the future as sites on the current inventory are developed, and so establishing regulations for all designations is recommended.

DISCUSSION (continued):

Table LU-2 HEOZ Development Standards

Designation	Standards
Low Density Residential	<b>Density:</b> 0 – 5 du/ac <b>Lot Coverage:</b> Up to 50% <b>Max. Height:</b> 30 feet
Medium Density Residential	<b>Density:</b> 14 – 22 du/ac <b>Density in Very High Fire Hazard Severity Zones:</b> 5 – 12 du/ac <b>Lot Coverage:</b> Up to 75% <b>Max. Height:</b> 35 feet
High Density Residential	<b>Density:</b> 30 – 40 du/ac <b>Lot Coverage:</b> Up to 75% <b>Max. Height:</b> 45 feet
Mixed-Use	<b>Density:</b> 30 – 40 du/ac <b>FAR:</b> Up to 3.0 <b>Max. Height:</b> 45 feet
Neighborhood Commercial	<b>Density:</b> 10 – 20 du/ac <b>FAR:</b> Up to 1.0 <b>Max. Height:</b> 35 feet
Central Business District	<b>Density:</b> 20 – 30 du/ac <b>FAR:</b> Up to 2.0 <b>Max. Height:</b> 45 feet
North Forty Specific Plan	<b>Density:</b> 30 – 40 du/ac <b>FAR:</b> As defined in Specific Plan <b>Max. Height:</b> As defined in Specific Plan
<u>Office Professional</u>	<b>Density:</b> 10 – 20 du/ac <b>FAR:</b> Up to 1.0 <b>Max. Height:</b> 35 feet
<u>Service Commercial</u>	<b>Density:</b> none <b>FAR:</b> Up to 1.0 <b>Max. Height:</b> 35 feet
<u>Light Industrial</u>	<b>Density:</b> none <b>FAR:</b> Up to 1.0 <b>Max. Height:</b> 35 feet

B. Zoning

Due to changes to State law, many components of the Affordable Housing Overlay Zone (AHOZ) are no longer compliant with State law. Staff expects the replacement of the AHOZ with the HEOZ will provide greater flexibility for residential and mixed-use projects in order to create more potential for the development of housing.

In response to public comments received regarding adding sites to the current Sites Inventory, the Planning Commission considered and recommended approval of the modifications shown in underlined text to Table 1A (HEOZ Development Standards), shown on the following page to reflect the possibility of adding sites to the Sites Inventory in the

DISCUSSION (continued):

future as sites on the current inventory are approved for development (Attachment 2).

At the August 23, 2023, Planning Commission meeting, staff verbally notified the Commission of a modification that would be made to Table 1A to specify the density for the North Forty Specific Plan Area. Additionally, staff has made edits to the draft ordinance to further describe that a property with a HEOZ designation may be developed under the new regulations as a residential or mixed-use project (Attachment 2, Exhibit A). Non-residential projects will be subject to the development standards of the underlying zone.

Since the October 3, 2023, Town Council meeting, staff has made further edits to the ordinance to clarify that a mixed-use project must contain a residential use that occupies more than 50 percent of the total floor area pursuant to Government Code Section 65583.2(h).

**Table 1A (HEOZ Development Standards)**

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
<u>North Forty Specific Plan</u>	<u>NF-SP</u>	<u>As defined in Specific Plan</u>	<u>As defined in Specific Plan</u>	<u>As defined in Specific Plan</u>	<u>As defined in Specific Plan</u>	<u>30-40</u>
<u>Office Professional</u>	<u>O</u>	<u>As authorized by Section 29.60.100</u>	<u>N/A</u>	<u>1.0</u>	<u>35 feet</u>	<u>10-20</u>
<u>Service Commercial</u>	<u>LM</u>	<u>As authorized by Section 29.70.125</u>	<u>N/A</u>	<u>1.0</u>	<u>35 feet</u>	<u>none</u>
<u>Light Industrial</u>	<u>CM</u>	<u>As authorized by Section 29.70.235</u>	<u>N/A</u>	<u>1.0</u>	<u>35 feet</u>	<u>none</u>

PUBLIC COMMENTS:

Public notification has included a legal advertisement in the paper. The meeting has also been publicized on the Town's website and through the Town's social media platforms. As of the drafting of this report, no comments from the public have been received.

CONCLUSION:

Staff recommends that the Town Council:

1. Make the finding that no further environmental analysis is required (Attachments 1 and Attachment 2);
2. Adopt a resolution to amend the 2020 General Plan Land Use Element to include a description of the HEOZ (Attachment 1); and
3. Introduce an ordinance, by title only, effecting an amendment to the Town Code to replace the AHOZ of Division 5, Article VIII, "Overlay Zones and Historic Preservation," with the HEOZ (Attachment 2) with any specific changes identified and agreed upon by the majority of the Town Council.

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff; or
2. Refer the item back to the Planning Commission with specific direction.

ENVIRONMENTAL ASSESSMENT:

An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments. No further environmental analysis is required.

Attachments:

1. Draft Resolution for the General Plan Amendment with Exhibit A
2. Draft Ordinance for the Zoning Amendment with Exhibit A
3. Draft Town Code Amendments in Tracked Changes
4. August 23, 2023, Planning Commission Staff Report with Exhibits 1-3
5. August 23, 2023, Planning Commission Addendum with Exhibit 4
6. August 23, 2023, Planning Commission Desk Item with Exhibits with Exhibit 5
7. August 23, 2023, Planning Commission Verbatim Minutes
8. Public Comment received between 11:01 a.m., Tuesday, October 3, 2023, and 11:00 a.m., Wednesday, November 1, 2023