



Community Development Department

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TO: Housing and Neighborhood Revitalization Committee
FROM: Cindy McCormick, Customer Service Manager
DATE: January 12, 2022
SUBJECT: Housing Policies Update

DISCUSSION

The purpose of this report is to provide the HNRC with an update on three housing topics: Housing Element update, potential affordable housing policy, and adopted objective design standards for multi-family projects and for Senate Bill 9 projects. This report and the attachments have been provided as an informational item, and no further action is needed at this time from the HNRC. Staff will be at the meeting to answer any questions the HNRC may have. Questions may also be sent to staff ahead of the meeting to allow for additional research as needed

2023-2031 Housing Element: On June 21, 2021, staff provided the City Council with an update on the Regional Housing Needs Allocation for the 2023-2031 planning cycle and discussed next steps regarding an update to the City's Housing Element. The attached staff report provides a general overview of the components of a Housing Element and notable housing element law changes that apply to the 2023-2031 update. Please note that the tentative timeline provided in the attached report was delayed in terms of the initial study sessions with the Council and HNRC, which are likely to occur in Spring 2022.

On October 18, 2021, the City Council approved a contract with Michael Baker International (MBI) to prepare the 2023-2031 Housing Element. MBI's experience in Southern California with the 6th cycle update process will be invaluable, given extensive requirements related to community engagement, affirmatively furthering fair housing laws, and increased scrutiny of the sites inventory. MBI also prepared the City's 2020-2025 Consolidated Plan in 2020 and understands what has and hasn't worked in Gilroy in terms of resident and stakeholder participation.

MBI is currently working on a Community and Stakeholder Outreach & Engagement Strategy and outreach materials with a potential study session scheduled with the Council, Planning Commission, and HNRC in spring 2022. The HNRC will be informed once a specific date has been confirmed for the study session. Community engagement will occur throughout 2022. Staff also anticipates bringing draft policies to the Council, Planning Commission, and HNRC in late summer 2022.

Affordable Housing Policy: On October 25, 2021, the City Council had a preliminary discussion on potential housing policy options for Gilroy. No decisions were made at the meeting; however the Council did direct staff to conduct further analysis on the potential policies presented to the Council, including an inclusionary housing policy option (e.g., similar to our Neighborhood District requirements) and an affordable housing incentives policy (e.g., density bonus incentives beyond state law; incentivize micro units, ADUs, and missing middle housing). The attached staff report provides background information on the City’s existing housing policies and a brief discussion of each policy option.

Additional information will be provided during the Spring and Summer 2022 study sessions. An Affordable Housing Policy could be adopted as part of the City’s 2023-2031 Housing Element Update, which involves extensive community outreach.

Mixed-Use and Multi-Family Objective Design Standards: On October 18, 2021, the City Council adopted the linked [Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy](#). Objective design standards are required standards that regulate site and structure design only. Projects must also comply with all applicable building permit requirements, zoning code requirements, and development standards such as height, setbacks, floor area ratio, etc. The attached City Council staff report includes additional information that may be of interest to the HNRC.

Senate Bill 9 Objective Design Standards: On December 13, 2021, the City Council adopted the linked [SB9 2-Unit Objective Design Standards Policy](#) and [SB9 Lot Split Objective Design Standards Policy](#). Subject to certain requirements, SB9 allows ministerial (staff level building permit) approval of a proposed housing development containing no more than 2 residential units (e.g., duplex) in single-family residential zones or a subdivision of one (1) single-family residential lot into two (2) lots. The policies took effect on January 1, 2022. Staff is already receiving inquiries regarding SB9 and has created a webpage on the City’s website for further information: <https://www.cityofgilroy.org/930/Senate-Bill-9-SB9>. The attached City Council staff report includes additional information on SB9 that may be of interest to the HNRC.

CONCLUSION: For additional information, please review the links and attachments to this staff report. This report, links, and the attachments have been provided as an informational item, and no further action is needed at this time.

Attachments:

06-21-21 Council Staff Report – Housing Element Next Steps
10-18-21 Council Staff Report – Housing Element Contract
10-25-21 Council Staff Report – Affordable Housing Policy (preliminary discussion)
10-18-21 Council Staff Report – Multi-Family Objective Design Standards Policy
12-13-21 Council Staff Report – SB9 Policies
Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy
SB9 2-Unit Objective Design Standards Policy
SB9 Lot Split Objective Design Standards Policy



City of Gilroy

STAFF REPORT

Agenda Item Title: Report on Housing Element Workplan and Status of Regional Housing Needs Allocation (RHNA) Distribution

Meeting Date: June 21, 2021

From: Jimmy Forbis, City Administrator

Department: Community Development Department

Submitted By: Karen Garner

Prepared By: Karen Garner

Cindy McCormick

Strategic Plan Goals



Develop a Financially Resilient Organization



Ensure Neighborhood Equity from City Services



Promote Economic Development Activities



Promote Safe, Affordable Housing for All



Maintain and Improve City Infrastructure

RECOMMENDATION

1. Receive report and provide staff direction regarding Council expectations for the 2023-2031 Housing Element.
2. Direct staff on whether to appeal the ABAG RHNA distribution (equity adjustment) for the City of Gilroy.

EXECUTIVE SUMMARY

The purpose of this staff report is to provide the Council with an update on the City's draft Regional Housing Needs Allocation for the 2023-2031 planning cycle, recently approved by ABAG, and to discuss next steps regarding an update to the City's Housing Element.

REGIONAL HOUSING NEEDS ALLOCATION UPDATE

Regional Housing Needs Allocation (RHNA) overview: Since 1969, the State of California has required that all local governments adequately plan to meet the housing needs of everyone in our communities. The Regional Housing Need Allocation (RHNA) process is used to determine how many new homes, and the affordability of those homes, each city and county must plan for in its Housing Element. Cities do not need to ensure these homes are built, but do need to minimize governmental constraints, and put the proper zoning in place, so the private sector can build the housing.

In consultation with the Association of Bay Area Governments (ABAG), the State Department of Housing and Community Development (HCD) determined that the Bay Area must plan for 441,176 new housing units from 2023 to 2031. On May 20, 2021, the ABAG Executive Board approved the Final RHNA Methodology and Draft RHNA Allocations. Gilroy's draft allocation for the 2023-2031 planning cycle is 1,773 housing units, including 669 very low-income units, 385 low-income units, 200 moderate income units, and 519 above-moderate income units. Notably, while the overall number of units has increased, as it has for all cities across the state, the City of Gilroy received a higher percentage of very low- and low-income units, under an "equity adjustment" factor. Pursuant to Government Code Section 65584.05, the City may file an appeal to modify Gilroy's allocation.

The deadline to file an appeal is 5:00 p.m. on July 9, 2021. Staff is seeking direction from the Council on whether to appeal. However, appeals are historically unsuccessful, and the City's total RHNA is in proportion to its share of the region's total households, a key factor in the equity adjustment methodology. Therefore, staff is recommending that the City Council not appeal Gilroy's RHNA distribution.

HOUSING ELEMENT UPDATE

The Housing Element is part of Gilroy's General Plan and identifies policies and programs to meet the housing needs of the city's current and future residents. State law (Government Code Sections 65580-65589.8) requires that every city and county in California adopt a Housing Element, approximately every eight years. In addition, HCD reviews and certifies Housing Elements to ensure they meet all requirements of the law. Gilroy's 2015-2023 Housing Element was certified by HCD in December 2014. The 2023 – 2031 Housing Element must be certified by HCD no later than January 2023. The update process will include multiple community outreach meetings and at least two public hearings with the Planning Commission and the City Council (Draft and Final documents).

Housing Element Overview: The Housing Element will include the following:

1. **Housing Needs Assessment:** Analyze Gilroy's demographic and housing trends and conditions.

2. **Constraints Analysis:** Analyze and address existing and potential governmental and nongovernmental constraints to the development of housing.
3. **Evaluation of Past Performance:** Assess Gilroy's progress in implementing the policies and programs from the City's 2015-2023 Housing Element.
4. **Housing Sites Inventory:** Identify housing sites available for development or redevelopment in Gilroy, ensuring that there is sufficient capacity to address Gilroy's 2023-2031 Regional Housing Needs Allocation.
5. **Policies and Programs:** Establish policies and programs to address Gilroy's identified housing needs.
6. **Community Outreach and Engagement:** Conduct a thorough program of community engagement, with a particular focus on outreach to Gilroy's traditionally underrepresented groups, including, but not limited to groups identified in the City's Environmental Justice chapter of the 2040 General Plan.

Notable Housing Element Law Changes: Assembly Bill (AB) 686 was signed into law in September 2018 and creates new requirements in Housing Element Law. Accordingly, the 2023 – 2031 Housing Element update process is expected to be more time intensive and rigorous than previous cycles. In addition to receiving a higher Regional Housing Needs Allocation, as described earlier in this report, it will be harder to identify sites that can count towards accommodating the 2023-2031 RHNA planning cycle. New requirements mean there will be increased scrutiny on small (0.5 acre or less), large (10 acre or more) and non-vacant/redevelopment sites. General characteristics of suitable sites include adequate zoning, infrastructure availability, and likelihood of being redeveloped at the necessary density. If the City cannot identify adequate sites as defined by the State, the City will need to rezone sites accordingly.

In 2018, California adopted new requirements for jurisdictions to Affirmatively Further Fair Housing (AFFH). Starting in January 2021, California law also requires that Housing Elements include an Assessment of Fair Housing (AFH). Housing Elements must factor the AFH into the housing sites inventory and include goals, policies and/or programs to combat discrimination, overcome patterns of segregation and foster inclusive communities. Changes in rules related to the sites inventory and affirmatively furthering fair housing will also require more community outreach than in the past. In collaboration with Santa Clara County and six other cities in the County, a draft AFH has been prepared and is expected to be brought to the City Council for consideration later this year.

All new legal requirements will lead to a lengthier and more costly process than in the past. Fortunately, some of these additional costs will be absorbed through Gilroy's participation in the Santa Clara County Planning Collaborative. Through the Collaborative, *Baird & Driskel Community Planning* consultants will assist City staff in completing portions of the sites inventory, affirmatively furthering fair housing

requirement, and community outreach. Furthermore, some of the administrative burden of hiring a Housing Element consultant will be minimized through ABAG’s cooperative bench, a procurement process that has already vetted qualified consultants on behalf of bay area cities. Another benefit of this cooperative bench is the fact that several cities across the bay area are having a difficult time finding a consultant to prepare their Housing Element, due to the anticipated amount of work associated with new state requirements.

The following table illustrates a rough estimate of the Housing Element update timeline. The tentative schedule includes a study session with the City Council in September 2021 to receive direction on drafting an affordable housing ordinance and what form it might take (e.g. provide incentives for voluntary inclusion of affordable units versus require a minimum % of affordable units for projects that fall with a specific threshold). The tentative schedule also includes public hearings with the Planning Commission and the City Council to review a draft document (Spring 2022) and then adopt the final Housing Element (Fall 2022).

Tentative Housing Element Update Timeline	
Request proposals through the ABAG Cooperative Bench	July 2021
Execute contract with consultant	August 2021
City Council Study Session	September 2021
Housing & Neighborhood Rev. Comm. Study Session	October 2021
Develop and implement community engagement program	July 2021 through 2022
Complete initial research/trends/past progress/constraints	Summer/Fall 2021
Complete Sites Inventory	Summer/Fall 2021
Draft Housing Element Programs and Policies	Fall 2021
Prepare Draft Housing Element	Winter 2022
Prepare CEQA analysis	March 2022
Hold Commission / Council hearings (Review Draft)	April-May 2022
Revise draft per Council direction	May-June 2022
Preliminary State HCD review	July-Aug. 2022
Revise plan per State HCD, if needed	Sept-Oct. 2022
Hold Commission / Council hearings (Final Adoption)	Oct-Nov 2022
Submit for State HCD certification	November 2022
Complete rezoning, as necessary	Early-Mid 2023

FISCAL IMPACT

The total budget required for the 2015-2023 Housing Element is significantly higher than in previous cycles due to state legislation regarding identifying adequate sites to accommodate RHNA, and increased community outreach associated with Affirmatively Further Fair Housing requirements. The City has approximately \$124,000 in LEAP and

REAP grant monies¹ to fund the Housing Element. The FY22-23 approved budget includes an additional \$400,000 as needed depending on the level of CEQA review and rezoning associated with the findings from the sites inventory analysis.

NEXT STEPS

In August 2021, Staff will return to the City Council for approval of the scope of work, budget, and associated consultant contract to update the City's Housing Element.

PUBLIC OUTREACH

In addition to advertising this agenda item on the City's website, staff has created a dedicated webpage for the Housing Element Update. The webpage includes a link to sign up for email updates.

¹ Grant funds for the Housing Element update include approximately \$71,000 in Local Early Action Planning (LEAP) funding and approximately \$53,000 in Regional Early Action Planning (REAP) funding.



City of Gilroy

STAFF REPORT

Agenda Item Title: 2023-2031 Housing Element Award of Contract

Meeting Date: October 18, 2021

From: Jimmy Forbis, City Administrator

Department: Community Development Department

Submitted By: Karen Garner

Prepared By: Cindy McCormick
Cindy McCormick

Strategic Plan Goals



Develop a Financially Resilient Organization



Ensure Neighborhood Equity from City Services



Promote Economic Development Activities



Promote Safe, Affordable Housing for All



Maintain and Improve City Infrastructure

RECOMMENDATION

Award a Contract to Michael Baker and Associates in the amount of \$306,155 for preparation of the 2023-2031 Housing Element and authorize the City Administrator to execute the contract and associated documents.

BACKGROUND

On June 21, 2021, City staff provided the Council with an update on the City's draft Regional Housing Needs Allocation for the 2023-2031 planning cycle and discussed next steps regarding an update to the City's Housing Element. At that time, staff noted that new legal requirements will lead to a lengthier and more costly process than in the past. Staff also noted that several cities across the bay area are having a difficult time finding a consultant to prepare their Housing Element, due to the anticipated amount of work associated with new state requirements.

On August 26, 2021, City staff released a request for proposals (RFP) to prepare the 2023-2031 Housing Element. In addition to advertising the RFP on the City's Bid Posting webpage, staff sent the RFP to nine (9) consultants, including six (6) from the City's on-call planning services consultant list¹ and three (3) from the ABAG cooperative procurement bench². The City received two (2) proposals as briefly described herein.

DISCUSSION

The purpose of this memo is to provide an overview of the preferred consultant's proposed scope of work and budget, and to recommend the City Council authorize the City Administrator to execute a contract with Michael Baker International for preparation of the 2023-2031 Housing Element.

ANALYSIS

The Request for Proposals (RFP) identified the City's desire to retain the services of an experienced consultant team to prepare a new Housing Element for the 2023-2031 Regional Housing Needs Allocation (RHNA) planning period, related rezoning (optional task if necessary), and environmental review (the level of CEQA analysis needed would be determined following completion of the Sites Inventory analysis).

Project Proposals: The City received two (2) proposals. Both proposals were from consultants from the City's On-Call Consultant Selection List¹ and who were vetted by ABAG through the Cooperative Procurement Bench. EMC Planning group has approximately 30 years of experience with the City of Gilroy, including for example preparation of the Environmental Impact Report for the 2040 General Plan. Michael Baker International has approximately 10 years of experience working with the City of Gilroy, including preparation of the City of Gilroy 2020-2025 Consolidated Plan.

Proposal Evaluation: In accordance with the RFP and the City's standard evaluation and scoring criteria, proposals were evaluated based on the consultant's understanding of the scope of services; qualifications and experience; references; overall quality of the response to the RFP; and cost proposal. The proposals were reviewed and scored separately by the Community Development Director (Karen Garner) and the project planner (Cindy McCormick). The strengths and weaknesses of each consultant team were discussed, and the individual scores were averaged to determine the preferred consultant team. The total average score and budget for each consultant is provided in the table below.

¹ On February 22, 2021, the City Council approved the *On-Call Consultant Selection List for Planning Services, Environmental Reviews and Historical Evaluations* (21-RFQ-CDD-330).

² Bench Consultants were screened by ABAG/MTC for minimum qualifications including, but not limited to Housing Element preparation, experience developing plans, policies, and programs related to housing production and resident protections, hourly rates, and quality of reference checks.

Rank	Consultant Name	Total Score	Total Base Budget	Budget with all options
1	Michael Baker International (MBI) Base Budget: \$224,855 Rezoning Option: \$12,150 MND/EIR Addendum: \$30,000 Market Scenario Test Option: \$7,130 Study Session Option: \$7,020 Contingency: \$25,000	97	\$224,855	\$306,155 including all options
2	EMC Planning Group Base Budget: \$335,453 (301,247)³ Rezoning Option: \$10,475 Initial Study/ND: \$39,850 Potential Hazards Update: \$27,500 Spanish Translation: \$17,732	90	\$335,453 (301,247) ³	\$431,010 (396,804) ³ including all options

Staff recommends awarding the contract to Michael Baker International (MBI), for the following reasons:

1. Although both consultants have completed Housing Elements for the 5th cycle, only MBI has completed preparation of Housing Elements for the 6th cycle, pending HCD approval⁴. Additionally, MBI’s subconsultant has prepared approximately 15 Housing Elements for the 6th cycle. Experience with the 6th cycle update process will be invaluable, given extensive requirements related to community engagement, affirmatively furthering fair housing laws, and increased scrutiny of the sites inventory.
2. MBI’s experience preparing the City’s 2020-2025 Consolidated Plan in 2020 can be used as a starting point for discussion on potential Housing Element programs. Community engagement from that effort also brings lessons learned on what has and hasn’t worked in Gilroy in terms of resident and stakeholder participation.
3. MBI’s proposal includes a dedicated Affirmatively Furthering Fair Housing (AFFH) chapter. In their experience working on the 6th cycle update for other cities, MBI understands HCD’s expectations regarding the new and extensive AFFH requirements for the 2023-2031 Housing Element.

³ EMC offered to reduce their sub-consultant budget by \$34,206, given staff’s concerns about subconsultant overhead costs.

⁴ Housing Elements for the County of San Diego, City of Redlands, City of Lakewood, City of Escondido, and San Juan Capistrano have been completed and are pending HCD review and approval.

4. MBI's proposal reflects their intent to ensure that the eight Guiding Principles described in the 2040 General Plan are used "as a road map to incorporate the spirit of the first seven Principles into the eighth — Support Housing Options", illustrating their understanding that economic growth, fiscal strength, and public safety, etc. are also an important component of Gilroy's vision for the future.
5. MBI's proposal includes an in-house team of experienced "housing planners", as illustrated in their key team member summary, without a heavy reliance on subconsultants that drive up the budget with additional overhead costs.
6. MBI provided the lowest bid and the greatest flexibility and options for how the budget can be utilized (e.g., consolidating one or more of the HNRC, Planning Commission, and/or City Council meetings⁵ to avoid unnecessary repetition). MBI's cost proposal also included a 10% contingency.

Proposed Scope of Work

Task 1 – Project Management and Coordination: At the project kickoff meeting, the MBI project team and City staff will review and refine the scope of work and discuss expectations and assumptions. MBI and City staff will also review the project schedule and list of critical tasks needed to proceed toward adoption by the January 31, 2023 statutory deadline. MBI will work with staff to integrate tasks, as feasible, to potentially reduce the overall project timeline and provide a buffer for unexpected delays.

NOTE: Staff will share Council feedback received during the October 25th study session introducing potential concepts for an affordable housing policy. This early feedback will serve as a starting point for task 2 (community engagement) and task 3 (research and analysis / goals, policies, and quantified objectives). Council's initial feedback can also be used to structure the content of the recommended study session described in the "optional scope components" section of this staff report.

Task 2 – Community Outreach and Engagement: This task includes the community and stakeholder outreach and engagement strategy; outreach materials, translation, interpretation; and community outreach/engagement meetings and activities.

Task 3 – Research and Analysis: This task includes evaluation of 2015-2023 Housing Element goals and accomplishments; housing needs assessment; Affirmatively Furthering Fair Housing (AFFH); housing resources and sites inventory; housing constraints; and the Housing Plan (goals, policies, and quantified objectives). An administrative draft report and findings will be prepared by the consultant for staff review, prior to preparation of the draft Housing Element.

Task 4 – Draft and Final Housing Element documents: This task includes preparation of the Draft Housing Element; Public Hearing presentations of the Draft

⁵ The cost proposal assumes "virtual" consultant presentations at study sessions and public hearings, however the budget can be adjusted to accommodate in-person attendance, as desired by the Council.

Housing Element to the HNRC, Planning Commission and City Council; review of public comments, preparation of responses and revisions; coordination with HCD during their 60-day review; and preparation of a Final Draft to address HCD's initial comments.

Task 5 – California Environmental Quality Act (CEQA): It is not yet known whether the City has adequate sites to meet the 6th Cycle RHNA; however the recent adoption of the 2040 General Plan (GP) may provide adequate capacity to avoid rezoning to meet the City's RHNA. Therefore, it is possible the Housing Element could be adopted with preparation of an Addendum or a (Mitigated) Negative Declaration (M/ND). If rezoning is necessary, or other findings in the Initial Study are deemed significant and unavoidable, a more robust environmental document would be required.

The recommended budget amount (\$306,155) includes up to \$30,000 (above the baseline budget) for preparation of an MND or an Addendum to the 2040 GP EIR. If required, an Amendment to the 2040 GP EIR would likely range closer to \$150,000. However, if a full EIR is required (unlikely), the additional fee would likely range from \$150,000 to \$250,000. Staff should have a relatively firm idea of the level of CEQA analysis needed at the beginning of the 2022 calendar year. Staff will return to the Council should it be determined that a more robust CEQA analysis and corresponding budget adjustment is needed.

Task 6 – Housing Element Adoption and Certification: This task includes presentation of the Final Draft of the 2023-2031 Housing Element at public hearings before the HNRC, Planning Commission, and City Council. After Council adoption, the Housing Element update must be submitted to HCD for its final review. MBI will serve as the City's liaison with HCD and will assist the City in achieving certification of the Housing Element. Any additional unanticipated changes required by HCD would be charged as a time and materials budget.

Optional Scope Components: MBI included four optional budget items, totaling \$56,300⁶, that staff has included in the recommended budget of \$306,155. If any of these optional budget items are deemed unnecessary, the unspent budget could be allocated towards other tasks including in-person meetings (see assumptions below), additional outreach, or other tasks agreed to by the City and the consultant.

- **Virtual Study Session:** MBI recommends a single or joint study session before the HNRC, Planning Commission, and/or City Council early in the process to seek input on specific key issues and opportunities, and key components of the Housing Element Update. A key objective is to review, prioritize, and strategize the specific accomplishments, timelines, and resources for the programs/goals. Budget: \$7,020
- **CEQA MND/EIR Addendum:** As provided in the CEQA discussion, it is anticipated that the Housing Element could be adopted with preparation of a Negative Declaration (M/ND) or an Addendum to the 2040 GP EIR. Budget: \$30,000

⁶ The budget includes a time and materials estimate.

- **Market Scenario Test:** Given increased HCD scrutiny on the housing sites inventory, this option is intended to provide a rationale to justify the redevelopment of certain non-vacant, commercial or mixed-use sites. A proforma analysis(es) could be used to test the viability of different development scenarios including housing types and densities. Budget: \$7,130.
- **Rezoning:** If it is determined that existing sites cannot meet the City's RHNA, rezoning to higher densities would likely be required. MBI will work with staff to identify suitable sites and rezoning scenarios, including zoning options, assumptions and development trends, the likelihood of development, and projected yields ability to meet the RHNA. Budget: \$12,150.

Contingency. The budget includes an approximate 10% contingency to account for unforeseen circumstances or miscellaneous change orders. These funds can only be used with prior City authorization and would be billed on a time and materials basis.

Assumptions and Exclusions: Major assumptions include the following:

- Rezoning and CEQA analyses beyond the respective \$12,150 and \$30,000 allocation would require a budget adjustment to be approved by the City Council.
- Consultant attendance at meetings and hearings will be virtual unless the budget is adjusted to accommodate in-person meetings on a time, travel, and materials basis. The Council could increase the budget to accommodate in-person meetings. Otherwise, Staff would work with the consultant to stay within the budget through cost savings in other areas (e.g., consolidating HNRC, Planning Commission, and City Council in-person meetings).
- Additional assumptions and exclusions are included on page A-12 and A-13 of the MBI proposal.

CONCLUSION

It is recommended that the City Council, by motion, award a Contract to Michael Baker International in the amount of \$306,155 for preparation of the 2023-2031 Housing Element and authorize the City Administrator to execute the contract and associated documents.

ALTERNATIVES

- 1) Award the contract to EMC Planning Group. Staff does not recommend this option primarily because EMC has not prepared a housing Element for the 6th RHNA cycle which has significantly different legal requirements than the 5th cycle.
- 2) Reject all proposals. Staff does not recommend this option as this would delay the start of the Housing Element which is anticipated to take longer to prepare than previous cycles due to additional requirements related to community engagement, affirmatively furthering fair housing, and the sites inventory.

FISCAL IMPACT

The total budget required for the 2015-2023 Housing Element is significantly higher than in previous cycles due to state legislation regarding identifying adequate sites to accommodate RHNA, and increased community outreach associated with Affirmatively Further Fair Housing requirements.

The total recommended contract amount is \$306,155. The City has \$103,603 in LEAP and REAP grant monies⁷ to fund the Housing Element, leaving a \$202,552 balance. The FY22-23 approved budget for Community Development includes adequate funding in Contractual Services to cover the balance.

NEXT STEPS

Upon Council's approval, the contract will be executed, and Staff will work with the consultant to refine the scope of work (e.g. virtual versus in-person meetings) and project schedule.

Attachments:

1. MICHAEL BAKER_No. 22-RFP-CDD-464_proposal
2. EMC Planning Group_22-RFP-CDD-464__proposal
3. MBI Agreement for Housing Element Services 10.11.21
4. Exhibit B - Scope of Work
5. Exhibit C - Milestone Schedule
6. Exhibit D - Budget

⁷ Grant funds for the Housing Element update include \$71,000 in Local Early Action Planning (LEAP) funding and \$36,203 in Regional Early Action Planning (REAP) funding.



City of Gilroy

STAFF REPORT

Agenda Item Title: Affordable Housing Policy
Meeting Date: October 25, 2021
From: Jimmy Forbis, City Administrator
Department: Community Development Department
Submitted By: Karen Garner
Prepared By: Cindy McCormick
Cindy McCormick

Strategic Plan Goals



Develop a Financially Resilient Organization



Ensure Neighborhood Equity from City Services



Promote Economic Development Activities



Promote Safe, Affordable Housing for All



Maintain and Improve City Infrastructure

RECOMMENDATION

Receive report and provide feedback/direction to City staff.

POLICY DISCUSSION

On February 20, 2021, the City Council held its annual goal-setting workshop to review goals for Fiscal Year 2022 and Fiscal Year 2023 and provide direction to staff in the development of their upcoming two-year workplan. On March 29, 2021, the Council included a goal to “Ensure Availability of Safe, Affordable Housing for all Gilroy Residents” as part of the FY22-23 workplan. The Council also included the development of an “Inclusionary Housing/Affordable Housing Incentive (in-lieu fee) Policy” as a core activity within the Community Development Department’s FY22-23 workplan.

An Affordable Housing policy could take the form of an Inclusionary Housing policy, an Affordable Housing Incentives policy, or a combination of both. An Inclusionary policy would require all residential developments over a certain size to restrict a certain number of units as affordable, while an Affordable Housing Incentives policy would take a “carrot versus stick” approach to meeting the City’s Regional Housing Needs Assessment (RHNA) and other affordable housing goals by incentivizing and reducing barriers to build affordable housing.

The purpose of this study session is to present the Council with a menu of housing policy options for discussion and direction on which options are preferred by the Council for further analysis. Staff will then review Council’s preferred option(s) with the City’s Housing Element consultant as a starting point for drafting the goals, policies, and quantified objectives section of the 2023-2031 Housing Element.

BACKGROUND

The following background information on the City’s existing housing policies and regional housing needs may be helpful when considering housing policy options for Gilroy.

2015-2023 Housing Element: The current Housing Element has a number of goals that can help guide the Council’s policy direction. It should be noted that the City’s Housing Element consultant will be reviewing all of the 2015-2023 goals as part of the research and analysis component of the Housing Element update. Although the 2007-2014 Housing Element included an action item (Action 4-2.8) to *consider* adoption of Inclusionary Zoning Ordinance requiring a 20 percent affordable housing requirement for all new residential developments of ten (10) or more units, the City did not pursue the Inclusionary Ordinance during the 2007-2014 planning period and did not carry forward that action item to the 2015-2023 planning period. However, the 2015-2023 Housing Element did include policies to incentivize affordable housing and incentivize other types of housing such as micro units. Staff has highlighted some of these policies here:

Policy H-1.G (Study Micro-Units): *The City shall conduct a study of the appropriateness of “micro-units” in Gilroy and the existing barriers in the Zoning Ordinance to the provision of micro-units. Based on the findings of the study, the City will make a determination of the appropriateness of micro-units in Gilroy and, if determined appropriate, identify methods for eliminating barriers, and establish appropriate development standards.*

Policy H-2.A (Develop Affordable Housing Incentives): *The City shall review and revise, as appropriate, current incentives and regulatory concessions available to developers for the development of affordable housing throughout the city, and especially within the Downtown Gilroy Specific Plan area and Neighborhood District. Incentives and regulatory concessions may include, but are not limited to parking reductions, and reduced setbacks.*

Policy H-2.G (Development of Housing for Extremely Low-Income Households): *The City shall review and incorporate appropriate regulatory incentives, financial incentives, and other policies that encourage the development of housing units for extremely low-income households. The City shall encourage and support the development of housing for extremely low income households within future affordable housing projects through various strategies and programs that may include: assistance with entitlement processing; and modifying development standards and granting concessions and incentives for projects that provide housing for lower income families.*

2015-2023 RHNA: The City has met its low-income and above-moderate income RHNA targets but remains deficient in the very-low and moderate-income categories. Gilroy’s success in meeting and exceeding the low-income category is due to the federal Low-Income Housing Tax Credit (LIHTC) program that has been used by developers of affordable housing in Gilroy.

Regional Housing Needs Allocation (2015 – 2023)					
<u>Income Level</u>	<u>Unit Allocation</u>	<u>2015 – 2019</u>	<u>2020</u>	<u>Total Units</u>	<u>Units Remaining</u>
		<u>Units</u>	<u>Units</u>	<u>Permitted</u>	
Very Low (31 – 50% AMI)	236	63	76	139	97 VL
Low (51 – 80% AMI)	160	487	80	567	0 Low
Moderate (81 – 120% AMI)	217	24	15	39	178 Mod
Above Moderate (Above 120% AMI)	475	1,124	172	1,196	0
Total Units:	1,088	1,698	243	1,941	275 Remaining as of 12-31-2020

2023-2031 RHNA: The City’s draft RHNA for the 2023-2031 planning cycle is 1,773 units, including 669 very-low income units (38%), 375 low income units (22%), 200 moderate income units (11%), and 519 above-moderate income units (29%). If the City adopts an affordable housing incentives policy, it could aim to require or incentivize units in the very-low income category, given the City’s large allocation and past difficulty in obtaining this category of units. If the City adopts an inclusionary housing policy, the income categories and minimum percentages could generally match the 2023-2031 RHNA income categories (e.g., at least 38% of the affordable rental units shall be in the very-low income category), however, as previously noted, whereas federal tax incentive programs encourage construction of low-income housing, no programs currently exist

for very low income. Thus, financing of such units is more challenging and often requires other forms of creative financing or subsidies.

Neighborhood District (ND) Policy: The purpose of the Neighborhood District (ND) land use designation is to encourage compact, complete, neighborhood-style development. The ND land use designation is generally applied to vacant land that is currently outside the City's Urban Service Area but within the City's Urban Growth Boundary (UGB) area. The UGB area applies to land within the Planning Boundary/Sphere-of-Influence that is intended for urbanization at some point in the future.

Prior to approval of annexation and other land use entitlements, a Specific Plan must be prepared for the entire Neighborhood District area. The Specific Plan is implemented by the Neighborhood District Zoning District and the Neighborhood District policy, which provide further guidance on topics including phasing of development, location and mix of uses, site and architectural design, affordable housing, circulation, and open space.

Each Neighborhood District (ND) development is required to construct a minimum of fifteen percent (15%) of its units at affordable prices. Affordable housing units are integrated throughout the Master Plan or Specific Plan area, rather than clustered in affordable housing pockets. Although the RDO process (described next) is no longer in effect, the ND policy was structured to provide "a higher number of points" to projects with a "higher percentages of affordable units". The ND policy also allows the potential for a "reduction in City development standards (e.g. zero-lot line developments, clustered housing on smaller lots, and smaller unit sizes)." The Glen Loma Specific Plan area is a successful example of how the ND policy has resulted in affordable housing units in Gilroy. Other areas with the ND designation include the Wren/Hewell area at the north end of town, currently under review by LAFCO, and an area at the south end of Gilroy near the Sports Park. These sites are shown on the [Gilroy 2040 Land Use Map](#).

Residential Development Ordinance (RDO): The City's RDO policy is no longer in effect due to state legislation (e.g., SB330), however there are components of the policy that could be carried forward to a new affordable housing policy. The RDO policy was set up very similar to what an Inclusionary policy might look like. For example, it included resale controls to ensure that the dwelling units remain affordable to very low, low, and moderate-income households. Rental price controls would be restricted for a minimum of 55 years while ownership units would remain affordable for a minimum of 30 years. The RDO policy also specified the minimum percent in each affordability category (e.g., no more than 30% of the affordable units can be in the 100%-120% AMI category¹).

¹ Note; The RDO categories were not structured in the same manner as RHNA (e.g., 100-120% versus 80-120%)

Density Bonus Ordinance: Government Code sections 65915 through 65918, known as the density bonus law, were enacted to encourage developers to build affordable housing by requiring local governments to provide meaningful incentives in exchange for those affordable units. The required incentives include both a density bonus and exceptions from City development standards. To qualify for these incentives a developer must commit to make available a certain percentage of the units affordable to moderate, low, or very low-income persons. The amount of the density bonus is based on the level of affordability provided, using a sliding scale provided by density bonus law. In addition, exceptions from one or more of the City's development standards are based on the percentage of affordable units provided. The City implements the density bonus state law through Section 30.46.40 of the Gilroy City Code which simply references Government Code Section [65915](#) et seq.

ANALYSIS

Inclusionary Policy Option

An Inclusionary policy would require all residential developments over a certain size to restrict a certain number of units as affordable and would be in line with what many other jurisdictions throughout California have implemented to help achieve RHNA goals. The 2007-2014 Housing Element suggested that 20% of all units in a 10+ unit development be affordable; however as provided in the attached spreadsheet, a 15% requirement is most common in Santa Clara County with triggering thresholds ranging from one (1) to 10-unit developments. A 15% requirement would also be consistent with the City's existing Neighborhood District policy. The 15% requirement is commonly used in part due to an inclusionary housing policy established by the City of San Jose in 2013. The City of San Jose conducted an economic feasibility study when developing the program and determined that a 15% affordability requirement would be economically feasible for developers. There are many variables considered as part of economic feasibility including land costs and expected sales prices and rental rates, some of which are likely very different for Gilroy as compared to San Jose. Council may consider conducting an economic feasibility study before determining a specific percentage of affordable units and would be strongly recommended should Council wish to consider an affordability requirement above 15%.

As provided in the background, an Inclusionary policy would allow the City to control how long the units would remain affordable and what percentage of the units would be required in each income category. The Inclusionary policies could be applied city-wide or they could be applied to certain areas (as done for the neighborhood district zone) or certain types of projects (e.g., Planned Unit Developments). Given that developers are typically seeking exceptions to City Code (e.g., reduced setbacks, reduced minimum lot sizes), applying inclusionary requirements to PUD projects would help ensure that the City is realizing a benefit when granting PUD exceptions. For example, an Inclusionary policy could require that all proposed PUDs with 10 or more units provide at least 15% of those units as affordable to very low, low, and moderate-income persons, where the

minimum number of affordable units is rounded up. Alternatively, the City could incentivize affordable units in PUDs by offering a suite of development standard exceptions that are tied to the number of affordable units offered (see Incentives discussion).

Most jurisdictions offer developers one or more alternative ways to satisfy their inclusionary housing requirements. The most common alternative is to pay a fee in lieu of constructing units on-site. In lieu-fees² may be combined with housing trust funds and other funding sources to help finance the construction of affordable housing off site or subsidize units to increase the level of affordability. However, cities often set fees well below the actual cost of building on-site units, which makes in-lieu fees more attractive to developers and less likely to result in a substantive quantity of affordable units. For this reason, some cities intentionally set the fee at a level that is intended to discourage the use of the fee option.

Additionally, the Council may decide to only allow in-lieu fees under certain circumstances. For example, as provided in the attached spreadsheet of Inclusionary policies in Santa Clara County, some cities only allow in-lieu fees in projects with 6 or fewer units/acre, while other cities require Council approval for in-lieu fees for projects over a certain unit threshold. It is recommended that a housing in-lieu fee study be conducted if the Council wants to consider in-lieu fees under certain circumstances. Staff can provide the Council with an estimate of what an in-lieu fee study would cost at the next housing element study session.

While Inclusionary policies are a common tool cities use to meet their RHNA targets, they may have unintended consequences such as lower quality materials in the construction of units, fewer amenities or higher prices of market-rate units as means to off-set reduced income potential of affordable units.

Incentives Policy Options

An Affordable Housing Incentives policy would take a “carrot versus stick” approach to meeting the City’s RHNA. A Housing Incentives policy could target specific housing types such as micro-units, accessory dwelling units, or missing-middle housing (duplexes, triplexes, fourplexes), or it could target specific needs such as extremely low-income households, large households, and senior households. The City could also incentivize developments within specific areas such as the Downtown Specific Plan area or the mixed-use zoning district along First Street.

Bonus Concessions beyond state law: Although the Density Bonus state law allows concessions for construction of affordable units, the City could create a menu of additional concession items that a developer could choose from depending on the level

² In-lieu fees are different than linkage or impact fees, which are structured to require fees instead of constructing onsite inclusionary units.

of affordability provided (e.g., *extremely low-income* units). This type of program could be applied City wide or only to certain areas or certain types of development such as PUDs where the developer is asking for exceptions to the City's development standards. Additional thought and analysis would be needed on the types of concessions that would be feasible and acceptable in Gilroy. For example, while parking exceptions may be appropriate near high quality transit stations such as BART and Light Rail, they may not work as well in a suburban city like Gilroy where residents are more likely to drive to large employment centers in more urbanized bay area cities.

Incentivize Accessory Dwelling Units: The Santa Clara County Collaborative has received preliminary agreement from HCD to allow cities to count ADUs towards RHNA as follows: 30% above moderate income, 30% moderate income, 30% low-income, and 10% very-low income. Previously the city was counting all ADUs under the moderate-income category. ADUs therefore represent a great option for meeting Gilroy's RHNA in both the current RHNA planning cycle³ and the upcoming 2023-2031 planning cycle. One way to incentivize ADUs is to provide residents with a jump-start on designing their ADU. Some cities have partnered with local architectural and engineering firms on developing stock ADU plans that could be purchased by a homeowner for a reduced price with options to customize for a higher price. If this housing incentive option is desired by the Council, staff can begin reaching out to local architects and engineers for interest and feedback.

Incentivize Micro-units: As provided in the background discussion, the current housing element provides that the City should consider the potential for micro-units in Gilroy, identify methods for eliminating barriers, and establish development standards for micro-units, if such housing is determined to be appropriate for the City. For example, the City could look at the appropriateness of allowing micro-units in the City's high-density residential districts and the mixed-use district along the First Street corridor. Micro-units are currently undefined in the City Code and may have widely varying definitions depending on the cities in which they are built. For example, a micro-unit in San Francisco may be much smaller than a micro-unit in Gilroy. Micro-units could be thought of as a tiny house or a small studio space with a private bathroom and a small kitchenette. Alternatively, it could be located in a building with a communal kitchen space for multiple micro-units. The City does not have minimum floor area standards, so micro-units are not prohibited by the code; however, there are no incentives for a developer to propose micro-units in Gilroy. Micro-units could help the City meet its RHNA because theoretically a developer would build more small units and fewer larger units on a property so long as the unit count meets the density allowance.

Incentivize Missing Middle Housing: Missing middle housing generally includes duplexes, triplexes, fourplexes, and cottage courts which are generally more affordable (by design) since the units tend to be smaller and higher in density than single-family

³ Staff has also been notified that the City can retroactively count ADUs to these expanded categories for the entire 2015-2023 RHNA cycle.

dwelling. Cottage Courts are undefined in the City Code but could be described as a group of small, 1-to-2 story detached structures arranged around a shared court visible from the street, and accessible to the front entrance of each dwelling unit. The Santa Clara County Collaborative is working with HCD to determine if cities can count smaller units such as duplexes towards moderate and lower-income RHNA units (as being done with ADUs). Missing middle housing units are generally held under one ownership⁴ and therefore typically provide rental housing with the owner living off-site or on-site in one of the units. These types of units could potentially be used for senior group housing or to accommodate multi-generational households.

Missing middle housing typologies are taking the forefront in housing legislation like SB 9 and planning efforts such as ABAG's Missing Middle Working Group where incentives and development standards for missing middle housing are being explored. The City's General Plan/Objective Design Standards consultant is also currently drafting a white paper on the potential for missing middle housing in Gilroy as part of the SB2 funding grant. If this housing incentive option is desired by the Council, staff will return to the Council with further analysis on where missing middle housing would be appropriate and what types of incentives or development standards would be needed to accommodate missing middle housing (e.g., setbacks and height requirements). For example, the City could amend the City Code to allow duplexes, triplexes, fourplexes to be approved ministerially so long as the project complies with objective design standards. Currently, the city requires an Architectural and Site Review Permit for residential developments having two (2) or more total units on a single parcel⁵.

Incentives are a great way to encourage a specified type of housing, however they may not result in long-term affordability since they generally lack restrictive covenants that maintain their affordability over an extended period of time.

Community Outreach: Community outreach will be an important component of developing an Affordable Housing policy to ensure that the City is meeting the needs of existing residents. Policies to encourage or require affordable housing will be discussed with residents, service providers, and development stakeholders to ensure a broad perspective from the community is considered. Any affordable housing policy will also be reviewed by the Housing and Neighborhood Revitalization Committee and the Planning Commission at meetings that are open to the public. An extensive community engagement program will be developed as part of the 2023-2031 Housing Element update.

Anti-displacement Standards: The Council may want to also consider anti-displacement standards to protect city residents, regardless of the type of policy adopted. While cities and counties are expected to remove governmental constraints to increase housing production, there may be unintended consequences, including

⁴ Cottage courts would likely be a for-sale product type but could be rented out.

⁵ ADUs are an exception to this requirement.

displacement of low-income residents when neighborhoods are redeveloped. Gentrification can occur where land is less expensive and older, lower-density or under-utilized housing stock is redeveloped into a new, higher-density housing project that brings wealthier wage earners willing to pay higher housing costs and rents. However, there are a variety of tools available to revitalize neighborhoods without also gentrifying them. Additional detail can be provided at a future council meeting, but the most prevalent types of anti-displacement tools are rent control, just-cause eviction ordinances, relocation agreements, and tenant option to purchase agreements.

Further Analysis: The information provided in this report is intended as a broad overview of a complex and multi-faceted issue. An effective affordable housing policy that meets the needs of Gilroy will require further research, data analysis, outreach, and input from the community. This includes census and demographic data, economic data and analysis of state housing laws. With the many new and modified state housing laws, such as those related to density bonus, ADUs or more recently SB 9 that can allow a lot split or additional units on a single-family lot, an analysis of each of these is necessary to anticipate how they support affordable housing in Gilroy and how they can work in tandem with local policies to maximize opportunities. As data and information is gathered and analyzed, it will help point towards affordable housing policies that will best serve the needs of the Gilroy community.

Council Direction:

To help provide direction to staff at this early stage, staff recommends that council provide feedback on the outcomes they would like to achieve with an affordable housing policy and any aspects that are particularly important for consideration. For example, some outcomes for an affordable housing policy might be;

- Meet RHNA goals set by the state.
- Identify and incentivize developers, nonprofits or other partners who can provide or assist in providing affordable housing.
- Provide a wide variety of affordable housing types that are integrated throughout the city.

Inclusionary Policy Option: If the Council desires an Inclusionary policy, staff recommends that it be modeled after the City's Neighborhood District policy and former RDO policy. Staff will return to the Council with further analysis on the different components of an Inclusionary policy and make recommendations such as minimum size threshold (e.g., developments with 10 or more units), percent set aside (e.g. 15%), affordable category set aside (e.g., match 2023-2031 categories), and in-lieu fees including circumstances where an in-lieu fee is not recommended (e.g., developments with 7 or more dwelling units). Council may also provide direction to staff on an in-lieu fee study (recommended if in-lieu fees will be considered) and an economic feasibility study (to support percent set aside).

The Council may find the attached spreadsheet of Inclusionary policies in Santa Clara County cities to be helpful for providing direction.

Incentives Policy Option: If the Council would like to explore incentivizing housing through one of the suggested options or another type of incentive proposed by the Council, staff will return to the Council with further analysis. If this option is selected, staff requests that the Council provide direction on which incentives should be further analyzed:

- Bonus Concessions beyond state law
- Incentivize Accessory Dwelling Units
- Incentivize Micro-units
- Incentivize Missing Middle Housing
- Other Incentives

Hybrid Option: At the Council's direction, staff can return to the Council with further analysis on both an Inclusionary policy and an Incentives policy that includes one or more incentives selected by the Council.

NEXT STEPS

As provided in the October 18, 2021 staff report for the 2023-2031 Housing Element contract, Staff will share Council feedback received during the October 25th study session with the City's Housing Consultant. Council's feedback on potential concepts for an affordable housing policy will serve as a starting point for task 2 (community engagement) and task 3 (research and analysis / goals, policies, and quantified objectives). It is also anticipated that further discussion and refinement of the potential housing policy options will be discussed during the recommended study session to occur early in the Housing Element update process.

PUBLIC OUTREACH

The study session was advertised on the City's Housing Element update webpage and through the City's social media outlets including Friday's email express newsletter.

Attachments:

1. Santa Clara County Inclusionary Policies



City of Gilroy

STAFF REPORT

Agenda Item Title: Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards City Policy

Meeting Date: October 18, 2021






From: Jimmy Forbis, City Administrator

Department: Community Development Department

Submitted By: Karen Garner

Prepared By: Cindy McCormick
Cindy McCormick

Strategic Plan Goals

- | | | |
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| 
<input type="checkbox"/> Develop a Financially Resilient Organization | 
<input type="checkbox"/> Ensure Neighborhood Equity from City Services | 
<input checked="" type="checkbox"/> Promote Economic Development Activities |
| 
<input type="checkbox"/> Promote Safe, Affordable Housing for All | 
<input type="checkbox"/> Maintain and Improve City Infrastructure | |

RECOMMENDATION

The Planning Commission recommends that the City Council adopt a Resolution of the City Council of the City of Gilroy adopting the Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy for all mixed-use residential and multi-family residential development projects in Gilroy, as amended by the Planning Commission.

EXECUTIVE SUMMARY

Pursuant to state law, the City cannot deny a housing development project based on subjective reasoning. Therefore, the City has drafted an objective design standards policy that would apply to all mixed-use residential and multi-family residential developments in Gilroy. The objective design standards have been drafted to help

ensure that housing development projects in Gilroy conform to the City's minimum design expectations. There are several benefits to the adoption of objective design standards, including but not limited to providing clear and consistent standards that help increase consistency in decision making and minimize delays in the planning entitlement process.

POLICY DISCUSSION

Pursuant to the Housing Accountability Act (HAA)¹, the City cannot disapprove, reduce the density of, or make infeasible (e.g., through conditions of approval), a housing development project that is consistent with local objective development standards. Legislative intent indicates that conditions that would give rise to a specific, adverse health or safety impact finding would occur infrequently. Furthermore, SB 330 (Housing Crisis Act of 2019) amended the HAA, such that projects that have undergone a preliminary application review, shall only be subject to the objective standards in place at the time of the preliminary application review, subject to certain exceptions.

State law defines objective standards as those that “*involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and public official prior to submittal.*”

Examples of objective standards in the City's 2001 Multi-Family Residential Design Policy include:

- *Minimum of two different building materials shall be used on each building elevation (e.g., stone, wood, masonry, or metal).*
- *Minimum of two colors per elevation plus a trim and roof color.*

Examples of subjective standards from that document include:

- *Architectural facades rich in detailing add to the character of the neighborhood.*
- *All elevations of each building shall be architecturally interesting.*

BACKGROUND

The City of Gilroy was awarded \$160,000 in grant funding² to create objective design standards for mixed-use and multi-family residential projects in Gilroy. Objective design standards were identified by the California Department of Housing and Community Development (HCD) as a priority policy area for the funding. The City hired a consultant to complete this work with oversight from city staff.

¹ Government Code Section 65589.5

² California Senate Bill 2 (SB2), the 2018 Building Homes and Jobs Act

On May 3, 2021, an interim set of objective design standards was approved by the City Council, with an expectation that a more comprehensive set of standards would return to the City Council for final approval, following review and a recommendation by the Planning Commission.

On September 2, 2021, the Planning Commission held a public hearing and considered the staff report and written public testimony related to the Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy. The Commission continued the item to allow staff to return to the Commission with recommended edits to the draft policy in response to public comments. On September 16, 2021, the Planning Commission reviewed and accepted staff's recommended edits in response to public comments and further recommended that the City Council adopt a resolution adopting the Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy for all mixed-use residential and multi-family residential development projects in Gilroy, as amended by the Planning Commission.

Environmental Assessment: The proposed project is exempt from CEQA review pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states that a project is exempt from CEQA when “[t]he activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant impact to the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

ANALYSIS

Given state limitations on the City's discretionary review of housing development projects, it is critical to adopt objective design standards that help ensure that residential projects in Gilroy conform to the City's minimum design expectations. In addition to complying with state law, there are several benefits to developing and implementing objective design standards. These benefits are discussed below:

Increase consistent decision making: Objective design standards help increase consistency in decision making. With no interpretation or personal preference, developers will receive consistent direction from project to project and year to year, even when there is staff turnover.

Minimize applicant delays: Objective design standards will provide development and design professionals with clear and concise language that help minimize delays, associated with the need to redesign a project to meet City expectations.

Better utilize staff resources: Just as important as minimizing costly delays to developers, objective design standards that are easy to comprehend and implement reduce the amount of time that staff must work with an applicant to design a project that meets the City's expectations. This allows staff to approve or recommend approval of projects in a timelier manner, thereby enabling staff to have more time for accommodating other customer's needs.

Promote Good Design: Community design is an important component of the General Plan. As provided in the Land Use Element, *[t]asteful development projects, well-designed pedestrian spaces, beautiful landscaping, and a lack of visual clutter create an appealing community for residents and visitors. Gilroy has many areas with excellent community design characteristics, and others that need attention.*

Effective, enforceable, and reasonable policies must be put in place to help ensure that Gilroy is an attractive place to live and visit. A primary goal for the objective design standards was to create design standards that would promote good design principles while still allowing sufficient room for creativity, by not being overly prescriptive (e.g., paint colors). Another goal was to develop standards that would minimize the potential for the type of bad design and safety issues that has plagued some of the City’s larger residential developments.

As provided in the intent statement preceding many of the objective design categories, the standards are intended to:

- create an attractive, welcoming, safe, and active interface between private development and the public realm;
- create a human-scale environment and buildings that are compatible with and enhance the surrounding area;
- create a sense of place with buildings that are cohesive, well-crafted, and enhance the public’s experience;
- ensure that buildings include a variety of color palettes and textures with durable and attractive materials that contribute to the aesthetic quality of the development and the neighborhood;
- provide pedestrians, vehicles, and cyclists with safe and efficient site access and circulation; and
- ensure that residents and visitors have access to usable open space and common facilities that provide recreational opportunities, promote a safe environment, and enhance the pedestrian experience

General Plan Consistency

POLICY #	TITLE AND SUMMARY	ANALYSIS
LU 3.3	<p>Residential Building Orientation</p> <p>Encourage new residential development to orient buildings toward streets or public spaces to actively engage the community and provide complete neighborhoods.</p>	<p>The objective design standards implement this policy by requiring residential entries to face the public street and non-residential units to have transparent glazing. Additional requirements for end units and</p>

		corner buildings also implement this policy.
LU 3.8	<p>Multi-Family Residential Design Policy</p> <p>Encourage new multi-family development to incorporate distinctive site and architectural design that also respects existing and surrounding uses.</p>	The objective design standards implement this policy through requirements related to entryway design, corner treatments, building and roofline articulation, and minor and major massing breaks depending on building length.
LU 4.10	<p>Outdoor Activities</p> <p>Encourage outdoor cafes and other outdoor activities in appropriate commercial areas, especially Downtown, to create vibrant public spaces and maximize pedestrian activity.</p>	The objective design standards implement this policy by including an option to satisfy the requirement related to corner buildings by incorporating a publicly accessible courtyard/plaza or outdoor seating for public dining.
LU 7.3	<p>Compatibility with Adjoining Uses</p> <p>Encourage development and redevelopment of higher-density mixed-use development within mixed-use districts and along corridors to be compatible with adjacent land uses, particularly to residential uses through site and architectural design techniques that establish transitions between uses and minimize negative impacts.</p>	The objective design standards implement this policy by limiting height or requiring façade setbacks, depending on the building setback from adjacent residential uses.
Goal LU 8	Support growth and development that preserves and strengthens the City’s historic, small-town character; provides and maintains safe, livable, and affordable neighborhoods; and creates beautiful places.	The objective design standards implements this goal by requiring: variation in the design of taller buildings; massing and roofline breaks for wider buildings; and a patio, porch, or stoop for all ground floor residential units. There are also several standards that address crime prevention through environmental design.

LU 8.13	<p>Limit Light Pollution</p> <p>Encourage measures to limit light pollution from outdoor sources, and direct outdoor lighting downward and away from sensitive receptors.</p>	<p>The objective design standards implement this policy by requiring lighting to be recessed or hooded, downward directed, and located to illuminate only the intended area.</p>
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ALTERNATIVES

1. Request that staff and the consultant modify the Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy with specific direction on what modifications are needed.

FISCAL IMPACT/FUNDING SOURCE

The City of Gilroy was awarded \$160,000 in grant funding³ to create objective design standards for mixed-use and multi-family residential projects in Gilroy. The work associated with creating the objective design standards policy was fully funded by the grant; therefore, no additional funding is needed.

CONCLUSION

Pursuant to state law, the City has drafted the Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy for all mixed-use residential and multi-family residential development projects in Gilroy. Such standards are critical to help ensure that residential projects in Gilroy conform to the City’s minimum design expectations. There are several benefits to the adoption of objective design standards, including but not limited to promoting good design principles that have the intent to create attractive and safe neighborhoods with human-scaled buildings that create a sense of place and are compatible with and enhance the surrounding area. Other notable benefits include providing clear and consistent standards that help increase consistency in decision making and minimize delays in the planning entitlement process.

NEXT STEPS

If any modifications are proposed, staff and the consultant will amend the draft objective design standards based on a consensus of the City Council. Following the City Council’s adoption of the Policy, staff will post the Policy on the City’s website, advertise the Policy through the City’s social media, and email a copy of the Policy to the Planning Department’s list of interested stakeholders.

PUBLIC OUTREACH

³ California Senate Bill 2 (SB2), the 2018 Building Homes and Jobs Act

Notice of the public meeting to consider the draft objective design standards was published in the Gilroy Dispatch on October 8th. The City Council public hearing packets are available through the City's upcoming meetings webpage. The draft objective design standards and the date of the City Council meeting was also posted to the dedicated Objective Design Standards webpage.

Attachments:

1. Public Comment Matrix_09-10-21
2. CC Resolution - Objective Design Standards Policy_10-08-21
3. Comprehensive Draft ODS_10-8-21



City of Gilroy

STAFF REPORT

Agenda Item Title: Gilroy Senate Bill 9 Objective Design Standards Policy
Meeting Date: December 13, 2021
From: Jimmy Forbis, City Administrator
Department: Community Development Department
Submitted By: Karen Garner
Prepared By: Cindy McCormick
Cindy McCormick

Strategic Plan Goals



Develop a Financially Resilient Organization



Ensure Neighborhood Equity from City Services



Promote Economic Development Activities



Promote Safe, Affordable Housing for All



Maintain and Improve City Infrastructure

RECOMMENDATION

Staff recommends that the City Council:

- a) Adopt a Resolution of the City Council of the City of Gilroy adopting the Gilroy SB9 2-Unit Residential Objective Design Standards Policy; and
- b) Adopt a Resolution of the City Council of the City of Gilroy adopting the Gilroy SB9 Residential Lot Split Objective Design Standards Policy

EXECUTIVE SUMMARY

Pursuant to Senate Bill 9 (SB9), the City shall ministerially approve certain lot splits and housing developments containing two residential units (e.g., duplex) within a single-family residential zone, subject to certain requirements described in the law. Local jurisdictions are permitted to require such developments to comply with adopted

objective design standards so long as the regulations do not preclude the minimum allowances per state law. Staff has drafted applicable objective development and design standards that should be adopted by the Council prior to the law taking effect on January 1, 2022. The Policy documents can and likely will be modified as needed to meet the City's development expectations and to comply with state law which is subject to additional interpretation.

POLICY DISCUSSION

California Senate Bill 9 (SB9) was signed into law by Governor Newsom on September 16, 2021 and takes effect January 1, 2022. SB9 requires ministerial (staff level building permit) approval of a proposed housing development containing no more than two residential units (e.g., duplex) within a single-family residential zone, subject to certain requirements. The legislation also requires ministerial approval of certain lot splits to allow property owners to construct up to two units each on the newly created lots. Under SB9, the City is permitted, but not required, to adopt an ordinance that is not inconsistent with the new State law. Staff may recommend a future ordinance, but at this time staff is recommending adoption of an objective design standards policy.

BACKGROUND

On October 18, 2021, the City Council adopted the Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy. The attached draft policy for *2-unit* residential projects largely mirrors that policy but more directly addresses the smaller scale of residential duplex design. Separately, the attached draft policy for SB9 *lot splits* highlights requirements of the law and provides additional objective standards applicable to lot splits, consistent with existing City of Gilroy subdivision standards and best practices.

Environmental Assessment: The proposed project is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to California Government Code Section 65852.21(j) and Section 66411.7(n) relating to implementation of Senate Bill No. 9 and pursuant to CEQA Guidelines Sections 15061(b)(3) (Common Sense Exemption) and Section 15308 (Regulatory Actions for the Protection of the Environment) in that: (1) the adoption of objective design standards does not change applicable zoning and is necessary to implement state law, (2) it can be seen with certainty that the adoption of the standard will not have a significant environmental effect, (3) the standards are to protect aesthetic impacts on the physical environment, and (4) none of the circumstances described in CEQA Guidelines Section 15300.2 applies.

ANALYSIS

Currently, the R1 single-family residential zoning district allows one (1) single-family home, one (1) accessory dwelling unit (ADU), and one (1) junior ADU for a total of three (3) dwelling units. The R1 district currently also allows duplexes when located on a

corner lot with a minimum lot area of 8,000 square feet and where the duplex would not increase the overall density on the lot beyond 7.25 dwelling units per net acre.

Potential SB9 Development Scenarios: SB9 removes the City’s discretion regarding duplex development limitations, effectively permitting two (2) units (attached or detached) on an R1 Single-family residential designated lot in Gilroy, subject to certain limitations (e.g., not on historic properties or in very high fire severity zones). The Santa Clara County Collaborative is working with their legal counsel and seeking guidance from the State Department of Housing and Community Development (HCD) to clarify the total number of units that would be allowed on a site since the SB9 legislation is not explicitly clear on how SB9 intersects with state ADU law. However, many cities in Santa Clara County believe the following scenarios represent what could be allowed on a single-family property with or without a lot split under SB9.

SB9 Project *with* Lot Split

Unlike SB9 projects without a lot split (discussed next), SB9 allows, but does not require, the City to permit ADUs/JADUs in addition to the four (4) SB9 units (two units for each lot) that would be allowed when a property owner splits one single-family lot into two developable lots. The City’s current ADU regulations permit a property owner to construct a duplex and two (2) detached accessory dwelling units for a total of four (4) dwelling units on “duplex or multifamily zoned and developed properties”. The City may want to amend Gilroy City Code Section 30.54.50 (Duplex ADU Standards) to clarify that the provision only applies to “R-2” and multi-family zoned properties (R3 and R4) to minimize any interpretation that the provision would apply to an R-1 property that is “developed” with a duplex.

SB9 Lot Split Scenario:

Lot 1

(1) Duplex **or** (2) detached Primary Dwelling Units

Lot 2

(1) Duplex **or** (2) detached Primary Dwelling Units

(4) Total Dwelling Units

SB9 Project 2-unit / Duplex Provisions (NO Lot Split)

While the lot split provisions of SB9 (Gov. Code § 66411.7) clearly allow local agencies to limit total development to two (2) units per new lot, including primary dwelling units, ADUs, and JADUs, the same language is not present in the two-unit (duplex) development section. As such, most cities have interpreted the law to allow up to four (4) units on a single-family property.

NO lot split, 2-Unit/Duplex Scenario:

(1) Duplex **or** (2) detached Primary Dwelling Units

(1) Accessory Dwelling Unit (attached or detached)

(1) Junior Accessory Dwelling Unit

(4) Total Housing Units (subject to verification by HCD)

Potential Effect of SB9: A property owner can already develop a single-family property with up to three (3) units including one (1) single-family home, one (1) accessory dwelling unit (ADU), and one (1) junior ADU. SB9 effectively permits one (1) additional dwelling unit. However, while Gilroy has approximately 9,125 R1 single-family residential lots that would be subject to SB9, UC Berkley's Turner Center has published a report that states that “relatively few new single-family parcels are expected to become financially feasible for added units as a direct consequence of this bill”¹. The report states that local market prices, development costs, and physical constraints such as small lot sizes can limit the number of new homes built under SB9.

ALTERNATIVES

Council could modify the draft policies.

FISCAL IMPACT/FUNDING SOURCE

This staff report and the attached draft policies were drafted by City staff. Other than attorney fees, no additional funding is needed at this time.

CONCLUSION

Pursuant to state law, the City has drafted the Gilroy Duplex Objective Design Standards Policy and the Gilroy SB9 Parcel Map Lot Split Policy. Given state requirements for ministerial approval of lot splits and duplex units in single-family neighborhoods, it is critical to adopt objective development and design standards that help ensure that such projects conform to the City’s minimum expectations. Explicit development standards also have the benefit of increasing consistency in decision making; minimizing applicant delays; better utilizing limited staff resources; and promoting good design principles that help ensure that Gilroy is an attractive place to live and visit.

NEXT STEPS

¹ <https://turnercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf>

Following the City Council's adoption of the two policies, staff will post the policies and Frequently Asked Questions on the City's website.

PUBLIC OUTREACH

Notice of the public meeting to consider the draft objective design standards was published in the Gilroy Dispatch on December 3rd. The City Council public hearing packets are available through the City's upcoming meetings webpage.

Attachments:

1. CC Resolution - 2-Unit Objective Design Standards Policy_12-13-21
2. CC Resolution - Lot Split Objective Design Standards Policy_12-13-21
3. 2-Unit Residential Objective Design Standards Policy
4. Residential Lot Split Objective Design Standards Policy
5. SB8-9-10 Article