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Downtown and DeSilva South development a continued topic in Housing Element discussion

By Lou Fancher

Senior Planner Renata Robles began a presentation Oct. 23 to the city council about Lafayette's updated and revised 6th cycle Housing Element by outlining the primary features of the staff report, written by Planning and Building Director Greg Wolff, Robles and Housing Consultant Diana Elrod. Robles and staff sought to hear council discuss realistic capacities, prospects for future developments, and the red line underscored revisions to the previous Housing Element draft.

At the Sept. 26 meeting, council had considered several options related to Faith Based Organizations (FBOs) and housing at those sites consistent with the provisions of SB 4, which was signed Oct. 11 by Gov. Gavin Newsom and ensures that churches, faith institutions, and nonprofit colleges will be able to build affordable housing on their land without having to go through an expensive and difficult rezoning and discretionary approval process.

Robles reported that staff had submitted several appendices to Housing and Community Development (HCD) for its informal review and had reached out two additional times requesting confirmation of receipt, with no response from HCD.

Staff asked for feedback from council regarding consideration of revisions to zoning and minimum density requirements, approval for staff to submit the revised HE draft to HCD on Oct. 26 (or as soon as possible, given further revisions), and direction for preparing necessary preemptive general plan and zoning amendments that will allow adoption of the HE and zoning by Jan. 31, 2024.

Elrod said staff would ask for an expedited review, but noted there is no guarantee an expedited review from HCD would occur and council should expect the review period to take the allotted 60 days.

Discussion about changing the zoning to 88% minimum density at opportunity sites consumed considerable time throughout the meeting. Elrod said staff calculations show it is the only density level that would avoid endless back-and-forth with HCD and would place the jurisdiction in the best position to receive certification. The downside to requiring 88%, she said, might be the development of very large townhomes that might leave parts of an opportunity site under-developed.

Notably, HCD has not approved capacities that approach 100%, but has approved HE plans, such as Danville's, that include more conservative estimates. In reviews of approved HEs for both Orinda and San Ramon, the capacity analyses are conservative. Orinda's average capacity of project samples was 88%, but the HE projects only a 60% realistic capacity against its opportunity sites.

Staff also evaluated impacts on wildfire and evacuation under three scenarios and added language to clarify development in Very High Fire Hazard Severity Zones and options for ladder reductions in density and zoning in areas close to Highway 24.

Public comment from 33-year Lafayette resident Rob Lavoie said reasons to upzone in the downtown core should be limited and upzoning would be best done in areas such as the DeSilva property. Others agreed that building out on parcels outside of the downtown core would preserve the city's aesthetics and the vitality of the businesses located there.

Many comments referred to the "builder's remedy," which means cities noncompliant with HE law and housing number requirements must approve a housing project of any size as long as at least 20% of the homes are low-income or 100% of them are moderate-income. Additionally, a member of the public warned that SB 4 does not protect the city because Faith Based Opportunity areas could allow higher densities that might result in permanent, six-story buildings in Burton Valley, among other examples. The 88% density level caused many during public comment to express reservations that the number was too high to be realistic and would result in the HE not being certified by HCD.

Elrod reminded the council and members of the public that there are "many moving parts" to the HE and changes requiring entire revisions of entire sections -such as those involving density and zoning-could place the city in an insurmountable time crunch. Major elements such as the DeSilva area, for example, if largely altered or not included would require multiple layers of new analysis and text changes related to the final EIR with details that would take considerable time to compile and recirculate for review and commentary. Council discussed the FBO sites and upzoning density levels and applying SB 4 height standards and the city's CEQA requirement to all of the sites. The conversation about the DeSilva South site included recognition of public comments supporting placing it on the opportunity site list. The staff report noted that the city could include no more than 9.5 acres of the DeSilva site for housing using the distribution of units among very low-, low- and moderate-income.

Council Member Wei-Tai Kwok said on the plus side, it was a large property, the owner is interested in developing, it's near a freeway entrance and, because it is a large property, it could still provide parks and open spaces in addition to housing. On the negative side, he said DeSilva is not walkable to downtown or any schools. He warned it could result in several hundred more cars on city streets, and although he said compromise and discipline were required to "get us to the finish line," he believed investing in the downtown core and a walkable city is more desirable and was "leaning toward a no" on the matter.

Extended discussion resulted in the council agreeing that setting an 88% minimum density decision was vastly complex, carried objectionable but also favorable implications, and DeSilva South was a vital element to include in the HE in order to receive HCD certification.

Staff encouraged council to keep in mind applying density levels consistently in the downtown area. The potential impact of upzoning to a 75 or 50 density percentage versus maintaining a 35 unit-per-acre figure

to one city block caused Mayor Carl Anduri, in one example, to say, "I would not want to see a 10-story building across the street from the library." Council directed staff to continue using streets as boundaries between districts for stepping density levels up or down.

With the meeting extended beyond midnight, council closed with directions to staff to make amendments in appendices' language that addressed things such as missing middle housing, which references incentivizing mixed-use or multi-unit developments to make sure the city achieves the Regional Housing Needs Assessment (RHNA) requirements. A seven-day comment period would then be enacted.

The council approved the changes be added to the draft, including adding the 88% minimum density, and directed staff to file the revised HE with HCD as soon as possible.

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