



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 08/12/2020

ITEM NO: 2

DATE: August 5, 2020

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for Approval of Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding the Below Market Price Program, Town Wide. Town Code Amendment Application A-20-004. Applicant: Town of Los Gatos

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding the Below Market Price (BMP) Program.

CEQA:

The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment.

FINDINGS:

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Exempt, Section 15061(b)(3);
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan; and
- The modifications to the BMP Housing Program and Guidelines are consistent with the General Plan.

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

BACKGROUND:

The Town first adopted BMP regulations in 1979 to provide the Town with a supply of affordable housing. The BMP regulations have been modified over the years since they were first adopted, with the most recent modifications to the regulations occurring in 2009.

The Town's BMP regulations have resulted in a current inventory of 55 for sale BMP units and 119 rental BMP units. The Town's administrator of the BMP Housing Program, Hello Housing, manages the daily operations of the program in partnership with the Town.

At the request of a previous Mayor, the discussion of BMP regulations was placed on the March 5, 2019 Town Council agenda. At the March 5, 2019 meeting, the Town Council discussed the matter and forwarded the item to the Policy Committee for review and recommendations.

On April 9, 2019, August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020, the Town Council Policy Committee considered potential amendments to the Town Code regarding BMP regulations and modifications to the BMP Housing Program Guidelines.

On January 28, 2020, the Policy Committee recommended staff bring forward amendments to Chapter 29 of the Town Code regarding BMP regulations and modifications to the BMP Housing Program Guidelines for consideration by the Planning Commission and the Town Council to increase the number of BMP units and decrease the opportunities to pay in-lieu fees, resulting in the construction of more on-site BMP units for development projects. Exhibit 2 contains the Town Council minutes for the March 5, 2019 meeting, and Exhibits 3 through 7 contain the Policy Committee minutes for the April 9, 2019, August 27, 2019, September 24, 2019, November 25, 2019, and January 28, 2020 meetings.

DISCUSSION:

Division 6 of Chapter 29 of the Town Code contains the Town's BMP Program.

A. Existing Town Code

Existing Town Code Section 29.10.3015 discusses the application of the Ordinance on development projects that are subject to the BMP Program. Section 29.10.3015 currently states:

This division shall apply to all multiple-family dwelling projects, residential condominium projects, condominium conversions, and to all residential planned development projects (division 2 of article VIII of this chapter) either approved after July 4, 1979, or whose approval includes a condition requiring the provision of BMP dwellings. Projects in the R-I and HR zones are excepted from BMP participation. The exception does not apply if the

DISCUSSION (continued):

project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

Existing Town Code Section 29.10.3025 discusses the scope of projects that are subject to the BMP Program. Section 29.10.3025 currently states:

The Below Market Price Program requirements shall apply to all residential development projects that include five (5) or more residential units or parcels which involve:

1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects, or
2. Subdivision of property for single family or duplex housing development, or
3. Conversion of rental apartments to condominiums or other common interest ownership, or
4. Conversion of non-residential use to residential use.

Planned development with an underlying zone of HR shall only be required to pay an in-lieu fee as established by a separate resolution.

The residential developments consisting of five (5) or more units are required to provide the following number of BMP units:

1. Projects containing five (5) or more but less than twenty (20) market rate units must provide a number of BMP units equal to ten (10) percent of the number of market rate units.
2. Projects with from twenty (20) to one hundred (100) market rate units must provide BMP units as determined by the following formula:
Number of BMP units = .225 (total # of market rate units) - 2.5
3. All projects in excess of one hundred (100) market rate units must provide a number of BMP units equal to twenty (20) percent of the market rate units.
4. Whenever the calculations of BMP units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number.
5. The Town, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit in the case of Planned Unit development with an underlying zone of HR. The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit

DISCUSSION (continued):

applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to the phasing requirements during the project approval process.

B. Proposed Amendments

Based on the direction provided by the Policy Committee, staff has prepared a Draft Ordinance implementing the amendments (Exhibit 8), for the Planning Commission's consideration. The potential amendments, shown in ~~strike through~~ and underline font in Exhibit 8, would make the following substantive changes:

1. Remove projects in the R-1 and HR zones from being exempt from BMP participation; and
2. Remove planned development projects with an underlying zone of HR from only being required to pay an in-lieu fee.

C. Existing Below Market Price Housing Program Guidelines

The BMP Housing Program and Guidelines were adopted to provide the Town of Los Gatos with a supply of affordable housing. The BMP Housing Program and Guidelines detail the BMP housing requirements for residential developments, including the processes for purchasing a for sale BMP unit and renting a rental BMP unit.

D. Proposed Modifications

Based on the direction provided by the Policy Committee, staff has prepared modifications to the BMP Housing Program and Guidelines (Exhibit 9), for the Planning Commission's consideration. The potential modifications, shown in ~~strike through~~ and underline font in Exhibit 9, with additional modifications proposed by Hello Housing shown in red ~~strike through~~ and underline font, would make the following substantive changes:

1. Remove reference to the Los Gatos Redevelopment Agency or Community Benefit requirements;
2. Remove projects in the R-1 and HR zones from being exempt from BMP participation;

DISCUSSION (continued):

3. Remove planned development projects with an underlying zone of HR from only being required to pay an in-lieu fee;
4. Modify the language regarding the size of BMP units to allow for greater flexibility;
5. Modify the language regarding the parking requirements for BMP units to allow for a reduction in parking as determined by the deciding body;
6. Modify the Median Family Income (MFI) for owner occupied and rental units from 80 to 100 percent (current parameters), to 80 to 120 percent; and
7. Additional information and clarification for implementation of the BMP Program.

PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, August 7, 2020 are included as Exhibit 10.

CONCLUSION:

A. Recommendation

Based on the direction of the Town Council Policy Committee, staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the Draft Ordinance and the modifications proposed to the BMP Housing Program and Guidelines. The Commission should also include any comments or recommended changes in taking the following actions:

1. Make the finding that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act [Section 15061 (b) (3)] (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);
3. Make the required finding that the modifications to the BMP Housing Program and Guidelines are consistent with the General Plan (Exhibit 1);
4. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code in the Draft Ordinance (Exhibit 8); and
5. Forward a recommendation to the Town Council for approval of the proposed modifications to the BMP Housing Program and Guidelines (Exhibit 9).

CONCLUSION (continued):

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the Draft Ordinance and proposed modifications to the BMP Housing Program and Guidelines with modifications; or
2. Forward a recommendation to the Town Council for denial of the Draft Ordinance and proposed modifications to the BMP Housing Program and Guidelines; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings
2. Town Council Minutes, March 5, 2019
3. Town Council Policy Committee Minutes, April 9, 2019
4. Town Council Policy Committee Minutes, August 27, 2019
5. Town Council Policy Committee Minutes, September 24, 2019
6. Town Council Policy Committee Minutes, November 25, 2019
7. Town Council Policy Committee Minutes, January 28, 2020
8. Draft Ordinance
9. Draft Modifications to the BMP Housing Program and Guidelines
10. Public comments received by 11:00 a.m., Friday, August 7, 2020