



TOWN OF LOS GATOS
HOUSING ELEMENT ADVISORY
BOARD REPORT

MEETING DATE: 01-18-2024

ITEM NO: 1

DRAFT MINUTES OF THE HOUSING ELEMENT ADVISORY BOARD
SEPTEMBER 28, 2023

The Housing Element Advisory Board of the Town of Los Gatos conducted a Special Meeting on September 28, 2023, at 7:00 p.m. in the Town Council Chambers.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Chair Melanie Hanssen; Vice Chair Kathryn Janoff; Council Member Matthew Hudes; Council Member Rob Moore; Board Member Randi Chen; Board Member Joseph Mannina; Board Member Adam Mayer; Board Member Steven Piasecki; Board Member Ryan Rosenberg; and Planning Commissioner Emily Thomas.

Absent: None

Staff present: Jennifer Armer; Joel Paulson; Jocelyn Shoopman; and Erin Walters.

VERBAL COMMUNICATIONS

Lee Fagot

- Expressed appreciation to the HEAB and staff for all the hard work. Requested that the public comment period be extended.

Lee Quintana

- Agreed with the previous speaker. The packet provided a lot of information and the seven-day public comment period did not provide enough time to provide comment.

Jak Van Nada

- Agreed that the Town Council should extend the public comment period until Town Council meets next Tuesday.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approval of Minutes – August 24, 2023

Lee Quintana

- Correction to the minutes regarding the Clovis court decision and to include the specific court case name of *Martinez v. City of Clovis* in the record.

MOTION: **Motion by Board Member Chen** to approve adoption of the Consent Calendar with the changes that Ms. Quintana mentioned. **Seconded by Planning Commissioner Thomas.**

VOTE: **Motion passed unanimously.**

DISCUSSION ITEMS

2. Review and Discuss the Town's Draft Revised Housing Element Addressing the California Department of Housing and Community Development's (HCD) Findings/Comment Letter Received by the Town on May 30, 2023.

Presentation by Jocelyn Shoopman, Associate Planner.

Housing Element Advisory Board (HEAB) member's comments and questions:

- If the HEAB extends the seven-day review period until after the Town Council meeting how would staff like the HEAB to direct them?
- The additional 250 units over the previous draft brings the buffer over the 1993 units to 36 percent.
- What is the basis for including the 250 units and when were they added?
- Was it a change in State law or HCD interpretation?
- Is the new way of describing the buffer in line with HCD?
- What if the approved number of units drops down below the total number of RHNA units or below the required units for one of the RHNA income categories? Is No Net Loss required?

VERBAL COMMUNICATIONS

Jak Van Nada

- Addressing Commissioner Rosenberg's question from the last meeting, whether we want additional units over 1993. We only want 1993 units and the buffer. Concern there is a shortage of roughly 163 very low units and about 25 moderate units based on the numerous changes noted in our letter. Concern that the 194 units do not qualify to be counted as they were already counted in the 5th cycle. Concern the Town needs an additional 29 acres to not have to use No Net Loss.

Lee Quintana

- Would like the document to be more understandable to the general public. After reviewing the Housing Element, Chapter 10, without reading any of the appendices it is not easy to understand. Table 10-3 is very difficult to understand. Provide clarification to overlapping time periods in the document. Important to review and provide analysis of the previous element and how it effects the 6th cycle goals and programs. It is not clear how the HEOZ overlay works and what sites are included. We have not supplied

enough information for the public to understand, but have provided detail on public participation when that could be summarized by category.

HEAB member's questions and comments:

- Table 10-3 is very different from the previous document with regard to buffer and surplus.
- The Town Council recommended a 15 percent buffer and that was increased to a 25 percent buffer.
- Is the surplus calculation acceptable to HCD? Is this the format the consultant has used for other certified housing elements before?
- Why is there a vast difference between what we are including in the sites inventory and what we are seeing in SB 330 or Builder's Remedy pre-applications or formal applications.
- Surprised to hear from the public to kick the process down the road. Most of the public comments online are to approve the housing element as quickly as possible and people are worried about the Builder's Remedy.
- Excellent document and ready for submittal.
- There are a number of implementation programs. It is an ambitious document and very complete.
- Added maps, analysis, and justification in this draft document makes the document compelling to HCD.
- The Housing Element draft feels like an accurate and forward thinking take on housing in Los Gatos. Grateful to everyone for putting this draft together.
- Once the Housing Element is certified there are so many good ideas in AFFH programs. Program N (Funds for Development for Extremely Low Income Households), Program U (Increased Range of Housing Opportunities for the Homeless), Program Y (Supportive Services for the Homeless), and Program Z (Stabilize Rents) are great programs.
- Curious how the Town plans to enforce the State's rent control? The Town's Rent Control Policy is backdated to several decades ago.
- Recommends adding the Santa Clara County ADU webpage and tool kit to the Town's ADU webpage. ADU's are a critical strategy in our Housing Element.
- Recommend that the Town join the Bay Area Doorway Portal that provides a central place for housing seekers to find and apply for affordable housing in the Bay Area.
- Have some concerns regarding language in a few places and changes to the Sites Inventory.
- Discussed process and next steps.
- Not hearing any traction from the consultant, staff, the HEAB, or any encouragement from the State to change the Sites Inventory. Move the document forward as quickly as possible to the State to begin the review.
- We may never get it right, individually. A lot of people have great ideas and comments. Are the comments important enough to stop the whole process to

reorganize for more clarity? Keep it moving forward. There will be more time for public comment and opportunity for discussion.

- The Town Attorney confirmed that the guidance from the State does not require that the Town needs to wait until all the Boards and Council make comments before the seven-day period starts.
- Based on the experience from the 5th cycle, no matter what unit numbers we assign to the Sites Inventory, developers can come in and develop with different numbers, that is why we have the surplus and “No Net Loss.”
- Appalled that the HEAB has had no interaction with the Town’s Housing Consultant and that this will be submitted to HCD without Council review.
- Concerns that stating that Council can review it after it is certifiable almost guarantees that no changes can be made without fear the changes would disrupt the certification.
- The process has been engineered with a sense of rush.
- The public will be disrupted by some aspects of the development that will occur due to this plan.

MOTION: **Motion by Council Member Hudes** to modify the Revised Draft Housing Element with the addition of a new contributing factor in the AFFH portion of the document which includes, “Extremely limited transportation opportunities resulting from removal of bus routes, cutbacks, and failure to extend light rail is a contributing factor to the lack of multi-family housing in Town.”

Motion fails for lack of a second.

HEAB member’s discussion:

- The AFFH portion of the document has some language that is excessively self-flagellating and really is not productive and suggests that on page A-14, “Racially restrictive and property deed restrictions were popular in the 1920’s.” Suggests replacing the word “popular” with “existed.”
- On page A-14, it states, “predominantly single-family housing in the downtown core is discriminatory by nature” and then it cites HCD, but that is not what HCD says. Suggests replacing the language with what HCD said: “Single family zoning emerged and replaced race-based zoning as a tool for segregating communities by restricting more affordable housing options such as apartments and condominiums.”
- The language on page A-65 contradicts language on page A-60, it states that, “This documents that Los Gatos is largely an area of affluence and does not have any areas of concentrated poverty.” On page A-60 it states that the Town does have several areas of poverty that are in the southern zone. Replace the language on page A-65 with the language from page A-60.
- On page A-19 it states, “A portion of the Town’s identity is maintaining its small-town character and feel. This can manifest itself in opposition to development of

higher density housing or a variety of housing types other than from single family housing.” There is no evidence of the linkage to single family housing and small-town character. The Town was a small town in the 1900’s and had apartment buildings and some of them still exist. Suggests striking the sentence.

- Surprised by the new language in the AFFH section, but willing to accept language in order to get the document passed.

MOTION:

Motion by Council Member Hudes to modify the Revised Draft Housing Element with the following:

1. Replace the word “popular” with “existed” in the following sentence “Racially restrictive and property deed restrictions were popular in the 1920’s.” found on page A-14; and
2. Replace the sentence, “predominantly single-family housing in the downtown core is discriminatory by nature” on page A-14 with the sentence, “Single family zoning emerged and replaced race-based zoning as a tool for segregating communities by restricting more affordable housing options such as apartments and condominiums.” on page A-14; and
3. Remove the language on page A-65 stating, “This documents that Los Gatos is largely an area of affluence and does not have any areas of concentrated poverty” and replace with the language found on page A-60 that states that the Town does have several areas of poverty that are in the southern zone; and
4. Remove the sentence on page A-19 stating, “A portion of the Town’s identity is maintaining its small-town character and feel. This can manifest itself in opposition to development of higher density housing or a variety of housing types other than from single family housing.”

Council Member Hudes withdrew his motion.

HEAB member’s discussion:

- Different reaction from each board member regarding the suggested language changes based on talking to different members of the community, and personal experience.
- Provided personal experience with racial covenants and will not remove statement.
- Discussion on not wanting to modify the AFFH language.
- Is there an appeal period for the seven-day public comment period?
- Discussion on racial covenants.
- Map A-11 shows the Town as a highly segregated community based on data. Journal articles describe racial restriction covenants as common place and accepted in society and changing the word to “existing” would downplay that this community

was a segregated community on purpose. Decisions were made to keep out non-white people on purpose.

- The Town Council voted and gave the HEAB the authority to send the Housing Element forward to HCD.
- The consultant is a technical consultant and not part of the public engagement process.
- The Town Council voted to have the Housing consultant attend Planning Commission and Town Council meetings when a Draft Housing Element is ready to be adopted.
- The Town has been looking at it as an insulated isolated community, while the consultant is looking at the community without bias and with fresh objective set of eyes.
- Discussion that the new language in the AFFH section may be hard to hear and that we may not agree individually, but we can absorb that language and learn from the language and move on together.
- Staff and the consultant did a really good job addressing HCD's comment letter.
- Heard public comment that there is a major concern that the Housing Element is not certified.
- Does not want to risk making changes that will extend that process.
- No major issues with the language.
- AFFH is a new California law, and a number of the comments are AFFH related.
- There are two consultants working on the AFFH section and will not support changes to the modified language.
- Will not be making those individual motions based on what many of the Board members have discussed.
- Discussion on the importance of the document and that it should reflect the Town's opinion.
- The document will endure for at least eight years, and it should be fixed and not rushed.
- The HEAB has only met every other month and taken their time. The HEAB could have met every two weeks and reviewed small portions of the document.
- Concern that through the consultant's analysis there are an excess of 214 to 250 units than what were reviewed in the July draft document and now we do not need as many sites.
- Discussion of making a motion to remove Site A-2 (the post office site) from the Site's Inventory as the site has a SB 330 preliminary application.
- Discussion about the recent Joint Study Session on State Housing Laws explaining that developers may use Senate Bill 330 and/or Density Bonus Law and other concessions to submit applications for properties that are both located and not located on the Sites Inventory.
- Concerns that removal of the post office site might impact HCD's comments.

MOTION: **Motion by Council Member Hudes** to remove Site A-2 from the Site's Inventory.

Motion fails for lack of a second.

HEAB member's questions or comments:

- This document has improved in the last couple months and comments provided by HCD have been addressed in the revisions.
- Provided comments to the HEAB regarding editorial comments regarding constraints, parking, traffic, and circulation connections for future development.
- Do not like everything in the document, but supports moving it forward.
- An ambitious document to implement and will have associated costs.
- Suggests providing direction to developers of what can be done and what should be done for good development in the future.
- Suggests including Board Member Piasecki's comments into the document.
- Discussed why Council Member Hudes will not support the motion for the following reasons:
 - The revised document has a lot of new information; and
 - The document has not been forwarded to the Council for consideration; and
 - Had requested the Sites Inventory analysis on August 24, 2023 and has not received a deliverable until now a day before the end of the seven-day public comment period; and
 - The revised document has added 250 units with a 36 percent surplus or what used to be called a buffer, where the Council had previously approved a 15 percent buffer and the HEAB had previously approved a 25 percent buffer is excessive; and
 - There is no clear understanding of the SB 330 preliminary applications and the Sites Inventory; and
 - There are flaws in the AFFH portion of the document; and
 - New AFFH language appeared for the first time in August 2023; and
 - Council voted that staff provide examples of language from other municipalities with certified Housing Elements to address HCD's comments and this has not been provided; and
 - The lack of the Town Attorney's presence at this meeting; and
 - The direction of the implications of creating an extended review period has created a chill on the HEAB and representing the public interest; and
 - Have questions for consultants.
- Proud of document as it is complete and substantially compliant with State Law.
- The Los Gatos Community wants to see the Housing Element approved as soon as possible, therefore, we should send the document to the State for review.
- Torn on how substantive the changes are and why they would hold up the process.
- Expressed that it is a very challenging time and that we all want to get the Housing Element certified.

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- Thank you to everyone for all their hard work.

MOTION: **Motion by Council Member Moore** to direct Town Staff to submit the Draft Housing element to HCD for review following the conclusion of the seven-day public comment period. Seconded by **Planning Commissioner Thomas**.

VOTE: **Motion passes 9-1. Council Member Hudes voting no.**

ADJOURNMENT

The meeting adjourned at 9:03 p.m.
This is to certify that the foregoing is a true
and correct copy of the minutes of the
September 28, 2023, meeting.

Joel Paulson, Director of Community Development