



City Council Staff Report

From: City Manager

Report Type: ACTION ITEMS

Lead Department: Planning and Development Services

Meeting Date: December 18, 2023

Report #:2312-2388

TITLE

SECOND READING: Adoption of an Ordinance Implementing Program 1.1A and 1.1B of the Housing Element, Including: 1) New Chapter 18.14: Housing Incentives, and 2) Modifications to Base Zoning Districts Throughout Title 18. Adoption of a Resolution Making Corresponding Changes to the Land Use and Design Element of the Comprehensive Plan. (FIRST READING: November 13, 2023 PASSED 5-1-1, Kou no, Veenker recused and PASSED 6-1, Kou no)

RECOMMENDATION

Staff recommends the City Council receive public comment and take the following actions:

1. Adopt a resolution updating the Land Use and Design Element of the Comprehensive Plan to be consistent with Programs 1.1A and 1.1B of the Housing Element.
2. Adopt on second reading the attached housing element implementation ordinance that includes a clarifying revision related to a building facade modulation requirement for properties located in the Housing Focus Area.
3. Provide direction to staff if any other revisions to the ordinance are required, including changes that would be addressed in a subsequent new ordinance at a future date.

BACKGROUND

On November 13, 2023, the City Council adopted, on first reading, an ordinance amending the zoning code to implement programs in the City's adopted Housing Element. These changes are necessary to ensure that properties the City is relying on to plan for its regional housing needs can support the projected unit density and feasibly redevelop for housing. The statutory deadline to execute the zoning amendments is January 31, 2024. The ordinance becomes effective on the 31st day following a second reading of the ordinance and therefore should be adopted in December to meet the deadline.

On December 11, 2023, a property owner representative for a housing development at 3150 El Camino Real (Subject Property) requested the ordinance be pulled from the consent calendar to consider the following points:

1. A request to increase the height at which a step-back is required in the Housing Focus Area from 55 feet to 59 feet along El Camino Real;
2. A request to increase the allowed floor area ratio in the Housing Focus Area from 4.0 to 4.5; and,
3. Clarification on how a building modulation requirement in the Housing Focus Area for portions of a building that exceed 250 feet in length would be interpreted.

Staff subsequently met with the public speaker, conducted additional analysis and found that the building modulation requirement was duplicative of an existing design standard; as a result, staff have removed the requirement from the attached ordinance. Because this does not result in a substantive change, it can be accomplished without triggering a new first reading. Staff considers the other requests substantive policy changes, which if the Council agreed and wanted to advance, would require the ordinance to be reintroduced on first reading.

Staff also met with representatives for the property located at 3400 El Camino Real after the subject ordinance was pulled from the consent calendar. The representatives expressed continued concern about the Planning and Transportation Commission recommendation, which was adopted by the City Council, regarding the setback and transitional height for properties in the Housing Focus Area adjacent to low density and R1 zoned properties. The representatives noted an interest in asking the Council to revisit this provision if the ordinance were being reconsidered.

Given the statutory deadline to implement required zoning changes by the end of January, staff recommends the Council proceed with the second reading, with the recommended modification, and provide direction as appropriate on the other requests.

A resolution amending the Land Use Element of the Comprehensive Plan is also attached for adoption. As explained in the December 11, 2023 report, the text to be amended was included on November 13, but the actual resolution was inadvertently omitted. It is included here for formal adoption.

ANALYSIS

Given the short turnaround for packet preparation, this report focuses on the specific requests made during public comment. Additional information about the ordinance is available in two prior Council reports for November 13 and December 11, 2023.^{1,2}

¹ November 13, 2023 Council Report:

<https://cityofpaloalto.primegov.com/meetings/ItemWithTemplateType?id=3377&meetingTemplateType=2&compiledMeetingDocumentId=8399>.

² December 11, 2023 Council Report:

<https://cityofpaloalto.primegov.com/meetings/ItemWithTemplateType?id=3674&meetingTemplateType=2&compiledMeetingDocumentId=8672>.

Stepback Height Requirement. To accommodate additional building height in the Housing Focus Area and provide reasonable transitions in scale from El Camino Real, staff recommended, and Council supported, an upper level stepback above 55 feet in height. This provision requires portions of the building above this height to be set back further from the property line or building façade.³

The Subject Property has a modest slope of about three feet downward along El Camino Real from the northern front property corner to the southern front corner. While the finished floor elevation at the first floor generally follows this change in street grade elevation, the finished floor elevation at each floor level above does not. For instance, where a second floor is planned, the floorplate is 11' 4" above the highest street corner and a floorplate of 23' 4" at the third level, and so on. A consistent floorplate is a reasonable objective that makes the design and construction process more efficient and facilitates compliance with various technical codes, including Americans with Disabilities Act requirements. This design solution, however, is not absolute and changes in floorplate elevations can be incorporated into a building. In fact, the subject project incorporates such changes in floorplate elevation in the subterranean garage deck and first floor elevations.

A representative for the project located at 3150 El Camino Real asserts a 20 foot clearance is required for the refuse collection and staging area, which is located on the side of the property that has the higher street corner elevation. Applying that clearance and employing a consistent floorplate design results in the third floor having a finished floor elevation of 23'4" above the highest street corner elevation and 26' 4" above grade the lower street corner elevation. When more floors are added that also employ a consistent floorplate elevation, it results in the fifth floor exceeding the 55 foot height for the stepback requirement at the lower street corner elevation by about four feet.

Accordingly, the project applicant requests the Council adjust the Housing Focus Area ordinance to raise the 55 foot stepback requirement to 59 feet.⁴

Staff does not consider the change in the stepback height from 55 feet to 59 or 60 feet to be perceptually significant from the street grade. This change would also facilitate design flexibility for other Housing Focus Area sites and result in more generous interior volume spaces. However, when taken in combination with the allowance for parapets to extend above the height limit this change becomes more noticeable from street grade.

³ The City Council provided direction to staff on November 13 to develop standards to implement the upper level stepback based on the Council's discussion. Staff's response to this direction was detailed in the December 11 staff report, linked above.

⁴ The applicant also requested staff to consider whether the incorporation of a planter that raises the finished floor elevation at grade would qualify as the point to measure height if used to address onsite drainage. Staff has considered this request and found it is not applicable in this instance.

Alternatively, the applicant could decide to modify the design concept. The Housing Focus Area was created with an awareness of the 3150 El Camino Real project but not designed to precisely meet each aspect of the project on file with the City. Staff anticipated some design modifications would be required to comply with the new requirements, which are substantially more generous than the base district zoning and conveys greater development potential than can be achieved from the state density bonus. Specifically, the applicant could adjust the floorplate elevations at key locations in the design to accommodate the stepback height limit. The first and second floor spaces have generous heights, which from a design perspective is appropriate from the street elevation, but this space also does not serve retail uses, which tend to need higher floor to ceiling space. The residential units at the upper levels provide a generous, nearly 9 foot clearance that could be adjusted slightly to help achieve compliance. The applicant could also reconsider the placement of the refuse location and staging area, or slightly depress the entrance, so that the required clearance could be provided at a lower overall height. There are likely other approaches the applicant could consider to address the perceived limitations imposed by the height restriction. While the applicant has professed that it is simply not feasible to comply with the 55 foot stepback height, staff believe there are likely creative solutions that would allow a housing development at this scale, location and with a comparable number of units, based on the Housing Focus Area proposed development standards.

Floor Area Ratio. The representative for 3150 El Camino Real, when requesting the ordinance be pulled from the consent calendar, noted an interest in seeing the City's 4.0 floor area ratio, or FAR, be increased to 4.5 in the Housing Focus Area. The Subject Property had a 4.07 FAR when the Housing Focus Area standards were being created. A modest reduction in project floor area (less than 7,800 square feet) was anticipated with the proposed standards.⁵ A recent review of the project plans from the applicant suggests a minimum of 4.1 FAR is now needed for the project, as designed.

Similar to the request to change height, increasing the FAR for the Housing Focus Area is a policy consideration for Council. As noted, staff anticipated that some revisions to the subject project plans would be required when the Council adopted the ordinance. The City established the Housing Area Focus standards for several properties and did so with the intent to possibly expand these housing incentives to other properties. Increasing the floor area would apply to all properties in the Housing Focus Area.

Reducing the project floor area to achieve compliance would result in fewer housing units. As many as 12 units may be lost to achieve compliance, but potentially fewer. The total number of units proposed is 380. While every housing unit is valuable, the increase in development potential generated by the Housing Focus Area substantially increases what could be achieved

⁵ The lot area for the project at 3150 El Camino Real is 111,030 square feet. A 4.0 FAR would allow up to 444,120 square feet. Notably, in addition to showing a 4.07 FAR (451,507 square feet), the plans include a detailed calculation showing a total gross floor area of 441,817 square feet, which would be below 4.0 FAR.

based on existing zoning or through the state density bonus law. If the Council wants to increase Housing Focus Area floor area, it could direct staff accordingly. Alternatively, the applicant could modify the project to comply or may elect to pursue its builder's remedy project on file with the City.⁶

Building Modulation Requirement. The project representative for 3150 El Camino Real raised concern about a building modulation requirement in the Housing Focus Area. Staff has reviewed this and concurs that the language included in the ordinance is unnecessary and confusing. The intent of the provision was to carve out an exception in the Housing Focus Area from the City's objective design standards that require a diversity of housing types for projects on larger lots. The provision also included an additional building modulation requirement for building facades in excess of 250 feet that imposed a more stringent design standard than the existing objective design standards, which was not the intent. Accordingly, staff has modified the ordinance to omit the more restrictive building modulation standard and instead require projects to comply the existing objective requirement or seek modification to the requirement from the Architectural Review Board.

This modification is a minor clarification to the ordinance and can be remedied with the attached, second reading ordinance.

FISCAL/RESOURCE IMPACT

This action has no significant fiscal impact as it can be performed with current adopted staffing levels and consultant resources. Direction to prepare additional amendments to the Housing Focus area in advance of other initiatives, including in advance of prior Council direction to explore expanding the Housing Focus area, may result in a minor delay in other Housing Element program implementation initiatives, including work on the Housing Incentive Program, though such impacts are not expected to delay overall project timelines.

STAKEHOLDER ENGAGEMENT

Since the subject ordinance was removed from the consent calendar by Councilmembers Tanaka, Lauing and Vice Mayor Stone, staff meet with representatives of two properties referenced in this report. Notice of this meeting was posted at least 72 hours in advance on the City's website and posted on King Plaza at City Hall.

⁶ As previously reported, the outcome of a builder's remedy project is uncertain and may result in litigation. Moreover, the builder's remedy project is subject to potentially 5 public hearings, including appeals after the receiving the Architectural Review Board's recommendation and completing environmental review. By contrast, a Housing Focus Area project requires one courtesy meeting before the ARB and completion of environmental review.

ENVIRONMENTAL REVIEW

On November 13, 2023, the City Council adopted an Addendum to the Comprehensive Plan Environmental Impact Report (EIR) that analyzed the potential environmental impacts of the 2023-2031 Draft Housing Element. The recommendation included with this report is consistent with that prior analysis; no further environmental review is required at this time.

ATTACHMENTS

Attachment A: Resolution Amending Land Use and Design Element of the Comprehensive Plan

Attachment B: Ordinance Adopting Amendments to Title 18 to Implement Housing Element Program 1.1

APPROVED BY:

Jonathan Lait, Planning and Development Services Director