



**TO:** Planning Commission Chair and Members

**FROM:** Peter T. Imhof, Planning and Environmental Review Director

**CONTACT:** Anne Wells, Advance Planning Manager  
J. Ritterbeck, Senior Planner

**SUBJECT:** Public Hearing to Consider Case No. 19-021-GPA: General Plan Amendment to Include Rental Housing Projects in the Housing Element Inclusionary Housing Requirements.

**RECOMMENDATION:**

Staff recommends that the Planning Commission:

1. Adopt Resolution No. 19-\_\_ entitled, "A Resolution of the Planning Commission of the City of Goleta, California, Recommending to the City Council Approval of a General Plan Amendment to Amend the City's Housing Element Policy HE 2.5: Inclusionary Housing and to Determine that the General Plan Amendment is Exempt from CEQA, Pursuant to CEQA Section 15061(b)(3)." (Attachment 2)

The Planning Commission should refer the report back to staff for appropriate modifications, if the Commission does not adopt the recommended action.

**BACKGROUND:**

The City of Goleta adopted the Goleta General Plan/Coastal Land Use Plan (General Plan) on October 2, 2006. The General Plan contains the following seven state-required elements and two optional elements as follows: Land Use Element, Open Space Element, Conservation Element, Safety Element, Visual and Historic Resources Element, Transportation Element, Public Facilities Element, Noise Element, and Housing Element. The Housing Element establishes policies to maintain and improve existing housing and neighborhoods, facilitate development of new housing for persons of all incomes, support fair housing and special needs, encourage energy conservation and sustainable development, and support community partnerships and regional collaboration on housing issues. Since its adoption, the General Plan has been amended on twenty-one occasions. The most recent amendment occurred on May 21, 2019 for a change in the land use designation for the Hollister Village mixed-use apartment project.

The General Plan amendment process is governed by Article 6 of State Planning and Zoning Law (California Government Code §§ 65350 et seq.). Pursuant to Government Code Section 65354, the Planning Commission is required to make a written recommendation to the City Council on the amendment of the General Plan. However, the final decision is a legislative action, which is reserved for the City Council.

The General Plan Housing Element includes policy HE 2.5: Inclusionary Housing. When first adopted in September of 2006, the inclusionary housing requirements of the General Plan were applicable to both rental and “for-sale” units. Today however, the General Plan policies do not currently apply to new rental housing units. This exclusion was due to the 2009 decision of *Palmer/Sixth Street Properties, L.P., et al. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396 (*Palmer*). In *Palmer*, the Court concluded that an ordinance imposing an inclusionary affordable housing requirement on residential and mixed-use projects of more than ten dwelling units per lot conflicted with and was preempted by the rent control provisions of the Costa-Hawkins Act, which allows residential landlords to set initial rent levels at the commencement of a tenancy. To comply with this ruling, the City amended the General Plan to remove rental units from the inclusionary housing requirements on August 18, 2009 (Resolution No. 09-44). Subsequently, on September 29, 2017, Governor Brown signed into law Assembly Bill 1505, codified at Government Code sections 65850-65850.01, which served to supersede *Palmer*.

A General Plan amendment was initiated by the City Council on October 15, 2019 authorizing staff to process and propose any necessary revisions to HE 2.5 and any other related policies to include rental housing units in the City’s inclusionary housing requirements.

## **DISCUSSION:**

### **Latest Census Housing Statistics**

As shown in the General Plan’s Housing Element, Technical Appendix Table 10A-8 and based on data from the 2010 Census, the City had nearly 11,800 total housing units. Of these units, approximately 6,300 were owner-occupied and 5,500 were renter-occupied. With only an estimated five percent combined vacancy rate, both owners and renters were shown to be overpaying, but with a significantly higher percentage of renters overpaying, especially at the lower income levels. Since the 2010 Census, affordable housing has continued to be a prominent issue not just for the City of Goleta, but for the entire State of California. For the City, the policies within the General Plan’s Housing Element attempt to address the issue by establishing inclusionary housing requirements intended to facilitate the production of income-restricted affordable housing.

### **Current General Plan Inclusionary Requirements**

The primary intent of the inclusionary requirement is to achieve the construction of new affordable units on site. Alternatives to onsite construction, such as housing payments

and existing unit rehabilitation, are allowed under Housing Element policy HE 2.5. Per the policy, alternatives to the construction of new affordable on-site units are at the sole discretion of the City and an applicant must first prove that the on-site requirement is infeasible.

Currently, Housing Element policy HE 2.5 establishes inclusionary requirements on “for-sale” units with an exemption for individual single-family units. Projects consisting of two to four “for-sale” units are required to pay an inclusionary housing in-lieu payment. Projects of five or more “for-sale” units are required to provide 20 percent affordable units of the total number of “for-sale” units. Required affordability levels on these sites, including but not limited to the Central Hollister Affordable Housing Opportunity sites, are:

- 5% extremely low or very low (up to 50% AMI)
- 5% low (up to 80% AMI)
- 5% moderate (up to 120% AMI)
- 5% workforce (up to 200% AMI)

The policy allows the City to consider reducing the requirement from 20 percent to 15 percent based on certain findings. This possible reduction does not apply to projects within the Central Hollister Affordable Housing Opportunity Sites. In the case of reductions, the required affordability levels are:

- 2% extremely low or very low (up to 50% AMI)
- 5% low (up to 80% AMI)
- 4% moderate (up to 120% AMI)
- 4% workforce (up to 200% AMI)

## **Proposed General Plan Amendments**

Addressing local housing needs is an important part of retaining and enhancing the quality of life in Goleta. Housing affordability in the City and on the south coast area of Santa Barbara County as a whole has become an increasingly prominent issue. The proposed amendments to the General Plan Housing Element policy HE 2.5 are provided in Attachment 1 to this staff report. As previously stated, the amendments to the text are intended to allow the City to apply the inclusionary housing requirements to both new “for-sale” and rental units. Expanding the applicability of this policy to all new housing production of five or more units will not only help the City achieve its “regional fair share,” but will also help meet the needs of the local workforce and community as a whole.

AB 1505 allows local agencies to require up to 15 percent of proposed new rental housing to be at the low and very-low income categories without triggering an economic feasibility analysis and certain findings to be made. Local agencies have the option of requiring more than 15 percent. If a local agency requires more than 15 percent, the State’s Department of Housing and Community Development (HCD) can request the local agency to conduct an economic feasibility study within 180 days of adoption of the ordinance to show that the percentage required does not unduly constrain the production of housing. In order for HCD to have this review authority, the local agency

must either (1) have failed to meet at least 75 percent% of its share of regional housing need over at least a five-year period, or (2) the local agency has not submitted its annual housing element report for at least two consecutive years. Goleta does not meet the former criterion; therefore, HCD would have review authority, if Goleta required more than 15 percent.

Staff is proposing a General Plan Amendment that would align the rental affordable housing percentages to those already required in HE 2.5 for “for-sale” units. In summary, the City would require ten percent low and very low-income rental units and, if a reduction is granted, pursuant to policy, it would be reduced to seven percent low and very low income units. Staff is recommending numbers lower than the maximum amount that State law allows because by applying the currently adopted percentages it would allow the City to continue to rely upon the adopted General Plan EIR, which previously evaluated these percentages. Any change to these percentages could result in new or unintended negative effects that were neither considered nor analyzed in the EIR. Additionally, changes in these percentages could also result in a request for the preparation of an economic feasibility study to be submitted for review and approval by HCD. Any additional environmental review or economic feasibility study would result in a substantial work effort for planning staff and would impose a significant delay to the adoption of the NZO.

### **Effects of Proposed Amendments on Existing Applications**

The proposed and recommended amendments described above are subject to deliberation and adoption by the City Council. At the time of adoption, any pending applications for new housing developments of five or more units within the City would become subject to the amended inclusionary requirements and processes, unless vested under existing rules, which may change the outcome for these applicants. Furthermore, adoption of rental inclusionary requirements could make existing applications proposing all “for-sale” units economically infeasible. Existing applicants have been informed of the ongoing NZO adoption and General Plan amendment process and will be individually evaluated and briefed of the effects on their applications subsequent to City Council action on the proposed amendments.

### **Effect on New Zoning Ordinance Adoption**

As currently proposed, the NZO does not include a rental inclusionary requirement in order to maintain consistency with the existing General Plan. If the City Council were to approve an amendment to the General Plan to apply the inclusionary requirements to rental units, an amendment to the text of the NZO would be needed within Chapter 17.28, Inclusionary Housing. The amendment to the relevant text within the NZO could happen as part of the NZO adoption, if the City Council approves a General Plan amendment to policy HE 2.5 prior to action on the NZO; or, the text of the NZO would need to be amended subsequently, if the General Plan amendment to policy HE 2.5 is approved after the NZO is adopted.

## **Consultation with State Housing and Community Development**

Planning staff has contacted HCD in an effort to verify that the proposed General Plan amendment would not cause the need for re-certification of the existing certified Housing Element. On October 24, 2019, City staff received confirmation from HCD staff that, pursuant to Assembly Bill 1505, no further review would be required by the State. HCD staff indicated that since the City's inclusionary requirement for rental units would be set at ten percent for the lower-income categories, it did not trigger their review. The trigger for additional HCD review is a rental inclusionary required above 15 percent, or a request for evaluation by a third party. A request for HCD review would require the City to provide evidence that the ordinance does not unduly constrain the production of housing.

### **CEQA EXEMPTION:**

This amendment to the City's General Plan is exempt from California Environmental Quality Act (CEQA) requirements pursuant to Section 15061, Review for Exemption of the CEQA Guidelines. Specifically, subsection 15061(b)(3) states, in part, that a project is exempt from CEQA if "the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

Including rental units in the City's inclusionary housing requirements will result in no physical changes and will result in no change to the number of housing units built or expansion of use. The minor revisions to the Housing Element text would delete each reference to "for-sale" units and effectively extend the inclusionary policy to all new rental residential development. Consequently, the General Plan amendment does not represent an activity that can have a significant effect on the environment. Further, there are no unusual circumstances which would create a possibility that there would be a significant effect. Therefore, the General Plan amendment can be found to be exempt from CEQA through what is known as the "common sense exemption."

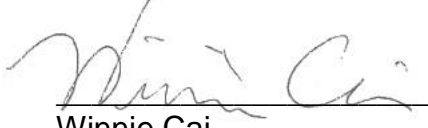
### **NEXT STEPS:**

After review of the recommended amendments to the General Plan, as provided in Attachment 1, the Planning Commission is asked to adopt the attached Resolution, included as Attachment 2, officially recommending adoption of the General Plan amendment by the City Council.

### **ALTERNATIVES:**

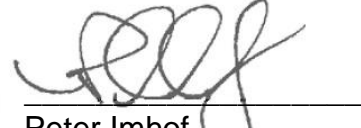
The proposed General Plan amendment would expand the applicability of the City's inclusionary housing requirements to include rental units. However; alternatively, the Planning Commission could decline to recommend the changes, which would preserve the inclusionary housing requirements applicability only to "for-sale" units.

Legal Review By:



Winnie Cai  
Assistant City Attorney

Approved By:



Peter Imhof  
Director of Planning and  
Environmental Review

**ATTACHMENTS:**

1. Proposed General Plan Text Amendment: HE 2.5 (with changes shown in strike-through/underline text)
2. Draft Planning Commission Resolution 19-\_\_: "A Resolution of the Planning Commission of the City of Goleta, California, recommending to the City Council approval of a General Plan Amendment to amend the City's Housing Element Policy HE 2.5: Inclusionary Housing and to Determine that the General Plan Amendment is Exempt from CEQA, Pursuant to CEQA Section 15061(b)(3)"

# **ATTACHMENT 1**

## **Proposed General Plan Text Amendment: HE 2.5** (w/ changes shown in strike-through/underline text)





**HE 2.5 Inclusionary Housing.** To the extent permitted by law, the City will require all residential developments—including, but not limited to, single-family housing, multifamily housing, condominiums, townhouses, stock cooperatives, and land subdivisions—to provide affordable housing as follows:

- a. Projects consisting of one ~~for-sale~~ single-family unit will be exempt from the inclusionary requirement.
- b. Projects consisting of two to four ~~for-sale~~ units shall be required to pay an inclusionary housing in-lieu payment.
- c. Projects of five or more ~~for-sale~~ units will be required to construct the applicable number of units, except that the City Council, at its sole discretion, may allow the inclusionary requirement for these projects to be satisfied by alternative means as set forth in this Implementation Program.
- d. Projects of five or more ~~for-sale~~ units located outside of the Central Hollister Affordable Housing Opportunity Sites, including subdivisions for purposes of condominium conversions, are required to provide 20 percent affordable units of the total number of ~~for-sale~~ units. The City may consider decreasing the 20 percent affordable unit requirement, but not less than 15 percent, on a case-by-case basis where the community services, such as new onsite or nearby park/open space facilities, resulting from the project exceed standards set forth in applicable law.

Proposed projects including ~~for-sale~~ units qualifying for a 15 percent affordability level shall provide 2 percent of the total number of ~~for-sale~~ units at prices affordable to extremely low- and very low-income households, 5 percent affordable to low-income households, 4 percent affordable to moderate-income households, and 4 percent affordable to above moderate-income households earning 120 to 200 percent of the median income.

Proposed projects including ~~for-sale~~ units qualifying for a 20 percent affordability level shall provide 5 percent of the total number of ~~for-sale~~ units at prices affordable to extremely low- and very low-income households, 5 percent affordable to low-income households, 5 percent affordable to moderate-income households, and 5 percent affordable to above moderate-income households earning 120 to 200 percent of the median income.

- e. Projects of five or more ~~for-sale~~ units located within the Central Hollister Affordable Housing Opportunity Sites, including subdivisions for purposes of condominium conversions, are required to provide 20 percent affordable units of the total number of ~~for-sale~~ units. The Central Hollister Affordable Housing Opportunity Sites, shown in Figure 10A-5 of the Technical Appendix, are site numbers 10, 11, and 12. Required affordability levels on these sites shall be as follows:
  - 1. 5 percent of the total number of ~~for-sale~~ units within the project shall be provided at prices affordable to extremely low- and very low-income households.
  - 2. 5 percent of the total number of ~~for-sale~~ units within the project shall be provided at prices affordable to low-income households.

- 3. 5 percent of the total number of ~~for-sale~~ units within the project shall be provided at prices affordable to moderate-income households.
  - 4. 5 percent of the total number of ~~for-sale~~ units within the project shall be provided at prices affordable to above moderate-income households earning 120 to 200 percent of the median income.
- f. The primary intent of the inclusionary requirement is to achieve the construction of new affordable units on site. A second priority is construction of affordable units off site or the transfer of sufficient land and funds to the City or a nonprofit housing organization to develop the required number of affordable units. If these options are determined to be infeasible by the City, other alternatives of equal value, such as, but not limited to, payment of an inclusionary housing in-lieu payment or acquisition and rehabilitation of existing units, may be considered at the sole discretion of the City.
- g. It is the City's intent to facilitate the production of new affordable housing commensurate with the needs of the community. Creative ways to meet the City's inclusionary requirement to help achieve City housing goals are encouraged, especially for extremely low-, very low-, and low-income housing, such as through partnership with a nonprofit housing agency. In addition, tradeoffs of extremely low- and very low-income units for moderate-income units may be considered if it can be demonstrated that the City's housing goals can be more effectively achieved. Such tradeoffs may incorporate a unit equivalency based on a financial pro forma provided by the applicant.
- h. The City will secure the affordability of inclusionary units by requiring a covenant, or other instrument approved as to form by the City Attorney, to be recorded against the property. The term of affordability restrictions shall be based on applicable federal laws and financing mechanisms, generally 45 years but not less than 30 years, and provide for monitoring and reporting in a manner acceptable to the City Attorney.

## **ATTACHMENT 2**

**Draft Planning Commission Resolution 19-\_\_:** “A Resolution of the Planning Commission of the City of Goleta, California, recommending to the City Council approval of a General Plan Amendment to amend the City’s Housing Element Policy HE 2.5: Inclusionary Housing and to Determine that the General Plan Amendment is Exempt from CEQA, Pursuant to CEQA Section 15061(b)(3)



**RESOLUTION NO. 19- \_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GOLETA, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A GENERAL PLAN AMENDMENT TO AMEND THE CITY'S HOUSING ELEMENT POLICY HE 2.5: INCLUSIONARY HOUSING AND TO DETERMINE THAT THE GENERAL PLAN AMENDMENT IS EXEMPT FROM CEQA, PURSUANT TO CEQA SECTION 15061(B)(3)**

**WHEREAS** the Goleta General Plan / Coastal Land Use Plan ("General Plan") is the City's official policy that guides land use and physical development of the geographic area of the incorporated City limits; and

**WHEREAS** California Government Code Section 65350 et. seq., authorizes cities and counties to prepare, adopt and amend General Plans and their elements; and

**WHEREAS** California Government Code Section 65358 (a) reads, "If it deems it to be in the public interest, the legislative body may amend all or part of an adopted General Plan. An amendment to the General Plan shall be initiated in the manner specified by the legislative body. Notwithstanding Section 66016, a legislative body that permits persons to request an amendment of the General Plan may require that an amount equal to the estimated cost of preparing the amendment be deposited with the planning agency prior to the preparation of the amendment"; and

**WHEREAS** City Council Resolution No. 12-13 establishes a procedure for the initiation of processing of requests for a General Plan Amendment; and

**WHEREAS** City Council Resolution No. 12-13 requires the City Council to consider certain factors for the initiation of General Plan amendments including consistency with the Guiding Principles and Goals of the General Plan, consistency with the surrounding community or General Plan, possible public benefits, availability of or the future study of the availability of public services, or rules or regulations that may drive the need to amend the General Plan; and

**WHEREAS**, on October 15, 2017, the City Council adopted Resolution 19-\_\_\_, initiating a General Plan Amendment to Housing Element Policy HE 2.5, Inclusionary Housing; and

**WHEREAS** the amendments to the General Plan Housing Element are to extend the City's inclusionary housing policy to all new residential development, including both for-sale and rental units; and

**WHEREAS** the General Plan Amendment can be found exempt from California Environmental Quality Act (CEQA) requirements per Section 15061(b)(3), Review for Exemption of the CEQA Guidelines, and the Section 15061(b)(3) exemption applies where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

**WHEREAS** the Planning Commission conducted a duly noticed public hearing on November 18, 2019, at which time all interested persons were given an opportunity to be heard; and

**WHEREAS** the Planning Commission considered the entire administrative record, including staff reports, the General Plan, and oral and written testimony from interested persons.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GOLETA, AS FOLLOWS:**

### **SECTION 1. RECITALS**

The Planning Commission hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

### **SECTION 2. APPROVAL OF GENERAL PLAN AMENDMENT**

The Planning Commission has considered all required factors outlined in City Council Resolution No. 12-13 and has determined the following:

- (a) It is anticipated that the proposed amendment will be consistent with the Guiding Principles and Goals of the General Plan. In particular, the proposed amendment conforms to Housing Element Housing Goals to support “A Variety of Housing Types and Choices” and “Employee Housing”;
- (b) It is anticipated that the proposed amendment will have no material effect on the community or the General Plan because the potential amendment would not allow for greater or more dense housing development than already envisioned in the General Plan;
- (c) The proposed amendment would potentially provide public benefit to the community through requiring income-restricted apartments within the City;
- (d) The proposed amendment is unlikely to alter the need or provisions for public facilities because the policy change would not allow for greater development or more dense housing development than already envisioned in the General Plan; and
- (e) The amendment proposed is not required under other rules or regulations.

### **SECTION 3. COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 65358**

The Planning Commission hereby recommends that the City Council deem that the amendments to the General Plan Housing Element are in the public interest.

#### **SECTION 4. RECOMMENDATION**

The Planning Commission hereby recommends that the City Council adopt the amendments to the General Plan Housing Element, included as Exhibit 1 (Policy HE 2.5 amended text).

#### **SECTION 5. DOCUMENTS**

The documents and other materials that constitute the record of proceedings upon which this decision is based, are in the custody of the City Clerk of the City of Goleta, located as 130 Cremona Drive, Suite B, Goleta, California, 93117.

#### **SECTION 6. CERTIFICATION**

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**PASSED, APPROVED AND ADOPTED** this 18<sup>th</sup> day of November, 2019.

\_\_\_\_\_  
PLANNING COMMISSION CHAIR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
DEBORAH S. LOPEZ  
CITY CLERK

\_\_\_\_\_  
WINNIE CAI  
ASSISTANT CITY ATTORNEY



STATE OF CALIFORNIA            )  
COUNTY OF SANTA BARBARA    )       ss.  
CITY OF GOLETA                 )

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 19-\_\_ was duly adopted by the Planning Commission of the City of Goleta at a regular meeting held on the 18<sup>th</sup> day of November, 2019 by the following vote of the Commission:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

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DEBORAH S. LOPEZ  
CITY CLERK



# **EXHIBIT 1**

## **Policy HE 2.5 Amended Text**



**HE 2.5 Inclusionary Housing.** To the extent permitted by law, the City will require all residential developments—including, but not limited to, single-family housing, multifamily housing, condominiums, townhouses, stock cooperatives, and land subdivisions—to provide affordable housing as follows:

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- b. Projects consisting of two to four units shall be required to pay an inclusionary housing in-lieu payment.
- c. Projects of five or more units will be required to construct the applicable number of units, except that the City Council, at its sole discretion, may allow the inclusionary requirement for these projects to be satisfied by alternative means as set forth in this Implementation Program.
- d. Projects of five or more units located outside of the Central Hollister Affordable Housing Opportunity Sites, including subdivisions for purposes of condominium conversions, are required to provide 20 percent affordable units of the total number of for-sale units. The City may consider decreasing the 20 percent affordable unit requirement, but not less than 15 percent, on a case-by-case basis where the community services, such as new onsite or nearby park/open space facilities, resulting from the project exceed standards set forth in applicable law.

Proposed projects including units qualifying for a 15 percent affordability level shall provide 2 percent of the total number of units at prices affordable to extremely low- and very low-income households, 5 percent affordable to low-income households, 4 percent affordable to moderate-income households, and 4 percent affordable to above moderate-income households earning 120 to 200 percent of the median income.

Proposed projects including units qualifying for a 20 percent affordability level shall provide 5 percent of the total number of units at prices affordable to extremely low- and very low-income households, 5 percent affordable to low-income households, 5 percent affordable to moderate-income households, and 5 percent affordable to above moderate-income households earning 120 to 200 percent of the median income.

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  4. 5 percent of the total number of units within the project shall be provided at prices affordable to above moderate-income households earning 120 to 200 percent of the median income.
- f. The primary intent of the inclusionary requirement is to achieve the construction of new affordable units on site. A second priority is construction of affordable units off site or the transfer of sufficient land and funds to the City or a nonprofit housing organization to develop the required number of affordable units. If these options are determined to be infeasible by the City, other alternatives of equal value, such as, but not limited to, payment of an inclusionary housing in-lieu payment or acquisition and rehabilitation of existing units, may be considered at the sole discretion of the City.
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