



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 12

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Recommendation of the Planning Commission to 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 Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,'" to Clarify Regulations Applicable to "By Right" and "Non By Right" Residential Development in the Housing Element Overlay Zone. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-24-001. APPLICANT: Town of Los Gatos. PROJECT PLANNERS: Jocelyn Shoopman and Erin Walters.

RECOMMENDATION:

Approve a recommendation of the Planning Commission to introduce to 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 Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,'" to Clarify Regulations Applicable to "By Right" and "Non By Right" Residential Development in the Housing Element Overlay Zone (Attachment 2).

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 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

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

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

BACKGROUND (continued):

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.

The Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the HEOZ as a strategy to accommodate the Town's RHNA.

On November 21, 2023, the Town Council adopted Ordinance No. 2347 to enact the proposed Town Code amendments to modify the Affordable Housing Overlay Zone (AHOZ) to become the HEOZ (Attachment 1).

On December 1, 2023, the Town received the HCD findings/comment letter on the Town's Draft Revised Housing Element as submitted to HCD, including a preliminary review of the adopted HEOZ Ordinance. The comment letter recommended additional amendments. The letter is available on the Town's Housing Element webpage:

<https://www.losgatosca.gov/HousingElement>

On January 24, 2024, the Planning Commission met to discuss the amendments proposed in response to the HCD comments. The Planning Commission received and considered public comments on the proposed amendments, reviewed the proposed language, and unanimously recommended approval to Town Council with the single modification of "at the density ranges specified in Table 1-A" to "within the density ranges specified in Table 1-A in Section 29.80.510 (a)" (Attachments 3 and 4).

DISCUSSION:

The Town has received comments from HCD requiring amendments to the Town's adopted HEOZ Ordinance to include by right approval requirements pursuant to Government Code section 65583.2, subdivision (h) and (i), as well as the minimum density requirements of Government Code section 65583.2, subdivision (h).

Staff, with the assistance from the Town's outside legal counsel, Goldfarb and Lipman LLP, and the Town's Housing Consultant, Veronica Tam and Associates, have prepared an amended ordinance (Attachment 2) to address HCD's comments, as described in Attachment 3.

The proposed amended ordinance in Attachment 2 includes a definition of "By Right Approval" from the State Government Code. The amended Ordinance also provides clarification on which regulations apply to "By Right" and "Non By Right" residential development in the HEOZ.

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DISCUSSION (continued):

The Town's HCD reviewer has reviewed the proposed language, asked clarifying questions of staff, and staff provided HCD answers. The Town's HCD reviewer responded with an email thanking staff for the clarifications.

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 Council 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 Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation'" to clarify which regulations apply to "By Right" and "Non By Right" residential development in 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.

Attachments:

1. Ordinance 2347
2. Draft Ordinance
3. January 24, 2024, Planning Commission Staff Report with Exhibits 1-2
4. January 24, 2024, Planning Commission Verbatim Minutes

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