TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE AGENDA
AUGUST 27, 2019
110 EAST MAIN STREET
LOS GATOS, CA
5:00 PM

Marcia Jenson, Vice Mayor
Barbara Spector, Council Member

MEETING CALLED TO ORDER

ROLL CALL

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Council or public may request to have an item removed from the Consent Items for comment and action. If an item is pulled, the Mayor has the sole discretion to determine when the item will be hear. Unless there are separate discussions and/or actions requested by Council, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)*

1. Approve the minutes of the Council Policy Committee meeting of July 23, 2019.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

2. Review and Provide Direction on Proposed Modifications to the Commission Appointment Policy.
3. Discuss and Provide Direction on the Land Use Appeal Process.
4. Provide direction on potential amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding below market price regulations and options for the use of below market price in-lieu fees.

ADJOURNMENT

DRAFT
Minutes of the Regular Town Council Policy Committee Meeting
July 23, 2019

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, July 23, 2019, at 5:00 p.m.

MEETING CALLED TO ORDER AT 5:01 P.M.

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Matt Morley, Parks and Public Works Director; Lisa Petersen, Assistant Parks and Public Works Director/Town Engineer; Sally Zarnowitz, Planning Manager; Holly Zappala, Management Analyst.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

1. **Approval of the June 25, 2019 Council Policy Committee Minutes.**

   Approved.

2. **Review and Provide Direction on Regulations for Dedications of Public Right-of-Way, Installation of Curbs, Gutters, and Sidewalk, and Undergrounding of Utilities.**

   Lisa Petersen, Assistant Parks and Public Works Director/Town Engineer, presented the staff report.

   After discussion, the Committee asked staff to return to the Committee with a draft ordinance that succinctly makes dedications of public right-of-way, installation of curbs, gutters, and sidewalk, and undergrounding of utilities applicable to building permits. The Committee also requested that staff review the current policy regarding when and how "in-lieu" fee money is used.

3. **Discuss and Provide Direction on the Land Use Appeal Process.**

Robert Schultz, Town Attorney, presented the staff report.

After discussion, the Committee asked staff to return to the Committee with revised language reflecting the following two options for the land use appeal process:

- The Town Council may consider additional findings/information as part of the land use decision appeal; and
- The Town Council's review of appeals is based solely on the verbal and paper transcript record of the Planning Commission, and any new information would need to return to the Planning Commission and not be considered by the Town Council as part of the appeal.

The Committee remained in agreement that the duty to make a finding should fall on the land use appellant and not the Town Council.

ADJOURNMENT
The meeting adjourned at 5:48 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the July 23, 2019 meeting as approved by the Town Council Policy Committee.

____
Holly Zappala, Management Analyst

TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE REPORT

MEETING DATE: 08/27/2019

ITEM NO: 2

DATE: August 20, 2019

TO: Council Policy Committee

FROM: Laurel Prevetti, Town Manager

SUBJECT: Review and Provide Direction on Proposed Modifications to the Commission Appointment Policy

RECOMMENDATION:

Review and provide direction on proposed modifications to the Commission Appointment Policy.

BACKGROUND:

The Town accepts applications for Commissions throughout the year and holds its annual recruitment and appointment process in the fall, with mid-year recruitments held in early spring if necessary. In accordance with State Law, the Town Clerk posts a list of current vacancies on the Town website and on the front door of Town Hall throughout the year. During the recruitment cycle, the Town Clerk advertises the current vacancies in various mediums (Leadership Los Gatos, Chamber of Commerce, Los Gatos Weekly ads, Town website, social media, Town events, etc.) to inform residents and encourage participation. During the recruitment cycle, the Town Clerk notifies applicants from the last 12 months who were not interviewed by Council of the vacancy and determines if they are still interested in volunteering. If the applicant is interested, they are placed in the applicant pool for the next scheduled interviews by Council.

Per Town Policy 2-11, the Town Clerk prepares and maintains applications for appointment to Commissions. There are separate applications for each of its Commissions. Currently an applicant can only apply for one Commission and can only serve on one Commission at a time.

PREPARED BY: Shelley Neis
Town Clerk

Reviewed by: Town Manager and Assistant Town Manager

110 E. Main Street Los Gatos, CA 95030 ● 406-354-6832
www.losgatosca.gov

DISCUSSION:

The Town Clerk receives applications to Commissions throughout the year and in recent years, there has been a decline in applications submitted. In some cases, certain Commissions receive many applications while other Commissions do not have any applicants.

In order to encourage and utilize applicants who are not appointed to their choice of Commission, staff is recommending that the application process be streamlined to allow one application for all Commissions and allowing the applicant to rank their choices. This allows applicants who were not chosen for their first choice to be selected for their second (or third, etc.) Commission of choice. This prevents the Town from turning away potential volunteers by giving them an option to volunteer for another Commission during the current recruitment process.

Staff is recommending that the timeframe for keeping applications on file be changed from 12 months to 24 months for applicants that were interviewed and not appointed by Council and remain at 12 months for applicants that were not interviewed by Council. Staff is also recommending that if a mid-term vacancy arises, staff will bring recommended appointments for Council consideration at the next available Council meeting.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

DATE: August 22, 2019

TO: Council Policy Committee

FROM: Laurel Prevetti, Town Manager

SUBJECT: Discuss and Provide Direction on the Land Use Appeal Process

RECOMMENDATION:

Discuss and provide direction on the land use appeal process.

BACKGROUND:

On June 25, 2019, the Policy Committee considered changes to the Town Code regarding the requirement that the Town Council make one of three findings to modify or reverse the decision of the Planning Commission on any appeal. The Committee members reached a consensus on the following matters:

- Revise Section 29.20.275 of the Town Code to require the appellant's notice of appeal to include the error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record, and to clarify that the appellant may submit a written request to withdraw their appeal any time before the scheduled hearing for the appeal;
- Revise Section 29.20.295 of the Town Code to require the appellant to bear the burden of proof in proving that the Planning Commission decision was not supported by substantial evidence; and
- Remove the requirement that the Town Council make one of three findings to modify or reverse the decision of the Planning Commission on an appeal from Section 29.20.300 of the Town Code.

PREPARED BY: Joel Paulson
Community Development Director

Reviewed by: Town Manager and Town Attorney

110 E. Main Street Los Gatos, CA 95030 ● (408) 354-6832
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BACKGROUND (continued):

The changes that both Policy Committee members reached a consensus on are as follows:

Sec. 29.20.275. - Appeals from decisions by the Planning Commission.
Any interested person as defined in section 29.10.020 may appeal to the Council any decision of the Planning Commission. The appellant must file a written notice of appeal in duplicate with the Clerk not more than ten (10) days after the decision is rendered. ~~The notice shall state clearly the reasons why the appeal ought to be granted.~~ The notice of appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record. The Council shall only hear the appeal if the notice is filed and all required fees are paid within the ten-day appeal period. ~~Once a notice of appeal has been filed, it may be withdrawn by the appellant prior to the distribution of public hearing notices, but not thereafter~~. An appellant may submit a written request to withdraw their appeal any time before the scheduled hearing for the appeal.

~~**Sec. 29.20.300. - Decision.**~~
~~(a) Any decision of the Council modifying, in whole or in part, the order, requirement, decision, determination, interpretation, or ruling appealed from, or making and substituting another decision or determination, requires the concurrence of a majority of the membership of the Council.~~
~~(b) If the Council decides to modify or reverse the decision of the Planning Commission, on any appeal, the resolution shall specify one or more of the following:~~
~~(1) Where there was error or abuse of discretion on the part of the Planning Commission; or~~
~~(2) The new information, that was submitted to the Council during the appeal process that was not readily and reasonably available for submission to the Commission.; or~~
~~(3) An issue or policy over which the Commission did not have discretion to modify or address, but which is vested in the Council for modification or decision.~~
~~c) If the only or predominant reason for modifying or reversing the decision of the Planning Commission is the availability of new information as defined in subsection~~

~~(b)(2) above, it is the policy of the Town that the application will be returned to the Commission for review in light of the new information unless the new information has minimal effect on the application.~~
~~(dc) The decision of the Council upon the appeal will be expressed by a written resolution. The Council will forthwith transmit copies of the resolution to the original applicant, the appellant, and the Planning Commission.~~

BACKGROUND (continued):

Regarding Section 29.20.295 of the Town Code, the Policy Committee did not reach a consensus on whether the Town Council should be able to consider additional information during the appeal process. Therefore, after discussion, the Committee's direction in June was to move forward without a recommendation on this specific issue, after returning to the Committee with the potential changes to Town Code representing the two points of view. On July 23, 2019, the Committee reviewed the potential changes to Town Code provided; however, did not reach consensus on the language.

DISCUSSION

The Committee's direction in July was to return with alternative ordinance language representing the two points of view.

In the first point of view, the existing ordinance language that the Town Council may consider the record and such additional information as may be offered by anyone during the appeal process, would be retained, as follows:

> **Sec. 29.20.295. - Council hearing and decision.**
> When hearing the appeal, the Council shall consider the record and such additional information as may be offered by anyone and may affirm, modify or reverse, in whole or in part, the determination appealed from, or make and substitute such other determination as is warranted, or may remand to the Planning Commission for further review and determination. The appellant bears the burden of proof before the Council in~~s~~ proving that one or more of the reasons specified in section 29.20.~~300~~ 275 exist on the appeal for reversing or modifying the Commission determination. The standards of this chapter governing the discretion of the reviewing body shall apply with equal effect to actions of the Council.

In the second point of view, the existing ordinance language that the Town Council may consider the record would be retained; however, the existing language that the Town Council may also consider such additional information as may be offered by anyone would be removed, as follows:

> **Sec. 29.20.295. - Council hearing and decision.**
> When hearing the appeal, the Council shall consider the record ~~and such additional information as may be offered by anyone~~ and may affirm, modify or reverse, in whole or in part, the determination appealed from, or make and substitute such other determination as is warranted, or may remand to the Planning Commission for further review and determination. If the only or predominant reason for modifying or reversing

DISCUSSION (continued):

> the decision of the Planning Commission is the availability of new information that was not readily and reasonably available for submission to the Commission, it is the policy of the Town that the application will be returned to the Commission for review in light of the new information unless the new information has minimal effect on the application. The appellant bears the burden of proof before the Council in~~s~~ proving that one or more of the reasons specified in section 29.20.~~300~~ 275 exist on the appeal for reversing or modifying the Commission determination. The standards of this chapter governing the discretion of the reviewing body shall apply with equal effect to actions of the Council.

Staff looks forward to the continued Policy Committee discussion and direction for next steps.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's and Town Attorney's offices.

TOWN OF LOS GATOS

COUNCIL POLICY COMMITTEE REPORT

MEETING DATE: 08/27/2019

ITEM NO: 4

DATE:	August 22, 2019
TO:	Council Policy Committee
FROM:	Laurel Prevetti, Town Manager
SUBJECT:	Provide direction on potential amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding below market price regulations and options for the use of below market price in-lieu fees.

RECOMMENDATION:

Provide direction on potential amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding below market price regulations and options for the use of below market price in-lieu fees.

BACKGROUND:

On April 9, 2019, the Policy Committee discussed potential amendments to the Town Code regarding below market price (BMP) regulations. Following a brief discussion, the Policy Committee provided direction to staff to bring back the following items for further discussion:

- BMP regulations in other communities;
- The Town's Affordable Housing Strategy;
- Residential linkage fees;
- Options for amending the Town's BMP regulations, including:
  - Lowering the threshold for requiring BMP units
  - Greater flexibility in unit sizes and types; and
- Options for use of the Town's accumulated and future BMP in-lieu fees.

PREPARED BY: Joel Paulson
Community Development Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

110 E. Main Street Los Gatos, CA 95030 ● 406-354-6832
www.losgatosca.gov

DISCUSSION:

Attachment 1 contains a comparison of affordable housing requirements for other cities located in Santa Clara County and Alameda County prepared for the County of Santa Clara by Keyser Marston Associates in 2016. Attachment 2 contains the Town's Affordable Housing Strategy, prepared by Seifel Consulting Inc. in 2009. Attachment 3 contains an excerpt from the Town Operating Budget regarding the BMP Housing Program. As of June 30, 2019, the BMP in-lieu deposit account has $3,845,018.48 in available funds.

Due to the work effort involved, staff recommends that the exploration of applying residential linkage fees to new market rate housing developments and/or commercial developments and modifying the in-lieu fee and/or threshold for requiring BMP units be considered by the Town Council during its discussion on Strategic Priorities, as these changes would require a nexus study.

Staff has prepared potential amendments to the Town Code (Attachment 4) and the BMP Housing Program Guidelines (Attachment 5) based on the discussion of the Policy Committee at the April 9, 2019 meeting. The potential amendments are shown in ~~strike-through~~ and underline font.

Staff will be available at the meeting to answer questions and looks forward to receiving direction on potential amendments to the Town's BMP regulations.

This meeting will provide an opportunity for the public to provide input and the Policy Committee to provide direction regarding potential amendments to the Town Code and Guidelines regarding BMP regulations. Based on the Policy Committee's direction, staff would prepare potential amendments to the BMP regulations for a future Policy Committee discussion. Ultimately, the Policy Committee's recommendations for potential amendments would be considered by the General Plan Committee (where applicable), Planning Commission, and Town Council.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

Attachments:
1. Table V-1 of Affordable Housing Nexus Study prepared for Santa Clara County
2. Affordable Housing Strategy
3. FY 2018-19 Town Operating Budget, BMP Housing Program
4. Potential Town Code Amendments
5. Potential Amendments to the BMP Housing Program Guidelines

TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
SANTA CLARA COUNTY CITIES

	Campbell	Los Altos	Milpitas	Santa Clara City
Year Adopted / Updated	2006	Est. 1995, update 2009	2015	Est. 1991, update 2006 and 2017
Minimum Project Size				
For Fee Payment	**FS,** <6du/Ac: 10 units FS, >6 du/Ac: n/a	n/a	**FS/R:** 5 units	**FS/R: 3** units
For Build Requirement	**FS,** <6du/Ac: n/a **FS,** >6du/Ac: 10 units	**FS:** 5 units	no build req.	**FS/R:** 10 units
Impact / In-Lieu Fee	**FS:** $34.50 /sf	none	**FS/R:** 5% building permit value	Single family: $30 psf Townhome: $25 psf Condo: $20 psf Rentals: $20 psf
Onsite Requirement/Option				
Percent of Total Units	**FS:** 15%	**FS:** 10%	**FS/R:** 5%	**FS/R:** 15%
Income Level for Qualification	FS: Low and Moderate	FS: Moderate If <10 units, one unit at Low.	FS/R: Low and Very Low	May be at a range of income levels.
Income Level for Pricing(% AMI)	FS: Moderate @ 110% Low @ 70%	Not Specified.	Not specified.	May be at a range of income levels but must average to 100% AMI or below.
Fractional Units	<0.5: round down, >0.5: round up	provide unit	not specified	pay fee or provide unit
Comments	code does not specify allocation between Low and Moderate; staff indicates approximately 50/50 allocation has been the experience.	<4 du/Ac: no requirement. Also, requirements may be waived by City Council for projects of 9 units or less.	In-lieu/impact fee introduced as temporary measure while City prepares formal nexus study. Fee has not yet been assessed.	

Abbreviations:	R = Rental du = Dwelling Unit	FS = For Sale Ac = Acre	/sf = per square foot AMI =Area Median Income	MF = Multi-Family SF = Single Family

1. Santa Clara County and Saratoga do not currently have an inclusionary housing requirement.

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction.
Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

d by Keyser Marston Associates, Inc. April 2016.
: \\SF-FS2\wp\19\19163\006\Inclusionary comparison chart 2-19-18; 2scc; 3/6/2018;kf

ATTACHMENT 1

TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
SANTA CLARA COUNTY CITIES (PLUS SAN MATEO COUNTY)

	Cupertino	Mountain View	San Jose	Sunnyvale	San Mateo County
Year Adopted / Updated	Est. 1992, update 2015	Est. 1999, rental impact fee in 2012, update 2015	Est. 2010.	Update 2015	Est. 2004; update 2016
Minimum Project Size For Fee Payment	**FS/R:** 1 unit	**FS:** 3 units **R:** 5 units **Mixed FS/R:** 6 units	**FS/R:** 20 units	**FS:** 8 units **R:** 4 units	**FS/R:** 1 unit
For Build Requirement	**FS:** 7 units	**FS:** 10 units	no build req.	**FS:** 20 units	MF: 10 units; SF: no build rqrmt.
Impact / In-Lieu Fee	**FS:** *Detached* $15/sf, *Attached* $16.50/sf, *MF* $20/sf **R:** *<35 du/Ac* $20/sf, *>35 du/Ac* $25/sf	**FS:** 3% of sales price **R:** $17/sf	**FS:** based on affordability gap **R:** $125,000 SF per affordable unit owed	**FS:** 7% of sales price **R:** $8.50/sf (4-7 units), $17/sf (8+ units)	**FS:** 1 unit: $5 psf above 2,500 SF 2-4 units: $5 psf, 1st 2,500 SF then $12.50 SF 5+ units: $15 MF 5+ units: based on gap calculation **R:** $10
Onsite Requirement/Option Percent of Total Units	**FS/R:** 15%	**FS/R:** 10%	**FS:** 15%	**FS:** 12.5% **R:** On-site credits (see below)	MF 5+ units: 20%; SF: 15%
Income Level for Qualification	FS: 1/2 Median 1/2 Moderate R: 40% Low, 60% Very Low	FS: Median R: Low	FS: Moderate R: 9% Moderate 6% Very Low	FS: Moderate	MF 5+ units: FS: ELI to Mod, <= 50% @ Mod; R: ELI to Low, <= 50% @ Low; SF: Mod
Income Level for Pricing(% AMI)	**FS:** Moderate @ 110%, Median @ 90% **R:** Low @ 60%, Very Low @ 50% AMI	**FS:** One unit: 90% AMI Multiple units: 80 - 100% AMI **R:** Ranges btwn 50-80% AMI	Moderate @ 110% AMI Rental @ 80% and 50% of AMI	Moderate @ 100% AMI	State H&S code standards
Fractional Units	<.5 unit owed: pay fee .5+ unit owed: round up	pay fee or provide unit	<.5 unit owed: round down .5+ unit owed: round up	pay fee or provide unit	pay fee
Comments			Inclusionary program reinstated in 2016 following litigation. Rental requirements automatically apply following AB 1505	On-site rental: developer credited $300,000/du (Very Low), $150,000/du (Low). Projects with fewer than 20 units are eligible to pay in-lieu fee.	Inclusionary program applies to multifamily projects of 5+ units; impact fee program applies to single family and smaller multifamily projects.

Abbreviations:	R = Rental du = Dwelling Unit	FS = For Sale Ac = Acre	/sf = per square foot AMI =Area Median Income	MF = Multi-Family SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction.
Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

ser Marston Associates, Inc. April 2016.
Filename: \\SF-FS2\wp\19\19163\006\Inclusionary comparison chart 2-19-18; 4comp.scc; 3/7/2018;kf

TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
ALAMEDA COUNTY CITIES

	Albany	Fremont	Hayward	San Leandro	Union City
Year Adopted / Updated	2005	Est. 2002, update 2015, full phase-in 2017	Updated in 2017	2004	Est. 2001, update 2006
Minimum Project Size					
For Fee Payment	**FS:** 5 units	**FS/R:** 2 units	**FS/R:** 2 units	**FS:** 2 units	**FS/R:** 1 unit
For Build Requirement	**FS:** 7 units	no build req.	no build req.	**FS:** 7 units	no build req.
Impact / In-Lieu Fee	**FS:** (Market Value - Affordable Price) x units owed	**FS:** *Attached* $27.00 no units, $18.50 w/ aff units *Detached* $26.00 no units, $17.50 w/ aff units, **R:** $17.50 no map, $27.00 w/ map	**FS / R:** $18.18/sf, *Condos (35+ DU/acre): $15 /sf* Add 10% if paid at C/O	**FS:** (Median Sale Price - Affordable Price) x units owed	**Council Direction for Updated Ordinance (April 2017):** FS: $22/SF R: $14/SF
Onsite Requirement/Option					
Percent of Total Units	**FS:** 15%	**FS:** *Attached* 3.5% plus $18.50/sf *Detached* 4.5% plus $17.50/sf **R:** 12.9%	**FS:** 10%, *Condos (35+ DU/acre): 7.5 %* **R:** 6%	**FS:** 15%	**FS:** 15%
Income Level for Qualification	FS: <10 units: Low 10+ units: 50% Low, 50% Very Low	FS: Moderate Income R: 19% Extremely Low, 33% Very Low, 25% Low, 24% Moderate	FS: Moderate Income R: 50% Low, 50% Very Low	FS: 60% Moderate, 40% Low	FS: 60% Moderate, 30% Median, 10% Low.
Income Level for Pricing(% AMI)	Not specified.	FS: Moderate @ 110% AMI (120% w/approval) R: Low @ 60% AMI, Very Low @ 50% AMI, Extremely Low @ 30% AMI	**FS:** Moderate @ 110% AMI **R:** Low @ 60% AMI Very Low @ 50% AMI	FS: Moderate @ 110% AMI, Low @ 70% AMI	FS: Moderate @ 110% AMI, Median not specified (80-100%) Low @ 70% AMI
Fractional Units	<0.5: pay fee, >0.5: provide unit	pay fee or provide unit	pay fee or provide unit	<0.5: round down, >0.5: round up	pay fee or provide unit
Comments		Full phase-in levels shown. Rental projects with a subdivision map pay the higher fee. FS projects req. to provide onsite units and pay fee.		Fee calculated based on current median sales price.	Reflects Council direction for updates to ordinance that have not yet been adopted. Fee applies to additions over 500 square feet.

Abbreviations:	R = Rental du = Dwelling Unit	FS = For Sale Ac = Acre	/sf = per square foot AMI =Area Median Income	MF = Multi-Family SF = Single Family

<u>Notes:</u> This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction.
Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

ser Marston Associates, Inc. April 2016.
FS2\wp\19\19163\006\Inclusionary comparison chart 2-19-18; 1ac; 3/6/2018;kf

TABLE V-1
COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS - RESIDENTIAL
ALAMEDA COUNTY CITIES

	Alameda (city)	**Berkeley**	**Dublin**	**Oakland**	**Pleasanton**
Year Adopted / Updated	2003	Est. 1986, rental fee 2011, update adopted 2017	Est. 1997, update 2005	2016	Est. 1978, update 2000.
Minimum Project Size					
For Fee Payment	**FS:** 5 units	**FS/R:** 5 units	**FS/R:** 20 units	**FS/R:** 1 unit	**FS/R:** 15 units
For Build Requirement	**FS:** 10 units	no build req.	**FS/R:** 20 units (partial)	no build req.	no build req.
Impact / In-Lieu Fee	**FS:** $19,076/du	**FS:** 62.5% x (Sale Price - Affordable Price) x units owed **R:** $34,000/du or $37,000/du if paid at C/O	**FS/R:** $127,061 per aff unit owed (in addition to on-site)	**FS/R:** *MF* $12,000-$22,000, *SF Attached* $8,000-$20,000, *SF Detached* $8,000-$23,000	**FS/R:** *MF* $2,783/du, *SF* <1,500 sq ft: $2,783/du, >1,500 sq ft: $11,228/du
Onsite Requirement/Option					
Percent of Total Units	**FS:** 15%	**FS/R:** 20%	**FS/R:** 7.5%, plus fee (12.5% without fee)	**FS/R:** *Option A* 5% or *Option B* 10%	**FS/R:** *MF* 15% *SF* 20%
Income Level for Qualification	**FS:** 47% Moderate, 27% Low, 27% Very Low	FS: Low R: *Current* Very Low *Proposed* 1/2 Very Low, 1/2 Low	FS: 60% Moderate, 40% Low R: 50% Moderate, 20% Low, 30% Very Low	FS/R: *Option A* Very Low *Option B* Low and Moderate	FS: *MF* Low *SF* Moderate
Income Level for Pricing(% AMI)	**FS:** Moderate @ 110%, Low @ 70%, Very Low @ 50%	**FS:** Low @ 80% **R:** Low at 81%, Very Low at 50%.	**FS:** Moderate @ 110%, Low @ 70% R: Moderate @ 110%, Low @ 80%, Very Low @ 50%	FS: Moderate @ 110%, Low @ 70%, Very Low @ 50% R: Moderate 110%, Low @ 60%, Very Low @ 50%	**FS:** *MF* 80% AMI *SF* 120% AMI
Fractional Units	<0.5: round down, >0.5: round up	pay fee	<0.5: round down, >0.5: round up	pay fee or provide unit	<0.5: round down, >0.5: round up
Comments				Fees vary by neighborhood. Fees phased in through 2020. Full fee levels shown. On-site: May choose Option A or B. Based on draft ordinance prepared for April 19, 2016 council meeting.	

Abbreviations:	R = Rental du = Dwelling Unit	FS = For Sale Ac = Acre	/sf = per square foot AMI =Area Median Income	MF = Multi-Family SF = Single Family

Notes: This chart presents an overview, and as a result, terms are simplified. For use other than general comparison, please consult the code and staff of the jurisdiction.
Virtually all cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units, in addition to providing options for off-site construction and land dedication.

ser Marston Associates, Inc. April 2016.
Filename: \\SF-FS2\wp\19\19163\006\Inclusionary comparison chart 2-19-18; 3comp.ac; 3/6/2018;kf

FINAL

Affordable Housing Strategy

Prepared for:

The Town of Los Gatos and Los Gatos Redevelopment Agency

April 2009

Seifel
CONSULTING INC.

221 Main Street
Suite 420
San Francisco CA
94105

415.618.0700
fax 415.618.0707
www.seifel.com

ATTACHMENT 2

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Los Gatos Redevelopment Agency
Affordable Housing Strategy

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Los Gatos Redevelopment Agency
Affordable Housing Strategy (cont.)

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Appendices

I. Introduction

The Town of Los Gatos retained Seifel Consulting Inc. (Seifel) to assist Town staff in developing an Affordable Housing Strategy (Strategy) with the following objectives:

- Spend accumulated funds in the Redevelopment Housing Set-Aside Fund ($7.2 million) and the Below Market Price (BMP) Program In-Lieu Fee Fund ($1.4 million).
- Produce as many affordable housing units as possible per dollar invested.
- Attain the Town's Housing Element goals and help meet the Town's housing needs, including its Regional Housing Needs Allocation.
- Meet the Los Gatos Redevelopment Agency's (Agency) Redevelopment Plan housing goals and obligations.

Seifel has worked with Town staff to assess the Town's housing needs and obligations, the Town's existing housing programs, affordable housing inventory, and financial resources. In June 2008, Seifel toured Downtown Los Gatos and various neighborhoods, as well as the Central Los Gatos Redevelopment Project Area, with Town staff to identify potential opportunity sites for acquisition/rehabilitation and other types of affordable housing projects. In November of 2008, Seifel received and reviewed Housing Element data needed for the Housing Needs Assessment section of this Strategy.[1] To supplement Housing Element data, Seifel also gathered and analyzed additional data needed for completing the assessment. In February of 2009, Seifel submitted drafts of the Strategy to Town staff and the General Plan Committee for review and incorporated their feedback. Our work has culminated in the preparation of this final draft of the Strategy. This report is organized as follows:

I. Introduction

II. Overview of the Town's Housing Needs, Goals and Obligations

III. Existing Housing Programs

IV. Current and Projected Funds Available for Affordable Housing

V. Affordable Housing Strategy

VI. Conclusions and Next Steps

[1] Town of Los Gatos Draft Housing Element Update (2009), Ch. 1-4.

II. Overview of the Town's Housing Needs, Goals and Obligations

This section examines the key objectives that the Affordable Housing Strategy should fulfill. It begins with a summary of the Town's housing needs and presents the goals articulated in the Town's Housing Element. It then describes the Redevelopment Plan's goals and obligations, as well as its progress to date in meeting the obligations.

A. Housing Needs Assessment

A clear understanding of the housing needs of the Town is essential to the formulation of an Affordable Housing Strategy. Data from the 2009 Draft Housing Element Update formed the foundation of Seifel's assessment of the Town's housing needs.

1. Population and Housing Units

According to the 2009 Draft Housing Element Update, the estimated population of the Town of Los Gatos is 28,813 and its residents are housed in approximately 12,952 housing units.[2] Over the past three decades, the Town's population and housing supply have grown at a slow pace, and is projected to continue at a similar pace. According to the Association of Bay Area Governments (ABAG), the Town's population is anticipated to grow by 7 % to 30,900 people between 2005 and 2025.

2. Housing Construction Types and Tenure

Approximately 70 percent of the total housing units in Los Gatos are single family units, including single family attached units. An additional 29 percent of housing units are multifamily apartments or buildings with two or more units. Mobile homes account for the remaining one percent of housing units in the Town.[3]

Owner-occupied units form the majority of the housing tenure types in Los Gatos. The 2000 U.S. Census reported that 65 percent of housing units in the Town are owner-occupied and 35 percent are renter-occupied.[4]

3. Housing Affordability Gap

A barometer to measure housing needs in a community is the housing affordability gap, which is the difference between what households can afford to pay for housing-related expenses and actual housing costs. This section compares household incomes to typical costs for rental and for sale housing in Los Gatos to determine if the community's housing needs are being met by the local rental and for sale housing market.

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[2] Both the Town's population and housing unit estimates are as of 2008.

[3] Town of Los Gatos Draft Housing Element Update (2009).

[4] Ibid.

a. Household Income

Many local jurisdictions, including Los Gatos, use the countywide household income limits set by the U.S. Department of Housing and Urban Development (HUD), as a standard for defining income categories within a community. Table 1 summarizes the maximum income levels for each income category and household size for Santa Clara County. The typical or "median" household income for a four-person household in Santa Clara County is $97,800.[5] This figure is generally referred to as the Area Median Income (AMI) because it represents the midpoint of household incomes within the county, with half of the households countywide earning incomes above this level and half below. Area Median Income is also referred to as 100 percent AMI, and HUD defines all other income levels in relation to a percentage of AMI, as presented in Table 1.

Table 1
Household Income by Household Size
Santa Clara County

Income Category	Household Size							
	1	2	3	4	5	6	7	8
Extremely Low (30% AMI)	$22,300	$25,500	$28,650	$31,850	$34,400	$36,950	$39,500	$42,050
Very Low (50% AMI)	$37,150	$42,450	$47,750	$53,050	$57,300	$61,550	$65,800	$70,050
Low Income (80% AMI)	$59,400	$67,900	$76,400	$84,900	$91,650	$98,450	$105,250	$112,050
Moderate (120% AMI)	$82,200	$93,900	$105,700	$117,400	$126,800	$136,200	$145,600	$155,000

Source: U.S. Department of Housing and Urban Development, issued by State of California Department of HCD February 28, 2008.

According to the 2009 Draft Housing Element Update, extremely low, very low and low income households comprise approximately 20 percent of all households in the Town, as shown in Table 2 below.

Table 2
Households by Income Category in 2000
Town of Los Gatos

Income Category	Total Households[a]	Percent of Total Households
Extremely Low	900	7.5%
Very Low	677	5.7%
Low	772	6.5%
Moderate and Above	9,611	80.4%
Total	11,960	100.0%

a. U.S. Department of Housing and Urban Development, Comprehensive Housing Affordability Strategy (CHAS) 2000 data.

Source: Town of Los Gatos Draft Housing Element Update (2009), Design, Community & Environment (DC&E), Seifel Consulting Inc.

[5] State of California HCD, "Official State Income Limits for 2008" (February 28, 2008).

b. Housing Costs and the Affordability Gap

According to Federal and State housing standards, in order for housing to be affordable, a household is expected to spend no more than 30 to 35 percent of its gross monthly income on housing related expenses, also known as the allowed monthly housing cost. Such expenses may include utilities and rent for renters, or utilities, mortgage, property tax, insurance and homeowners assessment fee for homeowners. Implicit in the allowed monthly housing cost is the rental or mortgage payment a household can afford.

Overall, housing costs are high in Los Gatos. The cost of renting an apartment or purchasing a home in the Town is not affordable to a four-person household of extremely low, very low and low income. As shown in Table 3, the average market rate rent of $2,600 per month for a three-bedroom unit is only affordable to households of moderate income and above. The Town's median home sales price of $838,000 in November 2008 is unaffordable to households of low and moderate income.

Table 3
Comparison of Household Income and Housing Costs in 2008
Town of Los Gatos

Income Category	Maximum Income (Four-Person Household)[a]	Maximum Monthly Income	Affordable Rent/ Allowed Monthly Housing Cost[b]	Affordable Sales Price[c]
Extremely Low	$31,850	$2,654	$796	$66,000
Very Low	$53,050	$4,421	$1,326	$146,000
Low	$84,900	$7,075	$2,123	$266,000
Moderate	$117,400	$9,783	$3,424	$462,000
Market Rate[d]			$2,600	$838,000

a. Maximum income as defined by HUD for Santa Clara County.

b. Calculated as 35% of monthly income for moderate income and 30% for all other income levels, as defined by California Redevelopment Law.

c. Estimate rounded and based on monthly income with 10 percent down payment and 30-year amortized loan with an allowance for utilities, taxes, HOA dues, and insurance.

d. Average market rent for three bedroom units as of January 2009 (http://www.craigslist.org, http://www.apartmentratings.com/rate/CA-Los-Gatos.html#market). Median sales price for new construction and resales of single family homes and condos (DataQuick Real Estate News, November 2008).

Source: Town of Los Gatos, Seifel Consulting, DataQuick Real Estate News

c. Recent Housing Market Conditions

In the past year, the Town has experienced an 18.2 percent decrease in housing sales prices from $1.02 million in November 2007 to $838,000 in November 2008.[6] According to Town staff, Los Gatos has had relatively few home foreclosures during the recent mortgage crisis and downturn in the real estate market. While housing sales prices are decreasing in Los Gatos, the cost of owning a home in Los Gatos is, and will likely continue to be, unaffordable for most of the community's low and moderate income households.

4. Regional Housing Needs Allocation

The Regional Housing Needs Allocation (RHNA) is a measure of the future housing needs of the Town of Los Gatos. The California Department of Housing and Community Development (HCD) determines overall housing needs for the Bay Area, and the Association of Bay Area Governments (ABAG) then assigns the Town its share of regional housing needs or RHNA. As summarized in Table 4, Los Gatos must plan for 376 new units of housing affordable to very low, low and moderate income households, and 171 new units of housing affordable to above moderate households by 2014. Since January 1, 2007, the beginning of the current RHNA tracking period, only 15 housing units affordable to above moderate income households have been built in the Town.

Table 4
Adjusted Regional Housing Needs Allocation (RHNA), 2007-2014
Town of Los Gatos

Income Category	New Housing Units Needed	Units Built, Under Construction and/or Approved[a]	Adjusted RHNA
Very Low (0-50%)	154	0	154
Low (51-80%)	100	0	100
Moderate (81-120%)	122	0	122
Subtotal	376	0	376
Above Moderate	186	15	171
Total	**562**	**15**	**547**

a. Since January 1, 2007.

Source: ABAG Final Regional Housing Needs Allocation (adopted May 2008), Design, Community & Environment (DC&E), Seifel Consulting Inc.

[6] DataQuick Real Estate News, http://www.dqnews.com, November 2008.

5. Special Housing Needs Groups

Households with special needs represent a significant percentage of households in Los Gatos. Groups with special housing needs in Los Gatos include seniors, large family, single-parent and overcrowded households, persons with disabilities, and the homeless.[7] Twenty two percent of the Town's households have one or more seniors, many of whom are likely to be aging in place.

A significant proportion of households with special needs, such as households with disabilities, are on fixed incomes, and thus could be considered extremely low income households. These groups are least likely to have their housing needs met by the private market. Table 5 summarizes the number of households and individuals in each group.

Table 5
Special Housing Needs Groups[a]
Town of Los Gatos

	Total Households	Percent of Total Households
Seniors[b]	2,631	22.0%
Large Family	760	6.4%
Single-Parent	611	5.1%
Overcrowded	312	2.6%
Subtotal of Special Needs Households	4,314	36.1%
Total Households in Los Gatos	11,960	100.0%
	Total Individuals	**Percent of Total Population**
Persons with Disabilities	1,776	6.2%
Homeless	30	0.1%
Subtotal of Special Needs Individuals	1,806	6.3%
Total Population in Los Gatos	28,813	100.0%

a. Estimates for households and individuals in each category are not mutually exclusive.
b. Households with one or more seniors.

Source: 2009 Draft Housing Element Update, Seifel Consulting Inc.

[7] The U.S. Census defines an overcrowded household as one that is occupied by more than one person per room, excluding bathrooms and kitchens. The U.S. Census defines a large family household as a household with five or more persons.

B. Housing Element and Redevelopment Plan Goals

To stay in compliance with State Housing Element Law and the California Community Redevelopment Law (CRL), the Town and its Redevelopment Agency must meet the goals of the Housing Element and Redevelopment Plan. State Housing Element Law requires that local jurisdictions outline the housing needs in the community, the barriers or constraints to providing that housing, and actions proposed to address these concerns over a five-year period. In regards to housing, the CRL outlines certain affordable housing requirements for redevelopment project areas and redevelopment agencies, as described in more detail below. For the purposes of this Strategy, certain requirements apply only to the CRL and others apply only to Housing Element law. Where applicable, distinctions between the two laws are made.

The Town will continue to support and advance the Town's General Plan, and more specifically, the goals and strategies identified in the 2002-2006 Housing Element through the Affordable Housing Strategy, including[8]:

- Improve the choice of housing opportunities for senior citizens, families and singles and for all income groups through a variety of housing types and sizes, including a mixture of ownership and rental housing.
- Preserve existing moderately priced and historically significant housing.
- Eliminate racial discrimination, lack of disabled accessibility and all other forms of discrimination that prevent free choice in housing.
- Make infrastructure projects and residential and nonresidential developments be compatible with environmental quality and energy conservation.
- Reduce the homeless population.
- Provide housing affordable to people who work in the Town.

The Town and its Redevelopment Agency will continue to support and advance the primary affordable housing goal of the Redevelopment Plan, as follows:

- The expansion and improvement of the community's supply of low and moderate income housing.[9]

The Central Los Gatos Redevelopment Project Area's FY 2004/05–FY 2008/09 Implementation Plan states that the Agency will meet this goal through the following primary affordable housing objectives:[10]

- Initiate affordable housing projects within the Central Los Gatos Redevelopment Project Area.
- Provide zero interest loans for secondary dwelling units in the Central Los Gatos Redevelopment Project Area.

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[8] Town of Los Gatos Housing Element (2002-2006). The 2009 Housing Element Update at the time of this report.

[9] Redevelopment Plan for the Central Los Gatos Redevelopment Project, adopted November 25, 1991.

[10] Los Gatos Redevelopment Agency, FY 2004/05 to FY 2008/09 Implementation Plan, October 2004.

In addition to the Housing Element and Redevelopment Plan goals summarized above, a goal of the Affordable Housing Strategy is to create, whenever possible, mixed income housing developments recognizing that the availability of funding opportunities may dictate the affordability mix and income levels of potential developments.

C. Redevelopment Affordable Housing Obligations

The CRL requires that a redevelopment agency comply with and fulfill its affordable housing responsibilities, including:

- **Housing Production:** Minimum percentages of new or substantially rehabilitated housing units in a project area are to be made available at an affordable housing cost.[11]
- **Housing Set-Aside Fund Expenditure (Housing Fund):** Redevelopment agencies are required to deposit tax increment into the Housing Fund and expend tax increment revenue for the provision of affordable housing. Expenditures must be made according to specific target percentages for assisting various income levels and non age-restricted housing.

1. Housing Production

The Agency is expected to surpass its affordable housing production obligation for the Central Los Gatos Redevelopment Plan as required by CRL for the 2004 through 2014 production compliance period.[12]

2. Housing Set-Aside Fund Expenditure

The Agency currently has an excess surplus of Housing Fund monies of between $500,000 and $2 million.[13] Timely expenditures are imperative to reduce the Agency's excess surplus and avoid penalties.

Under the CRL, Housing Fund moneys must be targeted to specific income levels according to need and to non age-restricted housing. The targeting obligations must be met over the expenditure compliance period beginning January 1, 2002 and ending in December 31, 2014.

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[11] When new dwelling units are developed in a project area by public or private entities other than the Agency (with or without Agency assistance), or when housing is substantially rehabilitated in a project area by public or private entities with Agency assistance, at least 15 percent of these units must be affordable to, and occupied by, very low, low or moderate income households. Of those units, at least 40 percent must be affordable to very low income households. Affordable housing units that are produced (with or without Agency assistance) within the project area count towards meeting the Agency's production obligations on a one-for-one basis. For each unit produced outside of the project area (with or without Agency assistance), the Agency receives half a credit towards meeting the Agency's obligations. For "mutual self-help housing," like the housing built by Habitat for Humanity, one-third credit is given to the Agency for each unit produced within the project area.[11] One-sixth credit is given for self-help units produced outside of the project area.

[12] Los Gatos Redevelopment Agency, 2004 Implementation Plan Midterm Review, February 2008.

[13] If an agency fails to expend the excess surplus within three years from the time the amount became an excess surplus, the agency is prohibited from expending moneys derived from any source (including non-housing funds) until it has encumbered or expended for qualified affordable housing activities the excess surplus amount plus an additional amount equal to 50 percent of the excess surplus amount. The additional amount must be from non-housing funds sources.

Housing Fund moneys must be used to assist housing for persons of very low and low income in at least the same proportion to the total number of housing units needed for each of these income groups in the community. Table 6 shows the regional fair share allocation and the targeting objective currently applicable to the Town. The Agency is required to spend Housing Fund moneys in the following proportions: at least 41 percent for units affordable to very low income households, at least 27 percent for units affordable to low income households, and no more than 32 percent on housing affordable to moderate income households.

Table 6
Housing Set-Aside Fund Expenditure Targeting
By Income Level
Town of Los Gatos

Income Group and Relation to County Median Income	Total Housing Units Needed	Expenditure Percentage Need by Income Level
Very Low (0-50%)	154	At least 41%
Low Income (51-80%)	100	At least 27%
Moderate (81-120%)	122	No more than 32%
Total	**376**	**100%**

Source: ABAG Final Regional Housing Needs Allocation (May 2008), Seifel Consulting Inc.

In addition, a defined minimum percentage of Housing Fund moneys must be spent on housing available to all persons regardless of age. This minimum is equal to the percentage of Los Gatos' low income households with a member under age 65, as reported in the most recent U.S. Census. The 2000 Census indicates that 58 percent of the Town's low income households have a householder under 65 years of age, as shown in Table 7. Thus, the Agency must expend at minimum 58 percent of its funds on housing that does not impose age restrictions on residents.

Table 7
Housing Set-Aside Fund Expenditure Targeting
Non Age-Restricted Housing
Town of Los Gatos

Age Targeting[a]	Low Income Households[b]	Expenditure Percentage
Non Age-Restricted Housing	2,216	58%
Age-Restricted Housing	1,580	42%
Total	**3,796**	**100%**

a. Based on Census data showing low income households by householder age. (The Census does not report low income household information according to the age of household members.)
b. Includes households earning 80% or less of AMI based on limits published by HCD in 2000.

Source: 2000 U.S. Census, HCD Income Limits 2000.

III. Existing Housing Programs

A variety of programs are currently available to assist the Town of Los Gatos in meeting its affordable housing needs, goals and obligations. This section reviews the Town's existing housing programs, the Town's participation in the Housing Trust of Santa Clara County and the current inventory of affordable housing in Los Gatos.

1. Town Housing Programs

The following are programs administered by the Town or in conjunction with affiliates and partners such as the Los Gatos Redevelopment Agency and the Santa Clara County Office of Affordable Housing.

a. Below Market Price (BMP) Program and In-Lieu Fees

The Town's BMP Program requires that a certain percentage of units in new residential developments containing five or more units be designated for low and moderate income occupancy.[14] Affordable units developed under the BMP Program are subject to deed restrictions that are designed to ensure that the units will remain affordable in perpetuity. Projects between five to ten units may contribute an in-lieu fee instead of constructing actual units. These fees are deposited into the Town's BMP In-Lieu Fee and are used as a source of funding for affordable housing developments. To date, 128 units have been produced through this program.[15]

b. Density Bonus Program

The Town's Density Bonus Program provides a density bonus of up to 100 percent of the units permitted under zoning regulations for housing restricted to seniors, disabled persons, as well as very low and low income households.

c. Assisting Affordable Housing Developments

Over the years, the Town and its Redevelopment Agency have facilitated the development of a number of affordable housing developments such as the Los Gatos Creek Village Apartments, Blossom Hill and more recently, projects with Senior Housing Solutions. Approximately 200 units of affordable housing have been created in the Town to date as a result of local support.[16]

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[14] New residential developments affected by the BMP Program includes every multifamily rental dwelling project at the building permit application stage, every residential condominium or planned development subdivision at the time of subdivision, and every community apartment project and every residential stock cooperative apartment or unit project at the time of subdivision if the transaction involves subdivision, or at the time of sale, if it does not.

[15] Town of Los Gatos

[16] Ibid.

d. Housing Conservation Program

The Town's Housing Conservation Program, administered by the Santa Clara County Office of Affordable Housing, was designed to assist in the rehabilitation of housing units occupied by lower income and special needs households. The Town provides both loans and grants to assist in financing repairs to correct health or building code violations, handicap accessibility modifications, earthquake safety or alleviate overcrowded situations. Since the program began in 1976, the Town has provided over 370 loans and grants through this program.[17] The Housing Conservation Program currently has approximately $500,000 available through its revolving fund.[18]

2. Housing Trust of Santa Clara County

The Town of Los Gatos contributes funds to the Housing Trust of Santa Clara County, a non-profit organization, which in turn uses the funds for affordable housing. Los Gatos has contributed $100,000 per year to the Housing Trust from FY 2005/06 through FY 2007/08, and previously contributed $250,000 in 2001.[19] The Housing Trust uses these funds for two programs, the Affordable Multi-Family Rental Program, which provides loans to developers of affordable multi-family projects, and the First-Time Homebuyer Program, which assists low income households in securing below market rate financing to purchase homes.

In 2003, the Housing Trust provided a $60,000 loan to fund a five-unit senior housing project in Los Gatos using the Town's funds. In 2008, the Housing Trust committed to assist in the development of another five units of senior affordable housing within the Town by providing a $450,000 loan for Anne Way, a project by Senior Housing Solutions.

3. Affordable Housing Inventory

The Town and its Redevelopment Agency have facilitated the creation of numerous affordable housing units, primarily through the BMP Program and by assisting specific affordable housing developments. Table 8 summarizes the affordable housing inventory currently available in the Town and the income levels that are served by the units. This inventory only includes those units that have received local subsidies, among other funding sources. The Town of Los Gatos currently has over 300 subsidized housing units.

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[17] Ibid.

[18] Town of Los Gatos Draft Housing Element Update (2009).

[19] Los Gatos Redevelopment Agency, 2004 Implementation Plan Midterm Review, February 2008.

Table 8
2008 Affordable Housing Inventory
Town of Los Gatos

	Very Low Income	Low Income	Moderate Income	Total
Rental				
Affordable Housing Developments	193	8	0	201
BMP Program	0	93	1	94
Subtotal	**193**	**101**	**1**	**295**
Ownership				
Affordable Housing Developments	1	0	0	1
BMP Program	0	15	25	40
Subtotal	**1**	**15**	**25**	**41**
Total	**194**	**116**	**26**	**336**

Source: Town of Los Gatos, Seifel Consulting Inc.

IV. Current and Projected Funds Available for Affordable Housing

An accurate understanding of the Town's funding resources is essential to determine the means by which the Town can address its affordable housing needs, goals and obligations. To achieve this, Seifel reviewed the funds currently available and funds projected to be available through FY 2013/14 to the Town and its Redevelopment Agency for housing programs.

The Town has two primary funding resources for programs to meet Los Gatos' affordable housing needs: the Redevelopment Housing Set-Aside Fund (Housing Fund) and Below Market Price (BMP) In-Lieu Fee Fund.

As shown in Table 9, as of the end of FY 2007/08, the Town had approximately $8.6 million in funding available for housing-related programs and activities. By FY 2013/14, the Town is projected to have approximately $17.6 million available for housing-related programs and activities. Seifel conservatively estimated that approximately $1.5 million would accumulate annually between FY 2008/09 and FY 2013/14 in the Housing Fund and zero dollars for the BMP In-Lieu Fee Fund.

Table 9
Funds Available for Affordable Housing
Town of Los Gatos

Funding Source	Funds Available as of FY 2007/08	Projected Funds Available FY 2008/09 - FY 2013/14	Total Projected Funds Available	%
Housing Fund	$ 7,199,000	$ 9,000,000	$ 16,199,000	92%
BMP In-Lieu Fee Fund	$ 1,381,000	$ -	$ 1,381,000	8%
Total Funds	**$ 8,580,000**	**$ 9,000,000**	**$ 17,580,000**	**100%**

Source: Town of Los Gatos, Seifel Consulting Inc.

The funding sources in Table 9 are the most reliable source of local funding, as the amount of Federal and State funding sources for affordable housing vary widely from year to year, and the Town must compete to receive many of these funds. As the Town has done in the past, it will continue to use its local funds to leverage Federal and State housing resources, including:

- CDBG and HOME
- State of California, Department of Housing and Community Development
- California Housing Finance Agency
- Federal and State Low Income Housing Tax Credits
- Federal Home Loan Bank
- Mortgage Credit Certificates

V. Affordable Housing Strategy

As described above, the Town has a variety of existing housing programs to further its goals to meet the community's housing needs and expand the Town's supply of affordable housing. Seifel recommends that many of the existing programs be continued and new programs be initiated. The criteria shown in the tracking and evaluation tool in Table 1 of Appendix A were used to formulate the recommended enhancements to existing housing programs and to propose new housing programs and initiatives. The section below presents the proposed housing programs, including both existing and new initiatives.

A. Enhancements to Existing Housing Programs

Seifel recommends that the Town's existing programs continue with potential enhancements to each, as follows:

1. Housing Trust of Santa Clara County

As described in Section III, the Redevelopment Agency has been contributing money from the Housing Fund to the Housing Trust of Santa Clara County under an agreement between the Agency and the Housing Trust that the funds be expended for the production of affordable housing in Los Gatos. The Agency provided $250,000 in 2001 and $100,000 annually for three years between 2005 and 2007. The 2001 funds were not fully utilized within the timeframe agreed upon, and the agreement was amended in 2007 to allow an additional two years for the remaining funds to be expended.[20]

Moving forward, Seifel recommends that the Town continue to monitor the funds granted to the Housing Trust to ensure that they are expended in a timely and efficient manner to produce as many affordable units as possible. In addition, the Agency must ensure that the funds are spent within the boundaries of Los Gatos to comply with CRL requirements.

2. First Time Homebuyer Program

The Town partners with the Housing Trust of Santa Clara County to administer a First Time Homebuyer Program (FTHB) for Los Gatos. According to Town staff, there have been few participants in this program in the past due to the difficulty of purchasing a first home in Los Gatos for low income households. Between 2001 and 2008, the Housing Trust provided five FTHB loans.[21] Seifel recommends that the Town review and revise its policies for assisting first time homebuyers, and ensure that the Housing Trust administer the program to meet the Town's goals. The Town may consider targeting moderate and middle income households through the First Time Homebuyer Program using BMP In-Lieu Fee funds to create more home ownership opportunities for the Town's workforce. In addition, the Town may focus on utilizing First Time Homebuyer Program funds for multifamily condo projects.

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[20] Town Council of Los Gatos, Town Council Agenda Report, May 16, 2007.

[21] Based on data provided by the Housing Trust of Santa Clara County.

3. Housing Conservation Program

The Town partners with the Santa Clara County Office of Affordable Housing to administer the Housing Conservation Program. Between 2002 and 2007, eleven rehab loans were provided through this program. The Housing Conservation Program currently has a revolving fund that allows the fund to be replenished as rehabilitation loans are repaid. In order to satisfy the goals of the Central Los Gatos Redevelopment Plan, Seifel recommends that the Town focus the program to rehabilitate blighted properties within the Redevelopment Project Area and consider prioritizing the use of funds for projects that qualify as "substantial rehabilitation" as defined by the CRL in order to gain more housing production credits.[22]

4. Below Market Price (BMP) and Density Bonus Programs

The BMP and Density Bonus Programs have been key components of the Town's strategy for affordable housing production. For condo developments, the BMP Program requires developers to provide units affordable to median and low income households. For rental developments, developers must create units affordable to low income households.

As an enhancement to these programs, Seifel recommends that the Town actively seek to purchase additional affordability covenants and/or "buy down" affordability covenants in market rate for sale and rental developments that are required to provide BMP units. Affordability covenants are essentially deed restrictions on the property that retain the affordable housing price of the unit for a certain period of time. If Housing Funds are used, affordability covenants must be in place for at least 45 years for ownership properties and 55 years for rental properties.

As an example, for the Bay Tree Condominium Development by Lyon Capital Ventures, the Town may use its Housing Fund to purchase additional BMP units for sale beyond the required number of BMP units by the developer or provide additional subsidy to target lower income households.

While the Town's Density Bonus Program is an important incentive for developers to include affordable housing within market rate developments, increasing density alone will likely not be enough to spur new affordable housing development. Since the BMP and Density Bonus Programs are dependent on market rate development, the Town will see fewer units produced through these programs in the near future due to the recent downturn in the real estate market and mortgage crisis.

B. Proposed Programs and Initiatives

In the next few years, the Town will need to focus on other tools to facilitate and encourage the development of affordable housing in Los Gatos. In past years, the Town and its Redevelopment Agency have collaborated with both for-profit and non-profit developers in the Bay Area to create new affordable housing development opportunities, primarily to create multifamily housing

[22] "Substantial rehabilitation" is defined as a rehabilitation in which the rehabilitation costs constitute at least 25 percent of the after-rehabilitation value of the dwelling including the land value. AB 637 modified the CRL definition of substantially rehabilitated dwelling units such that, as of January 1, 2002, only agency-assisted substantially rehabilitated multifamily (three or more units) and agency-assisted substantially rehabilitated single family dwelling units (one or two units) will be included in the production unit calculation.

developments. More recently, the Town has seen fewer affordable housing developments proposals in Los Gatos for various reasons, such as high development costs and availability of suitable sites. To address these problems, Seifel recommends that the Town issue a Notice of Funding Availability and create a Property Acquisition Fund, as described in more detail below.

1. Issue Notice of Funding Availability (NOFA) for Multifamily Housing

The Town may issue a NOFA to attract proposals from for-profit and non-profit developers to develop mixed income or 100 percent affordable multifamily housing projects. Seifel recommends that the NOFA be written to request applications for both new infill development and acquisition/rehab of existing apartments in Los Gatos.

The NOFA may be geared toward specific project sites that the Town is investigating. Appendix B summarizes a preliminary list of sites that Seifel and Town staff have identified for potential new infill development and acquisition/rehab. The Town may issue a NOFA in the future for any of these sites once project readiness is established. Alternatively, an open NOFA may be written to encourage proposals for sites that have not been considered by the Town.

Seifel recommends that the NOFA outline the type of projects that the Town is looking for and the criteria that would be used to evaluate the proposals. The NOFA can be written to be flexible in terms of the type of tenure, income mix and special needs groups that the project must fulfill to encourage as many proposals as possible.

2. Create a Property Acquisition Fund

In the current real estate market downturn, the Town may take advantage of the decrease in property values to prepare suitable sites for affordable housing development by creating a property acquisition fund. The Town may use this fund to acquire vacant parcels or properties for redevelopment, with a particular focus on blighted and/or foreclosed properties.

Purchasing sites to be designated for future affordable housing is a proper use of Redevelopment Housing Set-Aside funds and may also be an effective way to decrease the Redevelopment Agency's excess surplus.[23]

3. Purchase Affordability Covenants in Existing Apartments

The Town may purchase affordability covenants to increase the supply of affordable housing or "buy-down" existing affordability covenants to have deeper affordable units in existing rental properties. This recommended program is analogous to purchasing covenants in new developments in conjunction with the BMP program, but for existing apartments. Affordability covenants are essentially deed restrictions on the property that retain the affordable housing price of the unit for a certain period of time. If using Housing Funds, the covenants must be in place for at least 55 years for rental properties.

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[23] Under California Redevelopment Law (CRL), an Agency must annually calculate and monitor whether it has accumulated an excess surplus in its Housing Fund. The CRL defines an excess surplus as unexpended and unencumbered funds accumulated in the Housing Fund that exceed the greater of $1 million or the total amount deposited in the Agency's Housing Set-Aside Fund during the preceding four years. HCD annually monitors whether agencies have accumulated an excess surplus in the Housing Fund.

In existing and new rental developments, the Agency could provide a rehabilitation loan or another form of subsidy to a rental property owner in exchange for securing affordability covenants on a percentage of units and the owner's agreement to restrict rents on these units to levels that would be affordable to very low and low income households.

Each affordability covenant acquisition opportunity is unique because the owner may negotiate for a varying proportion of units to be restricted as well as the level of affordability. Seifel recommends that the Town work to secure units for very low and low income households through this program. In order to have a successful policy or program for purchasing affordability covenants, the Town must have a legal counsel that is familiar with structuring effective agreements, as well as dedicated resources for periodic monitoring to ensure that the agreements are met.

Seifel recommends that the Town investigate the potential of purchasing and buying-down affordability covenants for new rental developments coming on-line and existing apartments. In the tour with Town staff, Seifel identified a preliminary list of sites for acquiring covenants, as shown in Appendix B. In order to target existing apartments, the condition of the property and the background of the property owner should be assessed. The Town may then issue a Notice of Funding Availability (NOFA) to announce its intentions to purchase affordability covenants and attract interest from property owners.

4. Provide Zero Interest Loans for Secondary Dwelling Units

As one of the objectives of the Central Los Gatos Redevelopment Project Area, the Town and its Redevelopment Agency may sponsor a loan program to assist in the development of secondary dwelling apartment units for low and moderate income households. The Agency may provide zero interest loans for the production of secondary dwelling units in the Central Los Gatos Redevelopment Project Area that are restricted to occupancy by low and moderate income households, often called "in-law" units, typically referring to small one-bedroom or studio units located in existing single family homes or as detached units. If using Housing Funds, affordability covenants are required and must be in place for at least 55 years for rental properties. Seifel recommends implementing this program in an effort to increase affordable units in the Redevelopment Project Area.

C. Proposed Allocation of Resources

As funds for affordable housing are limited, the Town recognizes that its resources need to be prioritized to ensure the most effective use of funding. The recommended allocation of resources emphasizes a balanced Affordable Housing Strategy to meet the Town's housing needs, goals and obligations, as summarized in Table 1 of Appendix A.

As discussed in Section IV and summarized in Table 9, the Town has $8.6 million available for affordable housing (as of the end of FY 2007/08) and projects another $9 million will be available by FY 2013/14 for a total of $17.6 million. Table 10 below summarizes the proposed allocation of the Town's current available funds for affordable housing and total projected available funds for affordable housing through FY 2013/14 for existing and proposed programs. As several of the existing programs are administered by other entities, the Housing Trust of Santa Clara County and the County's Office of Affordable Housing, Seifel recommends that the Town review the goals and policies for these programs before allocating additional resources to them. The table below also shows the potential number of affordable housing units that may be created through each program or initiative with the available funding resources given development opportunities.

Table 10
Proposed Allocation of Funds
Town of Los Gatos

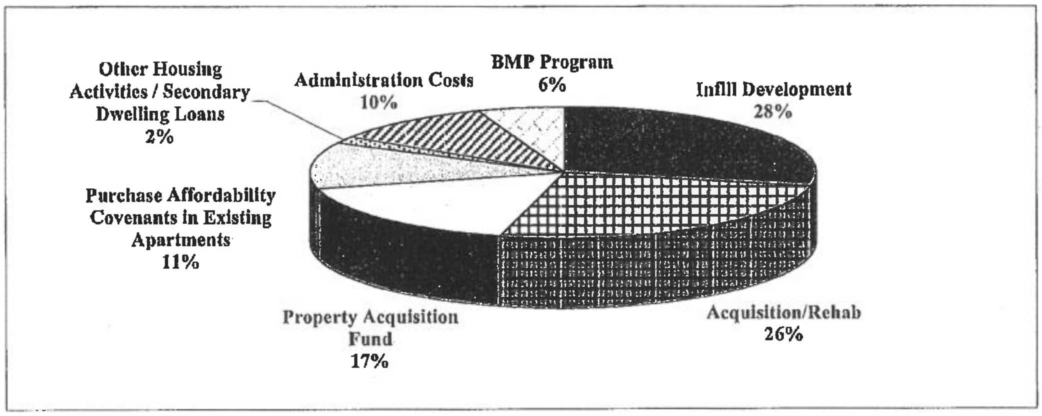
	Funds Available as of FY 2007/08	Total Projected Funds Available FY 2008/09 - FY 2013/14			
Programs and Initiatives	**Total Allocation**	**Total Allocation**	**%**	**Projected Per Unit Local Subsidy**	**Units**
Existing					
Housing Trust of Santa Clara County (HTSCC)[a]	$ -	$ -	0%	N/A	N/A
First Time Homebuyer Program (HTSCC)[a]	$ -	$ -	0%	N/A	N/A
Housing Conservation Program (SCC OAH)[b]	$ -	$ -	0%	N/A	N/A
BMP Program - Purchase Additional Affordability Covenants	$ -	$ 1,000,000	6%	$ 50,000	20
Proposed					
NOFA for Multifamily Housing					
Infill Development	$ 2,928,000	$ 5,000,000	28%	$ 70,000	71
Acquisition/Rehab	$ 2,196,000	$ 4,500,000	26%	$ 60,000	75
Property Acquisition Fund	$ 1,464,000	$ 3,000,000	17%	N/A	N/A
Purchase Affordability Covenants in Existing Apartments	$ 976,000	$ 2,000,000	11%	$ 50,000	40
Other Housing Activities / Secondary Dwelling Loans	$ 137,000	$ 280,000	2%	$ 30,000	9
Program and Initiatives Subtotal	**$ 7,702,000**	**$ 15,780,000**	**90%**	**$73,000**	**215**
Administration Costs	$ 878,000	$ 1,800,000	10%		
Total Allocation	**$ 8,580,000**	**$ 17,580,000**	**100%**		

a. These programs are administered by the Housing Trust of Santa Clara County.
b. This program is administered by the County's Office of Affordable Housing.

Source: Town of Los Gatos, Seifel Consulting Inc.

Figure 1 demonstrates the proposed distribution of funds across the different programs and initiatives.

Figure 1
Proposed Allocation of Funds
Town of Los Gatos



VI. Conclusions and Next Steps

The Town and its Redevelopment Agency seek to use available resources to increase the supply of affordable housing in Los Gatos and to meet the Housing Element and Redevelopment Plan goals and obligations.

As such, Seifel recommends steps that the Town may take to enhance its existing housing programs. For programs that are administered in partnership with other entities, such as the Housing Trust of Santa Clara County and Santa Clara County Office of Affordable Housing, the Town may consider reviewing and refining its policies to ensure that the community's affordable housing goals are being met.

Seifel also recommends that the Town and Agency take steps to implement the following new programs and initiatives with support from the Town Council and community:

- Issue Notice of Funding Availability (NOFA) for Multifamily Housing
- Create a Property Acquisition Fund
- Purchase Affordability Covenants in Existing Apartments
- Provide Zero Interest Loans for Secondary Dwelling Units

Appendix A:

Affordable Housing Strategy Tracking and Evaluation Tool

Appendix A:
Affordable Housing Strategy Tracking and Evaluation Tool

As shown in Appendix Table 1, Seifel formulated a tracking and evaluation tool based on the Town's housing needs, goals and obligations to guide the development and implementation of the Affordable Housing Strategy. The recommended programs and resource allocation in the Affordable Housing Strategy were crafted to ensure that the Town meets all of its housing needs, goals and obligations, as summarized in the table. This matrix may also be used by Town staff and the Los Gatos community as an evaluation tool to help guide the Town's decisions impacting individual affordable housing programs and projects. For each category of needs, goals, and obligations, the criteria is measured by certain questions, the results of which are shown.

Appendix Table 1
Affordable Housing Strategy Tracking and Evaluation Tool
Town of Los Gatos

Criteria: Community Affordable Housing Needs and Goals	Measured by...	Result
Special Needs Households - Seniors	• How many units are created for seniors? • See also Redevelopment Obligations: Non-Age Targeting.	# of Units See Below
Special Needs Households - Large Family	• How many units of 3 bedrooms or larger are created?	# of Units
Special Needs Households - Single Parent	• How many units are created for single-parents?	# of Units
Special Needs Individuals - Persons with Disabilities	• How many units are created for and accessible to persons with disabilities? • See also Housing Element Goal: Eliminate lack of disability accessibility.	# of Units
Encourage mixed income housing developments.	• What is the affordability mix?	Mix of affordable and market rate units
Criteria: Housing Element Goals	**Measured by...**	**Result**
Improve the choice of housing opportunities for senior citizens, families and singles and for all income groups through a variety of housing types and sizes, including a mixture of ownership and rental housing.	• For what population is the housing being developed? • What is the tenure of the units being developed? • What is the mix of unit sizes? • See also Community Affordable Housing Needs: Special Needs - Seniors and Redevelopment Obligations: Non-Age Targeting.	# Units by population (Senior/Family/Singles) # Units by Tenure (Ownership/Rental) # Units by size (bedroom count)
Preserve existing moderately priced and historically significant housing.	• How many housing units are significantly rehabilitated, particularly for moderate income households (per CRL definitions)? • How many historically significant units are preserved?	# of Units by Rehabilitation/Preservation # of Historically Significant Units
Eliminate racial discrimination, lack of disabled accessibility and all other forms of discrimination that prevent free choice in housing.	• Does the development promote housing to all populations? • Does the development provide ADA-compliant accessibility?	Yes/No
Make infrastructure projects and residential and nonresidential developments be compatible with environmental quality and energy conservation.	• Will the investment result in infrastructure improvements with the highest energy efficiency ratings and/or providing improvements to the Town environmental quality?	Yes/No
Reduce the homeless population.	• Does the project provide housing for the formerly homeless or housing for the homeless population?	Yes/No
Provide housing affordable to people who work in the Town.	• Does the population being served by the housing work in Los Gatos? • Is the housing affordable to all residents who work in Los Gatos?	Yes/No
Criteria: Redevelopment Goals and Objectives	**Measured by...**	**Result**
Expand and improve of the community's supply of low- and moderate-income housing.	• How many housing units are created &/or significantly rehabilitated, particularly for low &/or moderate income households (per CRL definitions)?	# of Units affordable by CRL definitions
Initiate affordable housing projects within the Central Los Gatos Redevelopment Project Area.	• Is the project located within the Central Los Gatos Redevelopment Project Area? • How many housing units are created &/or significantly rehabilitated, particularly for low &/or moderate income households (per CRL definitions)?	Yes/No # of Units affordable by CRL definitions
Provide zero interest loans for secondary dwelling units in the Central Los Gatos Redevelopment Project Area.	• Is the project located within the Central Los Gatos Redevelopment Project Area? • Is the unit a secondary dwelling unit?	Yes/No
Criteria: Redevelopment Obligations	**Measured by...**	**Result**
Produce affordable housing in accordance with production requirements.	• How many affordable units are located within the Central Los Gatos Redevelopment Project Area? (If not in Project Area, Agency receives 1 production credit for every 2 affordable units.) • Does development contribute to Agency's obligation that 15% of all units built are affordable (40% of which must be affordable to very low income) according to CRL definitions?	# of Units within Project Area # of Affordable Units Yes/No % of Affordable Units in development
Target Housing Set-Aside Fund expenditures to non-age restricted housing.	• What amount of Housing Fund monies are spent towards the Agency's income targeting obligations as outlined in Table 6 of the Strategy?	$ Amount spent at each income level $ Amounts as % of total Housing Fund expenditures during obligation period
Target Housing Set-Aside Fund expenditures to income level.	• What amount of Housing Fund monies are spent towards the Agency's non-age restricted targeting obligations as outlined in Table 7 of the Strategy?	$ Amount spent on non-seniors $ Amounts as % of total Housing Fund expenditures during obligation period

Appendix B:

Potential Sites for New Infill Development, Acquisition/Rehab and Purchasing Affordability Covenants

Appendix B:
Potential Sites for New Infill Development, Acquisition/Rehab and Purchasing Affordability Covenants

1. Potential Sites for New Infill Development

a. Ditto's Lane

Ditto's Lane is a privately-owned property containing an abandoned building, formerly a bordello, and three other existing structures. The Town is interested in acquiring the property and working with a developer to produce affordable housing units on the site. The Town has placed an offer to purchase the property in the past, but was rejected by the owner. The Ditto's Lane site currently does not have sufficient access rights to build additional units. Town staff believes that obtaining access rights and improving access for the site will be challenging because access from College Avenue is not feasible.

b. Park Avenue

Park Avenue is a privately held property containing six housing units located within the boundaries of the Redevelopment Project Area. The approximately 0.7-acre site is adjacent to a Town-owned parcel with access from S. Santa Cruz Avenue, which the Town may consider combining with the Park Avenue site to provide additional developable space. Some of the site's development challenges include parking, topographic constraints and conservation regulations governing existing trees on the land.

2. Potential Sites for Acquisition/Rehab of Existing Apartments

a. Foothill Apartments

Foothill Apartments is a 21-unit building within the Central Los Gatos Redevelopment Project Area in Downtown Los Gatos. According to Town staff, a developer has expressed interested in creating affordable units on the site and is willing to work with the Town.

b. Riviera Terrace Apartments

Seifel recommends that the Town evaluate the potential project at Riviera Terrace, a 123-unit apartment building at the end of Town Terrace Road. Sobrato Development currently owns the building and has expressed interest in the past of rehabilitating the apartment and converting the units to below market rate and creating 100 additional market rate units in the back of the site in parking area. The project was rejected by the Town's Conceptual Development Advisory Committee, the initial planning approval committee for development applications, in the past due to the size of the proposed development and potential traffic impacts.[1]

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[1] "Expansion of Riviera Terrace Apartments draws criticism from advisory committee." Los Gatos Weekly Times. July 18, 2001.

3. Potential Sites for Purchasing Affordability Covenants in Existing Apartments

a. Bay Tree Condominium Development by Lyon Capital Ventures

Lyon has an approved planned development application to convert 56 rental units to condominiums, resulting in an obligation of 8 affordable units under the Below Market Price (BMP) Housing Program. The Town could consider the possibility of buying additional BMP units or converting several of the currently proposed BMP units into units that are affordable to lower income levels.

b. Landmark/La Mar Apartments and Town Terrace Road

In the tour with Town staff, Seifel viewed the Landmark and La Mar apartments on Oka Road and other small and large rental properties along Town Terrace Road as potential projects. These properties may be investigated further as opportunities for purchasing affordability covenants.

Community Development Department

BMP HOUSING PROGRAM
PROGRAM 3501

PROGRAM PURPOSE

The purpose of the Below Market Price (BMP) Housing Program is to provide for adequate housing for Los Gatos residents, regardless of age, income, race, or ethnic background. As required by the State, the Town plans and facilitates the construction of housing adequate for future populations consistent with environmental limitations and in a proper relationship to community facilities, open space, transportation, and small town character.

BUDGET OVERVIEW

All expenditures in this program are funded by non-General Fund revenues. BMP activities are funded through BMP In-Lieu Fees, paid by developers for new housing.

The FY 2018/19 budget reflects a slight increase in salaries and benefits attributed to increased CalPERS and medical benefit rates. Salary increases are not reflected in the proposed budget as labor negotiations with the Town's unions are pending.

The majority of expenditures in this program are related to a service contract with Hello Housing, which administers several components of the BMP Housing Program. The FY 2018/19 budget includes lower Home Owners' Association and utility fees resulting from the sale of property, and the reallocation of 0.10 FTE Administrative Assistant position to the Administrative program to better meet the workload demands within that program.

༄ COMMUNITY DEVELOPMENT DEPARTMENT ༄
BMP Housing Program

SUMMARY OF REVENUES AND EXPENDITURES

	2014/15 Actuals	2015/16 Actuals	2016/17 Actuals	2017/18 Adopted	2017/18 Estimated	2018/19 Adopted
REVENUES						
Licenses & Permits	$ -	$ -	$ -	$ -	$ -	$ -
Service Charges	(8,545)	360,877	195,941	148,871	200,219	134,410
Fines & Forfeitures	-	-	-	-	-	-
Other Revenues	179,000	-	-	-	362,387	-
TOTAL REVENUES	**$ 170,455**	**$ 360,877**	**$ 195,941**	**$ 148,871**	**$ 562,606**	**$ 134,410**
EXPENDITURES						
Salaries and Benefits	$ 83,003	$ 78,652	$ 72,179	$ 75,170	$ 59,306	$ 63,578
Operating Expenditures	229,166	46,633	121,016	70,650	92,020	70,650
Grants	-	-	-	-	-	-
Fixed Assets	-	360,830	-	-	-	-
Internal Service Charges	3,638	3,220	2,796	3,051	3,051	182
TOTAL EXPENDITURES	**$ 315,807**	**$ 489,335**	**$ 195,991**	**$ 148,871**	**$ 154,377**	**$ 134,410**

FY 2018/19 KEY PROJECTS

Core Goals	Key Projects
Community Character Preserve and enhance the appearance, character, and environmental quality of the community	***Below Market Price Housing (BMP) Program*** The BMP Program makes homes available for purchase or rent at below market prices to low and median income families. Eligibility for the BMP program is based on federal household income guidelines.

KEY PROGRAM SERVICES

- Administer the BMP Housing Program.
- Monitor the BMP ordinance and guidelines to determine and recommend potential improvements to enhance the effectiveness of the program.

BMP Housing Program

BMP HOUSING PROGRAM STAFFING

Full Time Equivalent (FTE)

Town Staff	**2014/15 Funded**	**2015/16 Funded**	**2016/17 Funded**	**2017/18 Funded**	**2018/19 Adopted**
Asst. Town Manager/CDD Dir	0.03	0.03	-	-	-
Community Development Dir.	-	-	0.05	0.05	0.05
Planning Manager	-	-	-	0.10	0.10
Administrative Analyst	0.20	0.20	0.20	0.20	0.20
Executive Assistant	0.15	0.15	0.15	-	-
Administrative Assistant	-	-	-	0.10	-
Senior Planner	0.40	0.20	-	-	-
Associate Planner	-	-	0.20	-	-
Total BMP Housing FTEs	**0.78**	**0.58**	**0.60**	**0.45**	**0.35**

Activity and Workload Highlights	**2014/15 Actual**	**2015/16 Actual**	**2016/17 Actual**	**2017/18 Estimated**	**2018/19 Budget**
1. Number of owner-occupied housing units registered in the Below Market Price Housing Program:	49	50	50	54	54
2. Number of rental housing units registered in the Below Market Price Housing Program:	119	119	119	119	119

DIVISION 6. - HOUSING ASSISTANCE PROGRAM

Sec. 29.10.3000. - Intent.

This division is adopted to meet housing needs shown in the housing element of the general plan.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3005. - Below market price program—Established.

This division establishes the below market price program (BMP).

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3010. - Same—Intent.

The below market price (BMP) program requires the provision of dwellings that persons and families of moderate income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings, and rents if they are rented, will be within the means of persons and families of moderate income.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3015. - Application.

This division shall apply to all residential projects, mixed-use projects, and multiple-family dwelling projects, residential condominium projects, condominium conversions, and to all residential planned development projects (division 2 of article VIII of this chapter) either approved after July 4, 1979, or whose approval includes a condition requiring the provision of BMP dwellings. ~~Projects in the R-l and HR zones are excepted from BMP participation. The exception does not apply if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.~~

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3020. - Definitions.

For the purposes of this division the following definitions shall apply:

BMP dwelling means any residential dwelling unit designated for very low, low, and moderate income under the rules of this section.

Person of moderate income means one whose income falls within the range specified by the Town Council in the resolution authorized by section 29.10.3040.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3025. - Scope.

The Below Market Price Program requirements shall apply to all residential development projects that include five (5) or more residential units or parcels which involve:

1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects, or
2. Subdivision of property for single family or duplex housing development, or
3. Conversion of rental apartments to condominiums or other common interest ownership, or
4. Conversion of non-residential use to residential use.

~~Planned development with an underlying zone of HR shall only be required to pay an in-lieu fee as established by a separate resolution.~~

The residential developments consisting of five (5) or more units are required to provide the following number of BMP units:

(1) Projects containing five (5) or more but less than twenty (20) market rate units must provide a number of BMP units equal to ten (10) percent of the number of market rate units.

(2) Projects with from twenty (20) to one hundred (100) market rate units must provide BMP units as determined by the following formula:

Number of BMP units = .225 (total # of market rate units) - 2.5

(3) All projects in excess of one hundred (100) market rate units must provide a number of BMP units equal to twenty (20) percent of the market rate units.

(4) Whenever the calculations of BMP units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number.

(5) ~~The Town, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit in the case of Planned Unit development with an underlying zone of HR.~~ The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town Council may grant an exception to the phasing requirements during the project approval process.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3030. - Price.

The price of BMP units is controlled for the first buyer and for future buyers by the BMP Guidelines as adopted and amended from time to time by Council resolution and as follows:

(1) The initial price is limited to direct construction cost and a proportionate share of the costs of preparing working drawings and specifications and providing on-site and off-site improvements, determined according to rules set by the Council.

(2) The initial price does not include the cost of land, profit, or marketing costs.

(3) Each BMP unit will be subjected to recorded title restrictions concerning manner of fixture sales, occupancy and leasing.

(4) Each buyer of a BMP unit must agree to sell the unit to a moderate income buyer designated by the Town. The Town will designate moderate income persons according to rules adopted by the Council in effect at the time the seller purchased the unit.

(5) The resale price cannot exceed the original selling price plus the value at the time of sale of improvements added by the owner, and plus an amount equal to the increase in cost of living or housing during the owner's tenure. The index or method to be used in calculating the increase is established by the Council.

(6) If a BMP unit to be resold has not been properly maintained or for any other reason is in poor condition and in need of cleaning or repair, the Town may elect to do the work or have it done and recover the cost from the sale price limited as provided in subsection (5).

(7) The regulations will specify the period for controlled resales. The time period will be in perpetuity or for as long as is practical.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3035. - Project denial.

If an applicant for zoning approval declines to provide BMP units required by ordinance, the zoning approval shall be denied.

(Ord. No. 2181, § III, 10-19-09)

Sec. 29.10.3040. - Administration.

The Council shall adopt by resolution regulations concerning all aspects of the BMP program, including the elements of location of the units, price, buyer eligibility standards, rent, the length of the period during which a unit will be subject to BMP restrictions, the form of recorded instruments and any other matter consistent with the provisions of this section.

(Ord. No. 2181, § III, 10-19-09)

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Exhibit A

TOWN OF LOS GATOS
BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES

I. Purpose

A. Purpose: The overall purpose of the Below Market Price (BMP) Housing Program is to provide the Town of Los Gatos with a supply of affordable housing. While the program is available to all qualified applicants, the general intent of the program is to provide affordable housing for households who work or currently live in Los Gatos. The main goal is to increase the housing supply for households that have median and low incomes compared to the median income for Santa Clara County and meet the housing needs identified in the Town's General Plan Housing Element. The Program further intends to ensure, to the greatest extent possible, that rent and re-sale of these housing units will remain affordable to median and low income levels for the longest feasible time as approved by an authorized body. Although the Town has a fee-in-lieu of constructing actual units option for defined circumstances, the primary objective of the BMP Program is to obtain actual "rental" or "for sale" housing units rather than equivalent funds. All off-site BMP units shall be constructed within the Town of Los Gatos. The construction and occupancy of the BMP unit is determined according to these Town Council established guidelines and authorizing ordinances.

B. Enabling Legislation: The Below Market Price Program is governed by Division 6 of the Town Code. The BMP Program is administered under these Below Market Price Housing Program Guidelines.

II. Below Market Price Housing Requirements – General

A. Applicability: The BMP Program requirements shall apply to all residential development projects that include five (5) or more residential units or parcels which involve:

1. New construction of ownership or rental housing units, including mixed use developments and addition of units to existing projects, or
2. Subdivision of property for single family or duplex housing development, or
3. Conversion of rental apartments to condominiums or other common interest ownership, or
4. Conversion of non-residential use to residential use.

B. Number of BMP Units: All residential developments consisting of five (5) or more units are required to participate in the BMP Program. The requirements for participation increase by development size as shown below:

ATTACHMENT 5

1. Five (5) to Nineteen 19 market rate units: The developer shall provide a minimum number of BMP units equal to ten (10) percent of the number of market rate units.

2. Twenty (20) to one hundred (100) market rate~~s~~ units: The developer shall provide a minimum of BMP units as determined by the following formula:

   Number of BMP units = (.225 x total # of market rate units) - 2.5
   This formula acts to increase the number of BMP units required, as a percentage of market-rate units, from 10% to 20% over the range of 20 to 100 market rate units.

3. One hundred and one (101) units or more: The developer shall provide a minimum number of BMP units equal to twenty (20) percent of the number of market rate units.

BMP dwellings within a project of rental units shall also be rental units. BMP units within a project of owner-occupied units shall also be designated as units for purchase. BMP units within a project that contains both rental and owner-occupied units shall also be designated as both rental and as units for purchase, in a ratio similar to that of the market rate units.

The Town and developer may negotiate to provide more BMP units than required by the rules listed in these guidelines. ~~to fulfill a development's Community Benefit requirements.~~

C. Fraction of a BMP Housing Units: In determining the number of BMP units required, any decimal fraction of .5 or above shall be rounded up to the nearest whole number. Decimal fractions below .5 shall be rounded down to the nearest whole number.

D. Residential In-Lieu Payments: The general intent of the BMP Program is to provide the Town of Los Gatos with a supply of affordable housing for households who work or currently live in Los Gatos. However, there may be circumstances when the construction of the BMP unit is impractical or there are unusual circumstances that make the construction of the unit inconsistent with Town policy. The Town, at its sole discretion, may consider an in-lieu payment alternative to the required BMP unit in the case of ~~Planned Unit development with an underlying zone of HR or~~ a residential development~~s~~ with five (5) to nine (9) units. Prior to approving the in-lieu fee alternative, the applicant must demonstrate to the satisfaction of the Town why a BMP unit cannot be (1) developed on the same site as the market rate units, and if it cannot be provided on the same site then, (2) develop at an appropriate off-site location within the Town limits. If the developer provides sufficient justification that both of these alternatives are not viable, then a fee in-lieu option may be considered. The required in-lieu fee is as established by a separate resolution and is to be paid to the Town prior to issuance of the certificate of occupancy for the market rate residential unit that triggered the BMP requirement. The provision for a BMP unit applies if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

The in-lieu fee shall be equal to the amount of six (6) percent of the building permit valuation for the entire project. The total building permit valuation shall be determined by the Town Building Official.

Fees shall be paid prior to or at time of final occupancy as follows:

1. Multi-Family Owner Occupied Developments: Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.
2. Multi-Family Renter Occupied Developments: Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.
3. Single-Family Planned Developments: At time of final occupancy for each unit.

E. Housing Fund: In-lieu fees will be deposited into the Town's Affordable Housing Fund. Applications and or recommendations for use of remaining funds will be reviewed as received. Possible use of the funds include, but is not limited to, the following:

1. Subsidizing the cost of owner occupied units to make them affordable to low/moderate income households
2. Purchasing rental units to make them affordable to low/moderate income households
3. Purchasing land for the future development of affordable housing
4. Developing affordable housing
5. Supplementing of affordable housing projects ~~developed through the Los Gatos Redevelopment Agency~~
6. Funding administration of the program, as approved by the Town Council in its annual budget process

F. Off-Site Construction: The Town Council may consider off-site construction of BMP units for continuum care facilities and for ~~Hillside Residential (HR) Zone District and~~ residential developments with five (5) to nine (9) units projects that have provided sufficient justification to the Town that an on-site BMP unit is not viable.

G. Phasing of the Construction of On- and Off-Site BMP Units: On- and off-site BMP units shall be constructed and Certificate of Occupancies secured concurrently with or prior to the construction of the market-rate units. The BMP requirement will be calculated on the basis of the whole development. The Town

Council may grant an exception to these phasing requirements during the Planned Development project approval process for condominium conversion developments.

H. Affordability Agreement: The developer of “for sale” BMP units shall enter into an affordability agreement with the Town. The agreement will ensure that the BMP units are sold to qualified buyers and will be released by the Town through the escrow process once the BMP is sold to a qualified buyer.

III. Characteristics of BMP Units

A. Size of units: The size and design of BMP dwelling units ~~shall~~ should be reasonably consistent with the market rate units in the project. The Town and developer may negotiate regarding the size of units if more units than required are to be provided ~~under the Community Benefit requirements~~. BMP units should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units. In consideration of the household size of the households on the current program interest list, the Town and developer may negotiate to provide a greater proportion of a particular unit type. There ~~shall~~ should not be significant identifiable difference between the BMP and market-rate units visible from the exterior. The size and design of the BMP units ~~must~~ should be reasonably consistent with the market-rate units in the development.

B Location of units: BMP units shall be dispersed throughout the development, to the extent feasible; in all buildings, on each floor, and in each project phase. A concentration of BMP units in one location is not desirable and will generally not be allowed.

C. Finish of units: The external appearance of BMP units should be indiscernible to that of the market rate units in the project. The internal finish of BMP units should be identical to that of the market rate units in the project, except that the developer may request Town approval of substitutions for luxury interior finishes, appliances, or fixtures, if such substitutions do not violate any Town code requirement.

D. Project Facilities: All project facilities and amenities, including parking, must be available on the same basis to the BMP units as to the market rate units in the project, to the extent feasible~~.~~, unless the deciding body approves a reduction in parking for the BMP units.

IV. The BMP Unit Purchase Process; Buyer Selection, and BMP Unit Sale and Resale Procedures.

A. Owner Occupied Units

1. Applicant Eligibility

a. Household Income: In order to be eligible to purchase an owner-occupied BMP unit, an applicant's annual household income must be no greater than 100% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Household assets, such as real property, may also be considered in determining eligibility.

b. Housing Costs: In order to be eligible to purchase an owner-occupied BMP unit, an applicant must also demonstrate the ability to pay monthly housing costs. The monthly housing cost shall include the following factors:

1. unit price
2. current lending rates
3. estimated property taxes
4. estimated homeowner's private mortgage insurance (PMI) costs
   homeowners' association fees, if applicable
5. other expenses as determined necessary by the lender

c. Mortgage Financing: All persons must qualify for their own mortgage financing for the purchase of available BMP units without assistance from the Town. Qualifications must include the ability to pay taxes, insurance, closing costs and any homeowner association fees in addition to the mortgage. All loans used to purchase or refinance BMP units must be fixed rate and fixed term without balloon payments to minimize homeowners exposure to increased risks of mortgage default.

d. Required Down payment: A homebuyer shall have a minimum down payment that is equivalent to at least 10% of the BMP purchase price and is required to document the source of all down payment funds. The minimum 10% down payment is exclusive of any other supplemental down payment assistance grant or loan programs available from other agencies.

2. First Time Home Buyers: The Below Market Price (BMP) Program is for First Time Home Buyers. A First Time Home Buyer, by definition, is an applicant whose name has not appeared on a residential title in the counties covered by the Association of Bay Area Governments (ABAG) or Association of Monterey Bay Governments (AMBAG) which are Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma for at

least three (3) years prior to application. Exception is made consistent with the Federal Housing and Urban Development (HUD) definitions (e.g. for people who were homeowners prior to a divorce, a displaced homemaker, a single parent who has only owned with a former spouse, a widow/widower of a veteran, etc.) and for tenants residing in a rental apartment proposed to be converted to a condominium or other common interest ownership prior to a Notice of Intent to Convert the development to an ownership residential unit.

B. Buyer Selection: A point system is used to establish a ranking of applicants for the purchase of an available unit. Applicants will be ranked according to total points and must have at least one point to be eligible to purchase a unit. In addition, applicant households must contain at least the same number of persons as the number of bedrooms in a unit, at the time of application, in order to be eligible to purchase that unit, if the unit contains three bedrooms or more.

All points are calculated per household, not for each individual within the household. For example, a household in which two members are senior citizens would receive six points for senior citizen status, not twelve points for two members having senior citizen status. Points are awarded as follows:

1. **Six points:**

a. Senior citizens who reside in the Town at the time of application and have lived in the Town for at least the prior two years. A senior citizen is defined as any person 62 years of age or older at time of application or married couples living together when at least one spouse is 62 years of age or older at time of application.

b. Senior Citizens who have lived in the Town for at least two years and have moved out of the Town within the last five years prior to the time of application.

c. Disabled persons who reside in the Town at the time of application and who have lived in the Town for at least the prior two years. The definition of "disabled" for the purpose of assigning points under this section shall be that used by the U.S. Social Security Administration for the purpose of determining eligibility for Social Security disability benefits.

d. Households required to relocate their residence as a result of Council action or mobile home park closure.

e. Regular Full-Time and Regular Part-Time Town employees as defined in the Town's Personnel Rules but excluding Los Gatos Monte-Sereno Police Officers, who have been employed by the Town for a period of no less than 12 months prior to the time of application.

f. Single heads of household with dependent children who reside in the Town at the time of application and have lived in the Town for at least the prior two years.

g. All licensed pre-school and public or private K-12 school employees of schools and districts geographically located in and serving the Town, and who have been employed in such capacity for at least one year at the time of application.

h. All certified emergency first responders (e.g. sworn police officers, fire fighters, and emergency medical technicians and paramedics) who have been employed in such capacity for at least one year at the time of application by an agency serving the Town.

2. **Four points:**

   a. Persons who live in the Town of Los Gatos at time of application and who have lived in the Town at least the prior two years.

   b. Persons who work in the Town of Los Gatos at time of application and have worked in the Town for at least the prior two years.

3. **Two points:**

   a. Households who have lived in the Town for at least 10 years and have moved out within the last ten years prior to the time of application.

   b. Household size is worth two points per person.

4. **One point:**

   a. Households who live or work within Santa Clara County at the time of application.

   b. Households with an annual household income at or below 60% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA).

5. A lottery will be used to rank each qualified applicant in the case of a tie.

6. Applicants are provided the opportunity to purchase available units in order of point ranking, from most points to least points. An applicant has two opportunities to refuse to purchase a unit before being removed from

the current applicant pool.

7. Applicants who do not qualify for a particular project or who are not provided the opportunity to purchase a unit in a particular project shall retain their eligibility to apply for future projects.

8. An applicant must obtain pre-approval for a mortgage loan within one week after notification of eligibility to purchase a unit. The applicant must submit documentation of loan approval within three weeks of notification of eligibility to purchase a unit.

9. Exception to the Buyer Selection Process: An exception to the Buyer Selection Process may be granted to a resident of a rental apartment that is proposed to be converted to an "owner occupied" condominium or other common interest ownership development. In order to qualify for the exception, the resident must have resided in the rental apartment prior to the issuance of the Notice of Intent to Convert the development to an ownership project and shall meet the financial eligibility requirements to qualify for a BMP unit. The resident shall be provided first right of refusal, regardless of point ranking, for units in the following order:

    a. The unit they reside in if it is designated as a BMP unit.

    b. Any other available BMP unit.

C. <u>Determination of Initial Selling Price:</u> BMP units shall be priced to be affordable to households in two income categories: Median Income Households (those whose income is above 80%, but no greater than 100%, of the County Median Income); and Low Income Households (those whose income is above 50%, but no greater than 80%, of the County Median Income).

1. Fifty percent (50%) of the units in a project shall be priced to be affordable to Median Income Households; fifty percent (50%) shall be priced to be affordable to Low Income Households. Whenever the calculations result in fractional units, then the number of units priced to be affordable to Low Income Households shall be rounded up to the next whole number, and the number of units priced to be affordable to Median Income Households shall be rounded down to the next whole number, including zero (0). The following table applies this formula to projects with 1, 2, and 3 units:

Total Number of BMP Units in Project	Units Priced for Low Income Households	Units Priced for Median Income Households
1	1	0
2	1	1
3	2	1

The Town and developer may negotiate regarding the affordability mix of units, to fulfill a development's Community Benefit requirements.

The affordability level of a unit shall be for the purpose of setting the initial selling price only, and do not prevent its sale to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

2. Annually, the Town shall set the initial unit sales price for each unit type (number of bedrooms), for each of the two income categories. These initial sales prices shall be set using the most recent Median Family Income (MFI) figures from the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA), and through the following calculations:

a. For units to be priced to be affordable to Median Income Households: the average of the 100% MFI annual income and the 80% MFI annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: 100% MFI (4-person/4 bedroom) = $105,000

80% MFI (4-person/4 bedroom) = $75,700

Average MFI = ($105,000 + $75,700) divided by 2
= $90,350

Average MFI X Multiplier = Initial Sales Price

1. Assumptions of household size by size of unit are as follows:

	Household Size
Studio	1
1 Bedroom	1
2 Bedroom	2
3 Bedroom	3
4 Bedroom	4

These assumptions of household size by size of unit shall be for the purpose of setting the initial sales price only, and do not prevent the sale of any unit to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

b. For units to be priced to be affordable to Low Income Households: the average of the 80% MFI annual income and the 50% annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

Example: 50% MFI (4-person/4 bedroom) = $ 52,500

80% MFI (4-person/4 bedroom)= $75,700

Average MFI = ($52,500 + $75,700) divided by 2
= $ 64,100

Average MFI X Multiplier = Initial Sales Price

c. Calculation of Multiplier. A Multiplier shall be calculated, based on reasonable assumptions about unit sales prices, based on the most recent comparable sales of BMP units; current lending rates, as determined by the most recent Primary Mortgage Market Survey (PMMS) conducted by the Federal Home Loan Mortgage Corporation (Freddie Mac); and related costs; and using the following formula:

1. Determination of Total Housing Cost: Sample sales price - 10% down payment = mortgage. Annual debt service on mortgage + annual property taxes + annual homeowners fees + annual private mortgage insurance (PMI) = Total Annual Housing Cost.

2. Determination of Minimum Household Income: Assuming one-third of household income goes for housing expenses, Total Annual Housing Cost x 3 = Minimum Annual Household Income.

3. Determination of Multiplier: Sample Sales Price/Minimum Annual Household Income = Multiplier.

Copies of the initial sales prices, and the calculations made, shall be available on request from the Town's Community Development Department.

D. <u>Deed Restrictions/Request for Notice:</u> Council approved Deed Restrictions shall be recorded with each Below Market Price dwelling unit. In addition to the Deed Restriction, the Town shall also require that a Request for Notice for the benefit of the Town be recorded for each lender Deed of Trust record on title.

E. Resale of Units:

1. If the owner elects to sell his/her unit, the Town must be notified in writing by the owner.
2. When a Below Market Price dwelling unit becomes available for resale, the Town shall set the resale price and make the unit available for purchase through the BMP process.
3. The Town determines the resale price in accordance with the deed restriction recorded on the property.

4. The homeowner, as noted in the recorded Deed Restriction, is responsible for paying all closing costs (including commissions or fees).

F. Occupancy of Units:

Consistent with the deed restriction that will be recorded on the subject property, the household purchasing a BMP unit must occupy the unit as his or her primary residence during his or her ownership of said unit.

V. Requirements for BMP Rental Development

A. Administration: The program shall be administered by the Town or its designee.

B. Applicant Eligibility

1. Household Income: In order to be eligible to rent a BMP rental unit, a household's annual income must be no greater than 80% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Priority will be given to those households whose income is less than 50% of the MFI. Household assets may also be considered in determining eligibility.

2. Ability to Pay Rent: A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility.

C. Tenant Selection: The property owner or manager of the development shall market the BMP unit(s), and solicit rental applications. Applications from tenants selected by property owner or manager will be forwarded to Town or designee for verification of income eligibility.

D. Management

1. BMP rental units shall be managed by the property owner or manager in the same manner as other units in the development.

2. Tenants of BMP rental units are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.

E. Unit Rents: Rents may not exceed 80% of the most current Fair Market Rents as determined by the Santa Clara County Housing Authority.

F. Annual Review: If a tenant's income increases so that it falls between 80 and 100 percent of MFI, then the rent may be increased in accordance with the Town's Rental Dispute Ordinance; and the unit shall still be considered a BMP Rental Unit. However, if a tenant's income exceeds 100 percent of MFI, the rent may be increased to the average rent of similar units in the complex; in this latter case, the unit will no longer be a BMP unit and the next available unit that is comparable in size shall be designated as a BMP unit in its place, and must be rented to an eligible household so that the number of BMP units within the project remains the same.

G. Deed Restrictions: Council approved Deed Restrictions shall be recorded for each Below Market Price rental dwelling unit.

V1. RENTAL UNITS - NEW SECOND DWELLING UNITS

A. Administration: The program shall be administered by the Town or its designee.

B. Second Unit Incentive Program: 29.10.310 of the Town Code, may choose to participate in the Second Unit Incentive Program (SUIP) as referenced in Section 29.10.320(a) of the Town Code and as set forth below.

1. The SUIP consists of a no interest construction loan to a property owner who intends to develop a new second unit. The loan amount shall be determined based on the square foot construction cost as set forth in the current version Uniform Building Code as adopted by the Town for new construction and remodels. The loan amount will be calculated at 100% of the construction cost if the unit is income and rent restricted to serve households with incomes below 50% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA), or 80% of the construction cost if the unit is income and rent restricted to serve households with incomes below 80% of MFI.

2. When a property owner participates in the SUIP, a deed restriction shall be recorded on the property. The deed restriction shall stipulate the rental rate, tenant income level, duration of affordability and loan repayment requirement as well as any other criteria as determined appropriate by the Town.

3. A SUIP loan to construct a second unit within the Central Los Gatos Redevelopment Project area ~~shall be funded using Redevelopment Affordable Housing Funds and~~ shall remain affordable for 55 years. A SUIP loan to construct a second unit outside the Central Los Gatos Redevelopment Project area shall be funded using BMP Program Funds and shall remain affordable for 30 years. The SUIP affordability restrictions as set forth in this section may only be amended by action of the Town Council.

4. A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility. Applications from tenants selected by the property owner or manager will be forwarded to the Town or its agent for verification of income eligibility. Rental agreements shall be submitted to the Town or its agent to verify compliance with the provisions of this section. Tenants are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.

5. Units targeted to households with incomes up to 80% of the Median Family Income (MFI) shall have rents restricted to 80% of Fair Market Rents as determined by the Santa Clara County Housing Authority. Units targeted to households with incomes up to 50% of CMI shall have rents restricted to 50% of Fair Market Rents as determined by the Santa Clara County Housing Authority. Tenant rents and incomes will be monitored annually.