



PUBLIC HEARING

Agenda Item # 6

AGENDA REPORT SUMMARY

Meeting Date: September 11, 2018

Subject: Ordinance No. 2018-449: Affordable Housing Ordinance Amendment

Prepared by: Zachary Dahl, Planning Services Manager

Reviewed by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Ordinance No. 2018-449
2. Planning Commission Meeting Minutes, July 19, 2018
3. Planning Commission Agenda Report, July 19, 2018
4. Public Correspondence

Initiated by:

City Council

Previous Council Consideration:

None

Fiscal Impact:

None

Environmental Review:

This ordinance is exempt from review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §§15378 and 15061(b)(3). The ordinance also is exempt because it is not intended to apply to specifically identified housing projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approvals for such projects are considered and/or the ordinance is not intended to, nor does it, provide CEQA clearance for any future development-related projects. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

Policy Question(s) for Council Consideration:

- Does this amendment support the goals, policies and programs contained in the City's Housing Element?
- Does this amendment support the City Council's 2018 priority to expand affordable housing in the City?



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- Does this amendment adequately address the Santa Clara County Civil Grand Jury Report's recommendation that the City's inclusionary BMR percentage requirements be increased to at least 15 percent?

Summary:

- The ordinance will amend the Zoning Code to increase the minimum affordable housing requirement from 10% to 15% for all multiple-family residential projects that include five or more new dwelling units
- The Planning Commission voted to recommend adoption of the amendment on July 19, 2018

Staff Recommendation:

Introduce and waive further reading of Ordinance No. 2018-449 to amend Chapter 14.28 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements.



Subject: Ordinance No. 2018-449: Affordable Housing Ordinance Amendment

Purpose

Review and introduce an ordinance that amends the City's Affordable Housing Ordinance and increases the affordable housing requirement from 10% to 15% for multiple-family projects that contain five or more new dwelling units.

Background

The City's Housing Element, which was adopted in 2015 and has an eight-year cycle (2015-2023), outlines the City's goals, policies and programs related to housing and the production of new dwelling units, both market rate and affordable. One of the Housing Element's primary objectives is to demonstrate how the City will achieve its Regional Housing Need Allocation (RHNA), which is established by the State Department of Housing and Community Development (HCD) and the Association of Bay Area Governments (ABAG). The City's current RHNA is 477 new housing units and is broken down into the following market rate and below market rate categories:

- 97 above moderate income units (market rate);
- 112 moderate income units;
- 99 low income units;
- 85 very-low income units; and
- 84 extremely-low income units.

The City has already exceeded its requirement for the production of above moderate income units (more than 200 new units). However, to date, less than 10% of the below market rate (BMR) units needed to meet the City's RHNA have been achieved.

As identified in the City Council's 2018 priorities, it is a top priority of the City to proactively review opportunities to expand affordable housing in the City. To help achieve this goal, the City recently adopted an affordable housing impact ordinance (Ordinance No. 2018-444) on all non-residential (commercial and office) and residential projects (single-family and multiple-family) to generate fee revenue that can be used to help the City achieve more affordable housing opportunities. To support this action and the priority to expand affordable housing opportunities, the City Council directed staff to proceed with a code amendment to evaluate an increase in the City's affordable housing requirement from 10% to 15%.

The City's Affordable Housing Ordinance is contained in Chapter 14.28 in the Zoning Code and was originally adopted in 2009 (Ordinance No. 09-336). It requires all multiple-family residential projects with five or more units to provide affordable housing. For multiple-family residential ownership projects with 10 or more units, 10% of units are required to be affordable at a moderate income level; and for multiple-family residential rental projects, at least 15% of the units are required to be affordable at the low income level or 10% affordable at the very low income level. In 2017, Chapter 14.28 was



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amended to include more detailed regulations pertaining to density bonuses and development incentives (Ordinance 2017-435).

On July 19, 2018, the Planning Commission held a public hearing to consider increasing the City's affordable housing requirement from 10% to 15%. One member of the public spoke in support of the amendment and two letters were submitted that expressed support for the amendment. The Commission discussed the proposed ordinance and expressed general support for increasing the affordable housing requirement to 15%. However, there was concern about the inclusion of single-family residential projects and how the new requirements could negatively impact smaller projects. One commissioner was also concerned that the increased requirement for rental units went beyond the 15% increase and could be too burdensome on new development. Following the discussion, the Commission voted 5-1, with Vice-Chair Samek opposed and Commissioner Lee absent, to recommend approval of the ordinance, with the following changes:

- Exclude single-family projects from the ordinance; and
- Review Section 14.28.030.E to ensure it was consistent with State Law requirements

The Planning Commission agenda report and meeting minutes are included as Attachments 2 and 3. The public correspondence that was received before the Planning Commission meeting is included as Attachment 4.

Discussion/Analysis

The ordinance will increase the City's affordable housing requirement from 10% to 15% for new multiple-family projects that develop five or more new dwelling units. In addition, the ordinance 1) removes the definitions section in 14.28.020 and replaces, by cross-reference, with the largely redundant definitions contained in 14.28.040 (Density Bonus); 2) establishes a new Purpose section that references the definitions in 14.28.040; and 3) establishes a new Standards section that pulls in applicable verbiage from the existing ordinance and references the recently adopted affordable housing impact fee. Per the Planning Commission recommendation, the ordinance no longer includes single-family projects. Staff and the City Attorney have also reviewed the ordinance to ensure that it is consistent with all applicable State Law requirements.

Overall, the ordinance is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because it will increase the number of affordable housing units produced and create more lower income housing opportunities for Los Altos residents and workers. The ordinance is also in conformance with the goals, policies and programs in the Los Altos General Plan. Specifically, this ordinance will help the City achieve its Regional Housing Need Allocation by 2023 and support many of the goals and policies in the Housing Element. In addition, the ordinance will help the City address the findings and recommendations



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contained in the recently published Santa Clara County Civil Grand Jury Report on the region's affordable housing crisis.

Options

1) Introduce and waive further reading of Ordinance No. 2018-449

Advantages: The City will achieve more below market rate units and improve its ability to achieve its Regional Housing Need Allocation by 2023

Disadvantages: The increased affordable housing requirement may add costs to new residential development and could discourage the development of new residential units

2) Decline to introduce Ordinance No. 2018-449

Advantages: The City's existing affordable housing requirements for new multiple-family development will be maintained

Disadvantages: The City will achieve fewer below market rate units over time and may not be able to achieve its Regional Housing Need Allocation by 2023

Recommendation

Staff and Planning Commission recommend Option 1.

ORDINANCE NO. 2018-449

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING ZONING CODE CHAPTER 14.28 PERTAINING TO THE CITY'S AFFORDABLE HOUSING REQUIREMENTS AND MAKING FINDINGS OF CEQA EXEMPTION

WHEREAS, the City of Los Altos initiated an application (18-CA-04) to amend Title 14 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements, referred herein as the "CA"; and

WHEREAS, it is a top priority of the Los Altos City Council to further the housing goals identified in the Housing Element of the Los Altos General Plan and expand affordable housing opportunities in the City; and

WHEREAS, the CA is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the Los Altos General Plan; and

WHEREAS, the CA was processed in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the CA on July 19, 2018 and the City Council held a duly noticed public hearing on the CA on September 11, 2018; and

WHEREAS, the location and custodian of the documents or other materials, which constitute the record of proceedings upon which the City Council's decision are based, are in the Office of the City Clerk.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: The title of Chapter 14.28, and sections 14.28.010, 14.28.020 and 14.28.030 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

Chapter 14.28 – MULTIPLE FAMILY AFFORDABLE HOUSING

14.28.010 - Purpose.

This chapter provides the requirements and provisions for the production of affordable housing. The definitions contained in Section 14.28.040.B., unless otherwise apparent from the context, shall be applicable to this Chapter.

14.28.020 - Applicability

All multiple-family residential projects that create five or more new dwelling units shall provide affordable housing as follows:

- A. For projects with five (5) or six (6) units, one affordable housing unit shall be provided, with an ownership unit designated as affordable at the moderate income level and a rental unit designated as affordable at the low or very-low income level.
- B. For projects with seven (7) to nine (9) units, two affordable housing units shall be provided, with ownership units designated as affordable at the moderate income level and rental units designated as affordable at the low or very-low income level.
- C. For projects with ten (10) or more units, affordable housing units shall be provided as follows:
 - 1. Rental units. Twenty (20) percent designated as affordable at the low income level or fifteen (15) percent designated as affordable at the very-low income level.
 - 2. Ownership units. Fifteen (15) percent total, with a majority of the units designated as affordable at the moderate income level and the remaining units designated as affordable at the low or very-low income level.

14.28.030 – Standards

Applicable housing development projects shall be subject to the following standards:

- A. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.
- B. The action that approves the project shall contain sufficient conditions to ensure compliance with the provisions of this chapter.
- C. Unless otherwise approved by the city council, all affordable units in a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, and shall not be significantly distinguishable by size, design, construction or materials.
- D. As an alternative to providing the affordable housing units required by this Chapter, payment of an affordable housing impact fee, as required by Chapter 3.49, may be approved by the city council.
- E. The requirement to provide affordable housing may be waived, adjusted or reduced by the city council if the developer can demonstrate, based on substantial evidence, that providing onsite affordable housing units will be financially infeasible.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. CEQA. This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the City’s affordable housing requirements, but it does not commit the City of Los Altos or any other party to any direct course of action, other than to review applications for compliance with the amended requirements as described herein, and will not result in any physical changes in and of itself. Moreover, to the extent the ordinance was determined to be subject to CEQA, it would be exempt from further review

pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment. The ordinance also is exempt from CEQA review because is not intended to apply to specifically identified projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approval for such projects are considered and/or it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the requirements herein. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 4. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on September 11, 2018 and was thereafter, at a regular meeting held on _____, 2018 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

**MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE
CITY OF LOS ALTOS, HELD ON THURSDAY, JULY 19, 2018 BEGINNING AT 7:00
P.M. AT LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD,
LOS ALTOS, CALIFORNIA**

ESTABLISH QUORUM

PRESENT: Chair Bressack, Vice Chair Samek, Commissioners Bodner, Enander, McTighe and Meadows
ABSENT: Commissioner Lee
STAFF: Planning Services Manager Dahl

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Resident John Seeman stated his concern regarding the proposed stadium lights and PA system at Los Altos High School, and urged the Planning Commission to have a full public discussion with the neighborhood before approving the project.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. **Planning Commission Minutes**
Approve the minutes of the June 7, 2017 Regular Meeting.
2. **18-UP-03 – Los Altos Lutheran Church – 460 S. El Monte Avenue**
Use Permit for a new after-school program and a new music program to use existing classrooms at the Los Altos Lutheran Church. The after-school programs would include up to 12 students and operate between 8am to 6pm, Monday – Friday, and the music program would include 12 students and operate between 8am to 8pm, Monday – Saturday. The new programs will be in addition to the existing private daycare program (10-UP-01) that operates at the site with up to 30 students. *Project Planner: Gallegos*

Commissioner Enander asked a clarifying question regarding the use permit at 460 S. El Monte Avenue.

Action: Upon motion by Commissioner Enander, seconded by Commissioner McTighe, the Commission approved the Consent Calendar. The motion was approved (6-0) by the following vote:

AYES: Bodner, Bressack, Enander, McTighe, Meadows and Samek

NOES: None

ABSTAIN: None

ABSENT: Lee

PUBLIC HEARING

3. **18-UP-05 – Peter Ko, AIA – 1555 Oak Avenue**
Use Permit for a new preschool, Children’s Corner, to use existing classrooms at the Foothill Covenant Church facility. The preschool would include up to 60 students and operate between 8:00am to 5:30pm, Monday – Friday. The preschool use will be in addition to the existing daycare

program, Mountain View Parent Nursery School, (13-UP-02) that operates at the site with up to 48 students. *Project Manager: Dahl*

Planning Services Manager Dahl presented the staff report with a recommendation that the Commission recommend approval of Use Permit 18-UP-05 to the City Council subject to the listed findings and conditions.

Project applicant/architect Peter Ko presented the project.

Public Comment

Children's Corner site director, Laura Bernal, outlined the programs that they offer and said she wanted the preschool to be a positive force in the neighborhood.

Resident Susan Gise noted that a preschool already exists at the site and is opposed to the use permit because there are too many existing non-residential use that add traffic on Oak Avenue; traffic on Oak and Truman is already congested; and there are safety issues with the intersection in the morning.

Resident Darren Liccardo and Board member for Children's Corner stated that there is a variety of pick-up/drop-off times, with most occurring outside of the morning peak hour.

Resident Kester Fong stated his opposition; submitted a petition with five pages of signatures of neighbors that are opposed (85); the traffic report should have studied the intersections of Oak/Truman and Bryant/Truman; and other locations for Children's Corner should be considered.

Commission Discussion

Commissioner McTighe expressed concerns, noting that the Truman and Oak Avenue intersection should have been studied; Oak Avenue Elementary and Mountain View High School (MVHS) have a high number of bikes on Truman Avenue; and he has mixed feelings on the Use Permit, but noted that it does not appear to add a lot of traffic during the AM peak.

In response to Commissioner McTighe's comments, the applicant's traffic engineer, Ling Li with Hexagon, noted that the Truman/Bryant and Truman/Oak intersections have less traffic than Grant Road, so based on the finding that the Grant Road was not impacted, these intersections did not require further study.

Commissioner Bodner expressed support, noting that the site design supports a preschool use; this type of use is a critical service for Los Altos; traffic is distributed over the day; this is a longstanding community preschool; and the City should look at other ways to improve traffic and safety on Truman and Oak Avenues.

Vice-Chair Samek expressed support, noting that if Truman and Fremont Avenues are backed up, traffic will adjust and that this is a good location for this use.

Commissioner Meadows expressed support, noting that the AM peak time from 7-9 is most critical and most Children's Corner drop offs occur after 9 AM, so the use will have a minimal impact on the existing conditions.

Commissioner Enander expressed concerns, noting that the traffic report is insufficient and should have studied Oak and Truman, with mitigation measures provided; the City should look at safe routes to school opportunities; and the use permit should be continued to further address traffic questions.

Chair Bressack expressed support, noting that she could not support requiring an update to the traffic report due to the delay that would be incurred; the traffic impact is minimal; traffic will be staggered; Children's Corner should work with families to reduce traffic during the A.M. peak hours; and the school district needs to do more to address the existing traffic issues.

Action: Upon motion by Commissioner Meadows, seconded by Commissioner Bodner, the Commission approved Use Permit 18-UP-05 subject to the listed findings and conditions, with the following change:

- Correct the California Environmental Quality Act (CEQA) Finding in the draft resolution.

The motion was approved (6-0) by the following vote:

AYES: Bodner, Bressack, Enander, McTighe, Meadows and Samek

NOES: None

ABSTAIN: None

ABSENT: Lee

4. 18-CA-04 – City of Los Altos – Chapter 14.28 Affordable Housing Code Amendment

Amendment to the City's Affordable Housing Ordinance (Zoning Code Chapter 14.28). The proposed amendment would increase the affordable housing requirement from 10 percent to 15 percent for all residential development projects that include five or more new units. *Project Manager: Dahl*

Planning Services Manager Dahl presented the staff report with a recommendation that the Commission recommend approval of amendments to Zoning Code Chapter 14.28 (Affordable Housing) to the City Council.

Public Comment

Resident Jeremy Macaluso expressed support for the increase to 15 percent in the affordable housing requirement.

Commission Discussion

Chair Bressack asked that the City Attorney review the Planning Commissions' questions prior to the City Council meeting.

Commissioner Enander noted that the code amendment reflects the City Council's goal to encourage affordable housing, but is concerned that the increase will hinder housing production; and an economic analysis is needed to better understand the true impact.

Commissioner Meadows expressed support for the increase to 15 percent, but noted concerned about including single-family projects; asked if rental and for-sale units will be treated equally; and should the requirements for projects with 5-9 units be reduced.

Vice-Chair Samek expressed support, noting that the 15 percent requirement still makes projects feasible; was concerned about including single-family projects in the ordinance; and could not support a 20 percent requirement without more data.

Commissioner Bodner expressed support, but noted concern about including single-family projects.

Commissioner McTighe expressed support for the 15 percent increase.

Chair Bressack expressed support, but noted some concern about the impact on single-family projects, such as the Woods Lane site.

Commissioner Enander noted that Section 14.28.030 D and E should be reviewed again to ensure that an alternative means of compliance, as required under State Law, was provided; and if E was written appropriately.

Action: Upon motion by Commissioner McTighe, seconded by Chair Bressack, the Commission recommended approval to the City Council of amendments to Zoning Code Chapter 14.28 (Affordable Housing), with the following changes:

- Exclude single-family projects from the ordinance; and
- Review Section 14.28.030 E to ensure it was consistent with State Law requirements

The motion was approved (5-1) by the following vote:

AYES: Bodner, Bressack, Enander, McTighe and Meadows

NOES: Samek

ABSTAIN: None

ABSENT: Lee

COMMISSIONERS' REPORTS AND COMMENTS

Commissioners' Reports was continued to the August 2, 2018 Planning Commission meeting.

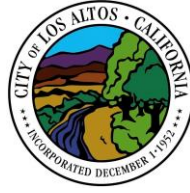
POTENTIAL FUTURE AGENDA ITEMS

Chair Bressack asked to add the City's Story-Pole Policy to a future agenda to review and discuss duration of installation and aesthetic impacts, and proposed writing a letter to the Complete Streets Commission to ask for Oak Avenue and Truman Avenue to be reviewed.

ADJOURNMENT

Chair Bressack adjourned the meeting at 9:18 P.M.

Zachary Dahl, AICP
Planning Services Manager



PLANNING COMMISSION AGENDA REPORT

Meeting Date: July 19, 2018

Subject: 18-CA-04 – Affordable Housing Ordinance Amendment

Prepared by: Zachary Dahl, Planning Services Manager

Initiated by: City Council

Attachments:

- A. Draft Affordable Housing Ordinance Amendment
- B. Existing Affordable Housing Ordinance (Chapter 14.28)

Recommendation:

Recommend approval to the City Council of amendments to Zoning Code Chapter 14.28 (Affordable Housing).

Environmental Review:

This ordinance is exempt from review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §§15378 and 15061(b)(3). The ordinance also is exempt because it is not intended to apply to specifically identified housing projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approvals for such projects are considered and/or the ordinance is not intended to, nor does it, provide CEQA clearance for any future development-related projects. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

Summary:

The City Council is seeking a recommendation from the Planning Commission regarding amendments to the City's Affordable Housing Ordinance to increase the minimum affordable housing requirement from 10% to 15% for residential development projects. In addition, the proposed amendment would expand the affordable housing requirement to require all projects with five or more new dwelling units, including single-family subdivisions, to provide affordable housing, include references to the recently adopted housing impact fee and remove redundant language.

Background

The City's Housing Element, which was most recently adopted in 2015 and has an eight-year cycle (2015-2023), outlines the City's goals, policies and programs related to housing and the production of new dwelling units, both market rate and affordable. One of the Housing Element's primary objectives

is to demonstrate how the City will achieve its Regional Housing Need Allocation (RHNA), which is established by the State Department of Housing and Community Development (HCD) and the Association of Bay Area Governments (ABAG). The City's current RHNA is 477 new housing units and is broken down into the following market rate and below market rate categories:

- 97 above moderate income units (market rate);
- 112 moderate income units;
- 99 low income units;
- 85 very-low income units; and
- 84 extremely-low income units.

The City has already exceeded its requirement for the production of above moderate income units (over 200 new units). However, to date, less than 10% of the below market rate (BMR) units needed to meet the City's RHNA have been achieved.

As identified in the City Council's 2018 priorities, adopted on February 13, 2018, it is a top priority of the City to proactively review opportunities to expand affordable housing in the City. To help achieve this goal, the City recently adopted an affordable housing impact fee (Ordinance No. 2018-444) on all non-residential (commercial and office) and residential projects (single-family and multiple-family) to generate fee revenue that can be used to help the City achieve more affordable housing opportunities. To support this action and their priority to expand affordable housing opportunities, the City Council directed staff to proceed with a code amendment to evaluate an increase in the City's affordable housing requirement from 10% to 15%.

The City's Affordable Housing Ordinance is contained in Chapter 14.28 in the Zoning Code and was originally adopted in 2009 (Ordinance No. 09-336). It requires all multiple-family residential projects with five or more units to provide affordable housing. For multiple-family residential projects with 10 or more units, 10% of ownership units are required to be affordable at a moderate income level and for rental units, at least 15% are required to be affordable at the low income level or 10-percent affordable at the very low income level. In 2017, Chapter 14.28 was amended to include more detailed regulations pertaining to density bonuses and development incentives (Ordinance No. 2017-435). For reference, the City's existing Affordable Housing Ordinance is included as Attachment B.

Discussion/Analysis

As directed by the City Council, the proposed amendment would increase the City's affordable housing requirement for projects that develop new dwelling units from 10% to 15%. In addition, the following changes are being proposed to further support the overarching City priority of increasing the production of affordable housing:

- Expand the inclusionary requirement to cover all residential development projects, not just multiple-family;
- Require all projects with five new units to provide affordable units;
- Remove the definitions section in 14.28.020 and replace, by cross-reference, with the largely redundant definitions contained in 14.28.040 (Density Bonus);
- Establish a new Purpose section that references the definitions in 14.28.040; and

- Establish a new Standards section that pulls in applicable verbiage from the existing ordinance while also including new language to reference the recently adopted affordable housing impact fee.

The draft ordinance that includes the proposed amendment is included as Attachment A. The amendment would repeal Sections 14.28.010, 14.28.020 and 14.28.030 and replace them with three new sections that outline the updated affordable housing requirements and are more compatible with the recently adopted density bonus section (14.28.040). The following provides a breakdown of the proposed changes to the ordinance. A ~~strike through~~ denotes existing language proposed for removal and an underline denotes proposed new language.

Existing

~~14.28.010 – Applicability.~~

~~This chapter applies to all new multiple-family residential projects and mixed-use projects.~~

~~14.28.020 – Definitions.~~

~~For the purposes of this chapter, unless otherwise apparent from the context, certain words or phrases used in this chapter are defined as follows:~~

- ~~A. "Affordable housing unit" means an ownership or rental dwelling unit affordable to households with extremely low, very low, low or moderate incomes as published periodically by the California Department of Housing and Community Development for households in Santa Clara County or equivalent as approved by the community development director. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.~~
- ~~B. "Dwelling unit" means a dwelling designed and intended for occupancy by a household.~~
- ~~C. "Multiple-family residential projects" as applied in this chapter means all residential projects exceeding four (4) units per acre and all mixed-use projects.~~
- ~~D. "Project" means the entire parcel of real property, including all structures thereon, all or part of which is intended to be rented or purchased for residential purposes.~~

Proposed

14.28.010 - Purpose.

This chapter provides the requirements and provisions for the production of affordable housing. The definitions contained in Section 14.28.040.B., unless otherwise apparent from the context, shall be applicable to this Chapter.

Discussion

The proposed Purpose section is intended to replace the existing Applicability and Definitions sections. Since the definitions listed above are redundant with the definitions contained in Section 14.28.040.B, it is proposed to be removed, with the new section now referencing 14.28.040.B to ensure the full chapter uses the same set of definitions.

Existing

~~**14.28.030 – General requirements.**~~

~~The following provisions shall apply to all multiple-family residential projects:~~

- ~~A. One (1) to four (4) units. Affordable housing units are not required.~~
- ~~A. Five (5) to nine (9) units. Affordable housing units are required. In the event that the developer can demonstrate to the satisfaction of the city council that providing~~

~~affordable housing units in a project will be financially infeasible, the city council may waive the requirement to provide affordable housing units.~~

- ~~B. Ten (10) units or more. Affordable housing units are required.~~
- ~~C. For multiple family residential projects where affordable housing units are required, the following minimum percentage of units shall be provided:
 - ~~1. Rental units. Fifteen (15) percent low income or ten (10) percent very low income housing.~~
 - ~~2. Owner units. Ten (10) percent moderate income housing.~~~~
- ~~D. Notwithstanding Section 14.28.030(D) in projects containing more than ten (10) units and when more than one (1) affordable unit is required at least one (1) affordable unit must be provided at the low income level.~~

Proposed

14.28.020 - Applicability

Housing development projects that create five or more new dwelling units shall provide affordable housing as follows:

- A. For projects with five (5) or six (6) units, one affordable housing unit shall be provided, with an ownership unit designated as affordable at the moderate income level and a rental unit designated as affordable at the low or very-low income level.
- B. For projects with seven (7) to nine (9) units, two affordable housing units shall be provided, with ownership units designated as affordable at the moderate income level and rental units designated as affordable at the low or very-low income level.
- C. For projects with ten (10) or more units, affordable housing units shall be provided as follows:
 - 1. Rental units. Twenty (20) percent designated as affordable at the low income level or fifteen (15) percent designated as affordable at the very-low income level.
 - 2. Ownership units. Fifteen (15) percent total, with a majority of the units designated as affordable at the moderate income level and the remaining units designated as affordable at the low or very-low income level.

Discussion

This new Applicability section outlines the City's updated affordable housing requirements. The scope has been broadened to include all housing development projects, both single-family and multiple-family, and projects with five to nine new units are now required to provide affordable housing. To achieve a mixture of BMR units at all income levels and to best meet the needs of the City's lower income residents and workers, the regulations will continue to focus on the creation of new ownership units affordable at the moderate income level and new rental units affordable at the low and very-low income levels.

Existing

14.28.030 – General requirements.

- ~~D. Unless otherwise approved by the city council, all affordable units in a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, and shall not be significantly distinguishable by design, construction or materials.~~
- ~~E. Any tentative map, use permit, PUD, design application or special development permit approved for multiple family residential construction projects meeting the foregoing criteria shall contain sufficient conditions of approval to ensure compliance with the provisions of this chapter.~~

Proposed

14.28.030 – Standards

Applicable housing development projects shall be subject to the following standards:

- A. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.
- B. The action that approves the project shall contain sufficient conditions to ensure compliance with the provisions of this chapter.
- C. Unless otherwise approved by the city council, all affordable units in a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, and shall not be significantly distinguishable by size, design, construction or materials.
- D. As an alternative to providing the affordable housing units required by this Chapter, payment of an affordable housing impact fee, as required by Chapter 3.49, may be approved by the city council.
- E. The requirement to provide affordable housing may be waived, adjusted or reduced by the city council if the developer can demonstrate, based on substantial evidence, that providing on-site affordable housing units will be financially infeasible.

Discussion

This new Standards section incorporates language from the existing ordinance while adding a reference the recently adopted affordable housing impact fee and a waiver provision. The waiver provision is necessary to allow projects, specifically rental projects, the ability to seek an alternative means of compliance, such as payment of an in-lieu fee, land dedication or affordable units provided off-site. Overall, the proposed ordinance achieves the Council directive to increase the City's affordable housing requirement to 15-percent while also expanding the range of projects that will need to provide affordable housing and improves the relationship with the Density Bonus section.

Findings

The proposed ordinance is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because it will increase the number of affordable housing units produced and create more lower income housing opportunities for Los Altos residents and workers. The proposed ordinance is also in conformance with the goals, policies and programs in the Los Altos General Plan. Specifically, this ordinance will help the City achieve its Regional Housing Need Allocation by 2023 and support many of the goals and policies in the Housing Element.

Once the Planning Commission takes action and makes a recommendation, this ordinance will be forwarded to the City Council for consideration and adoption.

ATTACHMENT A

ORDINANCE NO. 2018-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING ZONING CODE CHAPTER 14.28 PERTIANING TO THE CITY'S AFFORDABLE HOUSING REQUIREMENTS AND MAKING FINDINGS OF CEQA EXEMPTION

WHEREAS, the City of Los Altos initiated an application (18-CA-04) to amend Title 14 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements, referred herein as the "CA"; and

WHEREAS, it is a top priority of the Los Altos City Council to further the housing goals identified in the Housing Element of the Los Altos General Plan and expand affordable housing opportunities in the City; and

WHEREAS, the CA is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the Los Altos General Plan; and

WHEREAS, the CA was processed in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the CA on July 18, 2018 and the City Council held a duly noticed public hearing on the CA on ____, 2018; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council's decision are based in the Office of the City Clerk.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: The title of Chapter 14.28, and sections 14.28.010, 14.28.020 and 14.28.030 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

Chapter 14.28 - AFFORDABLE HOUSING

14.28.010 - Purpose.

This chapter provides the requirements and provisions for the production of affordable housing. The definitions contained in Section 14.28.040.B., unless otherwise apparent from the context, shall be applicable to this Chapter.

14.28.020 - Applicability

Housing development projects that create five or more new dwelling units shall provide affordable housing as follows:

- A. For projects with five (5) or six (6) units, one affordable housing unit shall be provided, with an ownership unit designated as affordable at the moderate income level and a rental unit designated as affordable at the low or very-low income level.
- B. For projects with seven (7) to nine (9) units, two affordable housing units shall be provided, with ownership units designated as affordable at the moderate income level and rental units designated as affordable at the low or very-low income level.
- C. For projects with ten (10) or more units, affordable housing units shall be provided as follows:
 - 1. Rental units. Twenty (20) percent designated as affordable at the low income level or fifteen (15) percent designated as affordable at the very-low income level.
 - 2. Ownership units. Fifteen (15) percent total, with a majority of the units designated as affordable at the moderate income level and the remaining units designated as affordable at the low or very-low income level.

14.28.030 – Standards

Applicable housing development projects shall be subject to the following standards:

- A. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.
- B. The action that approves the project shall contain sufficient conditions to ensure compliance with the provisions of this chapter.
- C. Unless otherwise approved by the city council, all affordable units in a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, and shall not be significantly distinguishable by size, design, construction or materials.
- D. As an alternative to providing the affordable housing units required by this Chapter, payment of an affordable housing impact fee, as required by Chapter 3.49, may be approved by the city council.
- E. The requirement to provide affordable housing may be waived, adjusted or reduced by the city council if the developer can demonstrate, based on substantial evidence, that providing onsite affordable housing units will be financially infeasible.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. CEQA. This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the City’s affordable housing requirements, but it does not commit the City of Los Altos or any other party to any direct course of action, other than to review applications for compliance with the amended requirements as described herein, and will not result in any physical changes in and of itself. Moreover, to the extent the

ordinance was determined to be subject to CEQA, it would be exempt from further review pursuant to the 'common sense' exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment. The ordinance also is exempt from CEQA review because is not intended to apply to specifically identified projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approval for such projects are considered and/or it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the requirements herein. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 4. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on ____, 2018 and was thereafter, at a regular meeting held on ____, 2018 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

ATTACHMENT B

Chapter 14.28 - MULTIPLE-FAMILY AFFORDABLE HOUSING

14.28.010 - Applicability.

This chapter applies to all new multiple-family residential projects and mixed-use projects.

14.28.020 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words or phrases used in this chapter are defined as follows:

- A. "Affordable housing unit" means an ownership or rental dwelling unit affordable to households with extremely-low, very-low, low or moderate incomes as published periodically by the California Department of Housing and Community Development for households in Santa Clara County or equivalent as approved by the community development director. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.
- B. "Dwelling unit" means a dwelling designed and intended for occupancy by a household.
- C. "Multiple-family residential projects" as applied in this chapter means all residential projects exceeding four (4) units per acre and all mixed-use projects.
- D. "Project" means the entire parcel of real property, including all structures thereon, all or part of which is intended to be rented or purchased for residential purposes.

14.28.030 - General requirements.

The following provisions shall apply to all multiple-family residential projects:

- A. One (1) to four (4) units. Affordable housing units are not required.
- B. Five (5) to nine (9) units. Affordable housing units are required. In the event that the developer can demonstrate to the satisfaction of the city council that providing affordable housing units in a project will be financially infeasible, the city council may waive the requirement to provide affordable housing units.
- C. Ten (10) units or more. Affordable housing units are required.
- D. For multiple-family residential projects where affordable housing units are required, the following minimum percentage of units shall be provided.
 - 1. Rental units. Fifteen (15) percent low income or ten (10) percent very-low income housing.
 - 2. Owner units. Ten (10) percent moderate income housing.
- E. Notwithstanding Section 14.28.030(D) in projects containing more than ten (10) units and when more than one (1) affordable unit is required at least one (1) affordable unit must be provided at the low income level.
- F. Unless otherwise approved by the city council, all affordable units in a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, and shall not be significantly distinguishable by design, construction or materials.
- G. Any tentative map, use permit, PUD, design application or special development permit approved for multiple-family residential construction projects meeting the foregoing criteria shall contain sufficient conditions of approval to ensure compliance with the provisions of this chapter.

14.28.040 - Density Bonuses

- A. Purpose. The purpose of this Section is to establish procedures for implementing State Density Bonus requirements, as set forth in California Government Code Sections 65915 to 65918, and to increase the production of affordable housing, consistent with City policies. In order to promote the construction of affordable units, density bonuses, development incentives, waivers, and parking alterations shall be granted pursuant to the provisions of this Section.
- B. Definitions. For the purposes of this Section, unless otherwise apparent from the context, certain words or phrases used in this Section are defined as follows:
1. “Affordable housing unit” means an ownership or rental dwelling unit affordable to households with extremely low, very low, low or moderate incomes as published periodically by HCD for households in Santa Clara County or equivalent as approved by the community development director. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.
 2. “Area median income” (AMI) means the median family income in Santa Clara County as determined annually by HCD, adjusted for household size.
 3. “Common interest development” means that as defined in Civil Code Section 4100.
 4. “Concession or incentive” means any of the following:
 - a. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Health and Safety Code Division 13, Part 2.5 (commencing with Section 18901) to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in subdivision Government Code Section 65915, Subdivision (c).
 - b. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
 - c. Other regulatory incentives or concessions proposed by the developer or the city that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in subdivision Government Code Section 65915, Subdivision (c).
 2. “Density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.
 3. “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking requirement that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation, as specified in Government Code Section 65915, Subsection (o)(1).

4. "Disabled person" means a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having that type of an impairment or, anyone who has a record of having that type of an impairment.
5. "Disabled veterans" means that as defined in California Government Code Section 18541.
6. "Dwelling unit" means a dwelling designed and intended for occupancy by a household.
7. "Floor Area Ratio" means the multiplier applied to the total buildable area of the lot to determine the total floor area of all buildings on a lot.
8. "HCD" means California Department of Housing and Community Development or any successor agency.
9. "Homeless person" means that as defined in the United States McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.).
10. "Housing development project" means the construction of five or more new residential dwelling units, including mixed-use developments, the addition of five or more residential dwelling units to an existing building or buildings, and the remodeling of a building or buildings containing five or more residential dwelling units. For the purpose of establishing the minimum number of five dwelling units, Restricted Affordable Units shall be included and density bonus units shall be excluded.
11. "Incentive," see "concession or incentive."
12. "Income, very low, low or moderate" means an annual income of a household that does not exceed the amounts designated for each income category as determined by HCD.
13. "Major transit stop" means that as defined in Public Resources Code Section 21155, Subdivision (b).
14. "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.
15. "Multiple-family residential projects" as applied in this Section means all residential projects exceeding four (4) units per acre and all mixed-use projects.
16. "Project" means the entire parcel of real property, including all structures thereon, all or part of which is intended to be rented or purchased for residential purposes.
17. "Residential hotel" means any building containing six or more guest rooms or efficiency dwelling units, which are intended or designed to be used, or are used, rented, or hired out to be occupied, or are occupied for sleeping purposes by guests, so long as the guest rooms or efficiency dwelling units are also the primary residence of those guests, but not including any building containing six or more guest rooms or efficiency dwelling units, which is primarily used by transient guests who do not occupy that building as their primary residence.
18. "Residential unit" means the same as "dwelling" as used in Los Altos Municipal Code Title 14.

19. "Restricted affordable unit" means a residential unit for which rental or mortgage amounts are restricted so as to be affordable to and occupied by very low, low or moderate income households.
20. "Senior citizen housing development" means a housing development project for senior citizens that has at least 35 units as defined in California Civil Code Sections 51.3 and 51.12.
21. "Senior citizen mobilehome park" means a mobilehome park that limits residency based on age requirements for older persons pursuant to California Civil Code Sections 798.76 and 799.5.
22. "Senior citizens" means individuals who are at least 62 years of age, except that for projects of at least 35 units that are subject to this subdivision, a threshold of 55 years of age may be used, provided all applicable City, state and federal regulations are met.
23. "Special needs housing development" means that as defined in California Health and Safety Code Section 51312.
24. "Specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific adverse impact upon the public health or safety.
25. "Transitional foster youth" means that as defined in California Education Code Section 66025.9
26. "Unobstructed access to the major transit stop" means that from the development, a resident is able to access the major transit stop without encountering natural or constructed impediments.
27. "Waiver" means the deletion or reduction of any development standards that would otherwise have the effect of physically precluding the construction of a development identified and permitted in this Section.

C. Development eligibility, bonus densities, and incentive counts.

1. Eligible Developments, Bonus Densities, and Incentive Counts. The developments identified in this Subsection are eligible for density bonuses and/or incentives as well as parking requirement alterations and waivers. For each development, this Section provides levels of density bonus available and the number of incentives available. For applicable standards, see Subsections (E) (Density Bonus Standards), (F) (Incentive Standards), (G) (Parking Requirement Alteration Standards), and (H) (Waivers Standards).
 - a. Housing Development with Low Income Restricted Affordable Units, for Sale or for Rent. A housing development project that includes at least 10 percent of the total units of the project for low income households, either in for sale or for rent, shall be granted the following:
 - i. Density Bonus. A project that includes 10 percent low income housing shall be granted a density bonus of 20 percent. For each 1 percent increase above the required 10 percent low income units, the density bonus shall be increased by 1.5 percent, up to a maximum density bonus of 35 percent. See Table DB 1.

Table DB 1

Percentage Low Income Units	Percentage Density Bonus
10	20.0
11	21.5
12	23.0
13	24.5
14	26.0
15	27.5
16	29.0
17	30.5
18	32.0
19	33.5
20 or more	35.0

- ii. Incentives. A project that includes at least 10 percent low income units shall be granted one incentive. A project that includes at least 20 percent low income units shall be granted two incentives. A project that includes at least 30 percent low income units shall be granted three incentives. See Table DB 2.

Table DB 2

Percentage Low Income Units	Number of Incentives
10 or more	1
20 or more	2
30 or more	3

- b. Housing Development With Very Low Income Restricted Affordable Units, for Sale or for Rent. A housing development project that includes at least 5 percent of the total units of the project for very low income households, either for sale units or for rent, shall be granted the following:
- i. Density Bonus. A project that includes 5 percent very low income housing shall be granted a density bonus of 20 percent. For each 1 percent increase above the required 5 percent very low income units, the density bonus shall be increased by 2.5 percent, up to a maximum density bonus of 35 percent. See Table DB 3.

Table DB 3

Percentage Very Low Income Units	Percentage Density Bonus
5	20.0
6	22.5
7	25.0
8	27.5

9	30.0
10	32.5
11 or more	35.0

- ii. Incentives. A project that includes at least 5 percent very low income units shall be granted one incentive. A project that includes at least 10 percent very low income units shall be granted two incentives. A project that includes at least 15 percent very low income units shall be granted three incentives. See Table DB 4.

Table DB 4

Percentage Very Low Income Units	Number of Incentives
5 or more	1
10 or more	2
15 or more	3

- c. Market Rate Senior Housing, for Sale or for Rent. A senior citizen housing development or a senior citizen mobilehome park, comprised of units for sale or for rent, shall be granted a minimum density bonus of 20 percent, which may be applied to the senior units only.
- d. Common Interest Development with Moderate Income Restricted Affordable Units, for Sale. A common interest development that includes at least 10 percent of its units for moderate income households, provided all of the development's units are for sale, shall be granted the following:
- i. Density Bonus. A development that includes 10 percent moderate income housing shall be granted a density bonus of 5 percent. For each 1 percent increase above the required 10 percent moderate income units, the density bonus shall be increased by 1 percent, up to a maximum density bonus of 35 percent. See Table DB 5.

Table DB 5

Percentage Moderate Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15

21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40 or more	35

- ii. Incentives. A project that includes at least 10 percent moderate income units shall be granted one incentive. A project that includes at least 20 percent moderate income units shall be granted two incentives. A project that includes at least 30 percent moderate income units shall be granted three incentives. See Table DB 6.

Table DB 6

Percentage Moderate Income Units	Number of Incentives
10 or more	1
20 or more	2
30 or more	3

- e. Housing for Transitional Foster Youth, Disabled Veterans, or Homeless Persons. A housing development project that includes at least 10 percent of the total units of the project for transitional foster youth, disabled veterans, or homeless persons; provided these units are at the affordability level of very low income housing, and provided an affordability restriction of 55 years is recorded against these units, shall be granted a density bonus equal to 20 percent of the number of these units.
- f. Land Donated for Very Low Income Housing. A housing development project that, by way of the application for subdivision map, parcel map, or other residential development approval, donates land to the City that satisfies the requirements of California Government

Code Section 65915(g) to include 10 percent the total units of the project for very low income households shall be granted a density bonus of 15 percent. For each 1 percent increase above the required 10 percent very low income units, the density bonus shall be increased by 1 percent, up to a maximum density bonus of 35 percent. See Table DB 7.

Table DB 7

Percentage Very Low Income Units	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30 or more	35

- g. Child Care Facility included with a Housing Development Project. A housing development project, which conforms to the requirements of Subsections (C)(1)(a) (Housing Development with Low Income Restricted Affordable Units, for Sale or for Rent), (C)(1)(b) (Housing Development with Very Low Income Restricted Affordable Units, for Sale or for Rent), (C)(1)(c) (Market Rate Senior Housing, for Sale or for Rent), (C)(1)(d) (Common Interest Development with Moderate Income Restricted Affordable Units, for Sale), or (C)(1)(e) (Housing for Transitional Foster Youth, Disabled Veterans, or Homeless Persons) of this section, and includes a child care facility located on the premises of, as part of, or adjacent to, the project, shall be granted one of the following:
 - i. An additional density bonus that is, for purposes of calculating residential density, an increase in the floor area of the project equal to the floor area of the child care facility included in the project; or

- ii. An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
 - h. Condominium Conversion to Moderate or Low Income Housing. Subject to the requirements of California Government Code Section 65915.5, a housing development project that involves the conversion of apartments into condominiums and that includes at least 33 percent of the total units of the project for low or moderate income households or 15 percent of the total units of the project for lower income households, shall be granted one of the following:
 - i. A density bonus of 25 percent; or
 - ii. Up to three incentives of, in the aggregate, equivalent financial value to the density bonus of 25 percent.
2. Ineligible Developments.
- a. Vacated Rental Property, Generally. A housing development project is ineligible for a density bonus, incentives, parking alterations, or any other concessions provided in this Section if the development is located on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the date of the application described in Subsection 14.28.040.A (Application), have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income; subject to any other form of governmental rent or price control; or occupied by lower or very low income households, unless:
 - i. The proposed housing development replaces those units, as defined in Subsection (C)(2)(c) (Replacement); and
 - ii. Either of the following applies:
 - A. The proposed development, inclusive of the units replaced pursuant to this Subsection, contains affordable units at the percentages required in Subsections (C)(1)(a) (Housing Development with Low Income Restricted Affordable Units, for Sale or for Rent), (C)(1)(b) (Housing Development Very Low Income Restricted Affordable Units, for Sale or for Rent), (C)(1)(c) (Market Rate Senior Housing, for Sale or for Rent), (C)(1)(d) (Common Interest Development with Moderate Income Restricted Affordable Units, for Sale), or (C)(1)(e) (Housing for Transitional Foster Youth, Disabled Veterans, or Homeless Persons); or
 - B. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a low or very low income household.
 - b. Vacated Rental Property, Condominium Conversion. An applicant for a condominium conversion described in Subsection (C)(1)(h) (Condominium Conversion to Moderate or Low Income Housing) shall be ineligible for a density bonus, incentives, parking alterations, or any other concessions provided in this Section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application Subsection (D)(1) (Application), have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income; subject to any other form of governmental rent or price control; or occupied by lower or very low income households, unless:

- i. The proposed condominium project replaces those units, as defined in Subsection (c) (Replacement) below; and
- ii. Either of the following applies:
 - A. The proposed condominium project, inclusive of the units replaced, contains affordable units at the percentages set forth in Subsection (D)(1) (Condominium Conversion to Moderate or Low Income Housing); or
 - B. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a low or very low income household.
- c. Replacement. For purposes of this Subsection (C)(2) (Ineligible Developments), "replace" shall mean either of the following:
 - i. If any dwelling units described in Subsections (C)(2)(a) (Vacated Rental Property, Generally) or (C)(2)(b) (Vacated Rental Property, Condominium Conversion) are occupied on the date an application as described in Subsection (D)(1) (Application) is submitted, the proposed housing development shall provide at least the same number of units of equivalent size, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in Subsection (C)(2)(a) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to covenant requirements of Subsection I (Covenants).
 - ii. If all dwelling units described in Subsections (C)(2)(a) (Vacated Rental Property, Generally) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall

be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to the covenant requirements of Subsection (I) (Covenants).

D. Application processing and review.

1. Application. An application for a density bonus, incentives, parking requirements alterations, and/or waiver or any other provision in this Section shall:
 - a. Be submitted in conjunction with an applicable development permit application;
 - b. Be made on a form provided by the Community Development Department;
 - c. Be accompanied by applicable fees;
 - d. Include reasonable documentation, using forms prepared by the City, and supporting materials that demonstrate how any concessions and/or incentives requested by applicant result in identifiable and actual cost reductions to provide the affordable housing;
 - e. Include reasonable documentation and supporting materials that demonstrate how a requested modification to or waiver of an applicable development standard is needed in order to avoid physically precluding the construction of the proposed project at the densities authorized under this Section or with the concessions and/or incentives requested; and
 - f. Include any other documentation or materials required by this Section or by the City for the purpose of density bonus, incentives, parking requirements alterations, and/or waivers or any other provision in this Section.
2. Review Authority. Applications shall be reviewed by the review authority charged to review the applicable development permit application.

E. Density bonus standards.

Developments eligible for density bonuses as provided in Subsection (C) (Development Eligibility, Bonus Densities, and Incentive Counts) may receive the density bonuses as provided below:

1. No Waiver Required. The granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.
2. Density Calculation. The area of any land required to be dedicated for street or alley purposes may be included as lot area for purposes of calculating the maximum density permitted by the underlying zone in which the project is located.
3. Fractional Units. All density bonus calculations shall be rounded up to the next whole number including the base density, Restricted Affordable units, and the number of affordable units required to be eligible for a density bonus.
4. Minimum Number of Dwelling Units. For the purpose of establishing the minimum number of five dwelling units in a project, the restricted affordable units shall be included and density bonus units shall be excluded.
5. Other Discretionary Approval. Approval of density bonus units shall not, in and of itself, trigger other discretionary approvals required by this Code.

6. Other Affordable Housing Subsidies. Approval of density bonus units does not, in and of itself, preclude projects from receipt of other government subsidies for affordable housing.
7. Optional Density Bonuses. Nothing in this section shall be construed to prohibit the city from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.
8. Lesser Percentage of Density Bonus. If elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density, is permissible.

F. Incentive standards.

A development eligible for incentives as provided in Subsection (C) (Development Eligibility, Bonus Densities, and Incentive Counts) may receive incentives or concessions as provided in Subsections (F)(1) (On-Menu Incentives) or (F)(2) (Off-Menu Incentives).

1. On-Menu Incentives.

The City Council has determined that the On-Menu Incentives listed below would not have a specific, adverse impact.

- a. Lot Coverage. Up to 20 percent increase in lot coverage limits.
 - b. Lot Width. Up to 20 percent decrease from a lot width requirement.
 - c. Floor Area Ratio. In zone districts with a floor area ratio maximum, an increase in the maximum floor area equal to the floor area of the affordable housing units for the housing development project, up to a 35% increase in the floor area maximum.
 - d. Height. Up to an eleven foot (11') increase in the allowable height.
 - e. Yard/Setback. Up to 20 percent decrease in the required width or depth of any individual yard or setback except along any property line that abuts a single-family R1 zoned property.
 - f. Open Space. Up to 20 percent decrease from an open space requirement, provided that (i) the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10 percent more than otherwise required by Chapter 12.40 (Uniform Code for the Abatement of Dangerous Buildings) and Landscape Ordinance Guidelines "O," and (ii) any such reduction is first applied to open space on any project floor or floors above grade.
2. Off-Menu Incentives. An applicant may request an incentive not included in Subsection (F)(1) (On-Menu Incentives), so long as such incentive meets the definition under state law. The review authority will determine whether any such requested Off-Menu Incentive may have a specific, adverse impact.
3. Denial of Requested Incentive.

The reviewing authority may deny a request for an incentive only if it makes a written finding, based on substantial evidence, of any of the following:

- a. The concession or incentive does not result in identifiable and actual cost reductions, consistent with the definition of "concession" or "incentive", to provide for affordable

housing costs, as defined in Health & Safety Section 50052.5, or for rents for the targeted units to be set as specified in Subsection (I).

- b. The concession or incentive would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households
- c. The concession or incentive would be contrary to state or federal law.

G. Parking Requirement Alteration Standards.

1. General Parking Requirement. Developments eligible for density bonuses and/or incentives as provided in Subsection (C) (Development Eligibility, Bonus Densities, and Incentive Counts) must comply with the applicable parking provisions of Chapter 14.74 (Off-Street Parking and Loading), unless the development qualifies for a parking requirement alteration as provided in Subsections (G)(2) (On-Menu Parking Requirement Alterations) or (G)(3) (Off-Menu Parking Requirement Alterations).
2. On-Menu Parking Requirement Alterations.
 - a. For Any Development Eligible for a Density Bonus. Upon the request of the developer, the City shall not impose a parking requirement, inclusive of handicapped and guest parking, of a development, that exceeds the following requirements:
 - i. For zero to one bedroom, one onsite parking space.
 - ii. For two to three bedrooms, two onsite parking spaces.
 - iii. For four and more bedrooms, two and one-half parking spaces.
 - b. For Low or Very Low Income Housing near Major Transit Stop. Upon the request of the developer, the City shall not impose a parking requirement, inclusive of handicapped and guest parking, that exceeds 0.5 parking spaces per bedroom if:
 - i. The development includes the maximum percentage of low or very Low Income units; and
 - ii. The development is located within one-half mile of a major transit stop; and
 - iii. There is unobstructed access to the major transit stop to the development.
 - c. For Senior Housing Developments with Only Rentals and Transportation. Upon the request of the developer, the City shall not impose a parking requirement, inclusive of handicapped and guest parking, that exceeds 0.5 parking spaces per bedroom if:
 - i. The development is a Senior Housing Development; and
 - ii. The development consists solely of rental units, excluding a manager's unit or units, at a housing cost affordable to low income families; and
 - iii. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

- d. Special Needs Housing Development with Only Rentals and Transportation. Upon the request of the developer, the City shall not impose a parking requirement, inclusive of handicapped and guest parking, that exceeds 0.3 parking spaces per bedroom if:
 - i. The development is a special needs housing development; and
 - ii. The development consists solely of rental units, excluding a manager's unit or units, at a housing cost affordable to low income families; and
 - iii. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- e. No Change to Incentive Count. A request pursuant to these On-Menu Parking Requirement Alterations shall neither reduce nor increase the number of incentives to which the applicant is entitled pursuant to Subsections (C) (Development Eligibility, Bonus Densities, and Incentive Counts) or (F) (Incentives Standards).
3. Off-Menu Parking Requirement Alterations. An applicant may request parking requirement alterations beyond those provided in Subsection (G)(2) (On-Menu Parking Requirement Alterations) as an incentive pursuant to (C) (Development Eligibility, Bonus Densities, and Incentive Counts) or (F) (Incentives Standards).
4. Optional Parking Requirement Alterations. This Section does not preclude the City from reducing or eliminating a parking requirement for development projects of any type in any location.
5. Provision of Parking. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a development may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking.
6. Parking Study. Notwithstanding the parking requirement alterations available in Subsections (G)(2) (On-Menu Parking Requirement Alterations) and (G)(3) (Off-Menu Parking Requirement Alterations), if the City or an independent consultant has conducted an area-wide or jurisdiction-wide parking study in the last seven years from the date of the application described in Subsection (D)(1) (Application), then the City may impose a higher parking requirement not to exceed the requirement described in Subsection (G)(2)(a) (For Any Development), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low and very low income individuals, including seniors and special needs individuals. The City shall pay the costs of any new study. The City shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking requirement.

H. Waiver standards.

1. Waivers or Reduction. An applicant may apply for a waiver or reduction of development standards that will have the effect of physically precluding the construction of a development identified in Subsection (C) (Development Eligibility, Bonus Densities, and Incentive Counts) at the densities or with the concessions or incentives permitted under this Section, and may request a meeting with the City to discuss the proposed waiver or reduction.

2. No Change in Other Incentives. A proposal for the waiver or reduction of development standards described in Subsection A shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to this Section.
3. Denial of Requested Waiver. The reviewing authority may deny a request for a waiver under this Section if it finds the waiver would:
 - a. Waive or reduce a development standard that would not have the effect of physically precluding the construction of a development meeting the criteria of this Section at the densities or with the incentives permitted under this Section; or
 - b. Have a specific, adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or
 - c. Have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
 - d. Be contrary to state or federal law.

I. Covenants.

1. Covenant Required. Prior to issuance of a building permit for a development identified in Subsection (C) (Development Eligibility, Bonus Densities, and Incentive Counts) that qualified for a density bonus, incentive, and/or parking alteration, the developer must record a restrictive covenant against the development as provided in Subsection (I)(2) (Covenants for Specific Developments).
2. Covenants for Specific Developments.
 - a. For Rental Developments for Low or Very Low Income Households. For a development that contains rental housing for low or very low income households, a covenant acceptable to the City shall be recorded with the Santa Clara County Recorder, guaranteeing that the affordability criteria will be observed for at least 55 years from the issuance of the Certificate of Occupancy or a longer period of time if required by the construction or mortgage financing assistance program, mortgage assistance program, or rental subsidy program.
 - b. For For-Sale Developments for Very Low, Low, and Moderate Income Households. For a for-sale development that contains housing for initial occupants of very low, low, and/or moderate incomes, an equity sharing agreement acceptable to the City and consistent with the for-sale requirements of California Government Code Section 65915(c)(2) shall be recorded with the Santa Clara County Recorder.
3. Private Right of Action. Any covenant described in this Section must provide for a private right of enforcement by the City, any tenant, or owner of any building to which a covenant and agreement applies.
4. Conflict of Durations. If the duration of affordability covenants provided for in this section conflicts with the duration for any other government requirement, the longest duration shall control.

J. State regulations.

All other provisions of California Government Code Sections 65915 to 65918, and any amendments thereto, not specified herein are incorporated by reference into this Section.



**LEAGUE OF WOMEN VOTERS
of the Los Altos-Mountain View Area**

July 16, 2018

Chair Phoebe Bressack and Members of the Planning Commission
City of Los Altos
1 N. San Antonio Road
Los Altos, CA 94022

Re: Agenda Item #4, Planning Commission Meeting July 19th - Affordable Housing Ordinance
Amendment

Dear Chair Bressack and Members of the Planning Commission:

The LWV supports affordable housing, including inclusionary zoning, which means requiring below-market-rate units (BMRs) to be built as part of both rental and for-sale complexes. The League believes that dispersing BMRs within a larger complex has been shown to be a socioeconomic and political success in California. We have also urged amending the Los Altos inclusionary zoning requirements in order to provide more BMRs in Los Altos. BMRs have always been a key strategy for Los Altos to produce affordable housing in an effort to achieve its Regional Housing Need Allocation (RHNA).

We commend the thorough staff report and support its recommendations. Requiring a minimum of 15% BMRs for both ownership and rental housing will put Los Altos in line with most of the cities in Santa Clara County. The amendments also improve coordination with the State Density Bonus Law, which many Los Altos developers are already using.

Finally, the proposed amendments are timely with respect to the June 21st report by the Civil Grand Jury of Santa Clara County on the affordable housing crisis. This report recommends that Los Altos raise its percentage to at least 15%. SV@Home, a local affordable housing advocacy group, also recommends that all jurisdictions raise their inclusionary percentage to 15%. We urge the Planning Commission to support these amendments.

Sue Russell
Co-Chair, Housing Committee
LWV of the Los Altos-Mountain View Area

Cc: Chris Jordan Jon Biggs Zach Dahl