



Legislation Details (With Text)

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On agenda: 12/16/2024 **Final action:**

Title: Ordinance Adoption - Public hearing and first reading of Ordinance No. 2024-17 to adopt Zoning Text Amendment No. 2024-05: A request by the City of Visalia to implement programs in the Housing Element of the General Plan pertaining to the Permit Streamlining Act, Accessory Dwelling Units, and the rezoning of certain sites within the Housing Element Sites Inventory to allow by-right development without discretionary action. The regulations will apply Citywide to properties within the city limits of the City of Visalia. Environmental Status: The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Code of Regulations Section 15061(b)(3).

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1 Ordinance for ZTA 2024-05, 2. Attachment 2 Excerpts of Related Sections of State Law, 3. Attachment 3 Complete Table of 6th Cycle HE Implementation Programs ok, 4. Attachment 4 State HCD Letter 12_04_2024

Date	Ver.	Action By	Action	Result
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Agenda Item Wording:

Ordinance Adoption - Public hearing and first reading of Ordinance No. 2024-17 to adopt **Zoning Text Amendment No. 2024-05**: A request by the City of Visalia to implement programs in the Housing Element of the General Plan pertaining to the Permit Streamlining Act, Accessory Dwelling Units, and the rezoning of certain sites within the Housing Element Sites Inventory to allow by-right development without discretionary action. The regulations will apply Citywide to properties within the city limits of the City of Visalia. Environmental Status: The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Code of Regulations Section 15061(b)(3).

Deadline for Action: 12/16/2024

Submitting Department: Community Development

Contact Name and Phone Number:

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Department Recommendation:

Staff recommends that the City Council hold a public hearing and introduce the first reading of Ordinance No. 2024-17, to amend portions of Municipal Code Title 17 (Zoning Ordinance) as to implement programs contained in the City of Visalia 6th cycle 2023-2031 Housing Element pertaining to the Permit Streamlining Act, Accessory Dwelling Units, and the rezoning of certain sites within the

Housing Element Sites Inventory to allow by-right development without discretionary action.

Background Discussion:

Zoning Text Amendment (ZTA) No. 2024-05 is a city-initiated request to implement three Zoning Ordinance text amendments that stem from last year's adoption of the 6th cycle 2023-2031 Housing Element Update. The Housing Element was adopted by the City Council on December 18, 2023, and subsequently found by State Housing and Community Development (HCD) to be in full compliance with state Housing Element law. Following adoption, the Housing Element is implemented through a series of implementation programs.

The proposed ZTA represents the first series of changes being undertaken to help fulfill the intended outcomes or objectives of the Housing Element (in an effort to help remove or overcome constraints to housing development). Specifically, this ZTA responds to four implementation programs that the Element identified to be completed within approximately one year following adoption. The four implementation programs are:

A1: Designate for Sufficient Land (*Portion of Program 1.1*)

The City will allow development by-right pursuant to Government Code section 65583.2(c) when 20 percent or more of the units are affordable to lower income households on sites identified in Table 63 of the 6th cycle 2023-2031 Housing Element, which accommodate the lower income RHNA and were identified in past housing elements. Specifically, the City will allow affordable (usually by deed restriction) residential development by-right to the Low and Very Low income categories (serving households earning 80% and below the Area Median Income for Tulare County) on lower-income nonvacant sites identified in the 5th cycle housing element, and lower-income vacant sites identified on sites previously identified in both the 5th and 4th cycle housing elements. This update to the zoning ordinance is required to comply with this state mandated requirement.

Table 63
Sites Used in Previous Planning Periods
Visalia
2022

Address	APN	Acres	Land Use	Zoning	Existing Use	Total Units
W Myrtle Ct & S Fulgham St	087090035	1.35	RHD	R-M-3	Vacant	32
S Santa Fe St & E Paradise Ave	097272032	1.46	RHD	R-M-3	Vacant	35
2505 E Goshen Ave	098060027	0.50	RHD	R-M-3	Vacant	12
2541 E Goshen Ave	098060038	1.00	RHD	R-M-3	Vacant	24
Boyer Ln & E Goshen Ave	098060043	3.15	RHD	R-M-3	Industrial	76
2603 E Goshen Ave	098340042	9.68	RHD	R-M-3	Industrial	232
E Tulare Ave & S Ben Maddox Way	100390001	4.62	RHD	R-M-3	Agriculture	111
1641 E Tulare Ave	100390002	3.81	RHD	R-M-3	Agriculture	91
N Santa Fe & E Grove Ave	094110013	2.00	RHD	CMU	Commercial	46
500 E Race Ave	094100037	1.4	RHD	CMU	Commercial	32
535 N Burke St	094250015	0.84	CMU	CMU	Industrial	19
730 E Mineral King Ave	094222029	3.42	CMU	CMU	Commercial	79
700 E Mineral King Ave Unit A	094222030	1.09	CMU	CMU	Commercial	25
715 1/2 E Acequia Ave Unit A	094222019	1.14	CMU	CMU	Commercial	26
721 E Acequia Ave	094222018	1.31	CMU	CMU	Industrial	30
815 E Acequia Ave	094222006	0.65	CMU	CMU	Commercial	15
620 E Center Ave	094240029	0.86	C	CMU	Commercial	20
940 E Main St	094201019	0.68	CMU	CMU	Commercial	16
1040 E Main St	094201026	0.73	CMU	CMU	Commercial	17

A2: Annexations to Accommodate Future Housing Needs (*Portion of Program 1.7*)

The City shall complete the annexation process for the annexation sites listed in Table 69 [staff note: Table 69 was later renumbered as Table 70], with Tulare County and Tulare County Local Agency Formation Commission (LAFCO). In doing so, the City shall apply development standards, parceling at appropriate sizes (0.5 to 10 acres), and incentives to promote affordability. The annexations shall be completed in 2024 ...

The City shall provide zoning in compliance with Government Code section 65583.2, subdivisions (h) and (i) on appropriate acreage within annexation sites included as lower income RHNA capacity (serving households earning 80% and below the Area Median Income for Tulare County), including portions of annexation sites 2 (Crandell/Belissa) and 5 (Carleton Acres). Zoning will permit owner-occupied and rental multifamily uses by-right (without discretionary approval) for developments in which 20 percent or more of the units are affordable to lower income households, allow for at least 20 dwelling units per acre, at least 16 dwelling units per site, require a minimum density of 20 units per acre and up to 100 percent residential floor area in mixed use zones and require that residential uses occupy at least 50 percent of the total floor area of a mixed use project. This update to the zoning

ordinance is required to comply with this state mandated requirement.

Table 70 Annexation Sites Visalia 2022							
Map ID	Entitlement	APN(s)	Acreage	Lower- Income Units	Moderate- Income Units	Above Moderate- Income Units	Total Units
1	Pratt Family Ranch	078010022, 023, 025, 028, 029	93.00	0	63	184	247
2	Crandell / Belissa ¹	077050004, 005	87.51	168	150	159	477
3	Barr & Wood	119022041	69.35	0	0	139	139
4	Shepherds Ranch II	81030036	40.77	0	0	200	200
5	Carleton Acres	077100108	156.00	146	91	388	625
6	Pearl Woods	127030038	67.49	0	0	274	274

B: Municipal Code Updates (*Portion of Program 5.8*)

To remove constraints to a variety of housing types and ensure compliance with State law, the City shall amend the municipal code to:

- Allow accessory dwelling units (ADUs) right in all zones allowing residential uses, in compliance with State law. The City will defer to State ADU and Junior ADU law until a compliant ADU Ordinance is adopted, which is anticipated to be introduced for the City Council's first reading/public hearing at their December 16th meeting.

C: Permit Streamlining Act (Program 5.11)

The City shall adopt a policy to ensure compliance with the Permit Streamlining Act (Government Code § 65920 et seq.) and timing requirements of the California Environmental Quality Act (CEQA) (Public Resources Code (PRC) § 21000 et seq.). The policy shall specify:

- Who is responsible for making CEQA determinations of PRC 21080.1;
- That the determination will be made within the timeframe permitted by PRC 21080.2; and
- That when the City determines a project is exempt from CEQA, the determination triggers the Permit Streamlining Act 60-day deadline under Gov. Code 65950(a)(5).

The amendments being completed under these programs are all being done only for the purpose of bringing the City's Ordinance into compliance with state law. These amendments do not implement changes that are in any way more restrictive or relaxed than existing state law and do not go above and beyond state law. Additionally, the City Council will need to adopt these changes or face penalties if the state determines that the City is not making changes to bring its Ordinance into compliance with state law, including the risk of having the City's Housing Element fall out of compliance.

The four implementation programs are the only four programs which have a requirement to be completed within one year of the Housing Element Adoption. Additional ZTAs to implement remaining implementation programs will be implemented roughly each year through 2031 through one or more separate ZTA processes in each year. Each ZTA allows for the code changes to be vetted publicly through the public hearing process.

The entire Housing Element can be accessed at the following link:

[<https://www.housevisalia.com/images/docs/VHEGP_HE_Compliant_2024-09-25.pdf>](https://www.housevisalia.com/images/docs/VHEGP_HE_Compliant_2024-09-25.pdf)

Project Analysis:

A1 and A2: Affordable residential development by-right on lower-income sites

Among the many components of a jurisdiction's Housing Element is the Sites Inventory which demonstrates that it contains enough land with appropriate zoning and development standards to accommodate its share of dwelling units for a variety of income categories, as determined by the Regional Housing Needs Allocation (RHNA). Recent state law, which took effect with this cycle of the Housing Element, has stated that under certain conditions, some sites that are inventoried to meet lower income capacity assumptions will be subject to by-right approval (i.e. no discretionary action or Conditional Use Permit) when a project includes housing developments with 20 percent or more of the units being affordable (usually by deed restriction) to the Low and Very Low income categories (serving households earning 80% and below of the Area Median Income for Tulare County).

Two implementation programs in the 6th Cycle Housing Element speak to different types of sites affected by the state law allowing for projects containing 20% or more of the units as affordable.

Program 1.1 addresses sites inventoried to meet lower income capacity that were listed in a previous Housing Element's Sites Inventory but were not developed on. Specifically, nonvacant sites (i.e. sites to be redeveloped) identified in the 2015 housing element and vacant sites identified in the past two (2010 and 2015) housing elements. This is consistent with Government Code Section 65583.2(c) and (i). This amounts to 19 sites - nonvacant sites are zoned Downtown Mixed Use (DMU) or Commercial Mixed Use (CMU), and vacant sites are zoned R-M-3 (Multi-family Residential).

Program 1.7 addresses certain sites that were identified to be annexed in order to achieve the minimum counts for its sites inventory. Of the six annexations identified in Table 69 (later changed to Table 70) - all of which completed annexation in 2024 - two of the annexation sites included land inventoried for lower-income categories. These annexations are the Carleton Acres annexation (located at the northeast corner of Shirk Street and Riggins Avenue) and the Belissa-Crandall annexation (located at the west end of Riverway Avenue, west of Demaree Street), which amounts to two parcels. This is consistent with Government Code Section 65583.2(h) and (i). The Government Code states that in addition to a by-right use meeting a requirement of 20 percent or more of units being affordable, a project would also need to allow for at least 20 dwelling units per acre, have at least 16 dwelling units per site, require a minimum density of 20 units per acre, and in mixed use zones, have up to 100 percent residential floor area and require that residential uses occupy at least 50 percent of the total floor area.

Proposal

For the purpose of choosing only selected sites / parcels to be developable by right subject to meeting criteria, the Zone Text Amendment will add a new overlay district entitled Designated Housing Element Sites (HE) Overlay as an Article and Section to Zoning Ordinance Chapter 17.06, Zone Classifications. The overlay contains a total of 19 mostly non-contiguous parcels (corresponding to the description above), as defined by a table in the Ordinance that for each site specifies its location, address if applicable, APN, zoning designation, and size in acres.

The new Section specifies that development which meet the state criteria, which include providing 20 percent or more of a project's units affordable to lower-income households, shall be allowed only by first obtaining a Site Plan Review Permit and shall not require a Conditional Use Permit.

This will not preclude other housing developments without a minimum 20 percent of affordable units from developing on these properties. In such cases, the City's standard determinations for permitted and conditionally-allowed uses in those zones in accordance with the underlying Zoning Ordinance Chapter will apply. The Zoning Ordinance would determine if the dwelling units and the number of units require a Conditional Use Permit.

B: ADUs By Right in Other Zones Allowing Residential Uses

In recent years, the State has passed several laws to further encourage ADU development. Updates to State law included changes pertaining to the allowed size of ADUs, permitting ADUs by-right in at least some areas of a jurisdiction, and reduced parking requirements related to ADUs. These updates were among the last to be incorporated into the City's Zoning Ordinance Update in 2017.

An implementation program in the previous Housing Element was responsible for updating the Zoning Ordinance to specify that ADUs were allowed by right in all residential and mixed use zones, and conditionally allowed in other zones since new and expansion of residential units is conditionally allowed in other zones. However, this change does not take into account locations in other zones where there are legally existing dwelling units. Whereas these locations shall allow ADUs by right in accordance with state law, the City's Ordinance does not specify this. Therefore, Program 5.8 intends to make this clarification through this Zone Text Amendment.

Proposal

This ZTA makes multiple changes to the Zone Use Matrix's line item for Accessory Dwelling Units as follows:

- It changes the use description from simply "Accessory Dwelling Units" to "Accessory Dwelling Units on a lot with an existing primary residence". Based on this new description, the use is changed from conditionally allowed ('C') to permitted ('P') in all non-residential zones.
- It also adds "Junior Accessory Dwelling Units" to the use description consistent with state law.
- It changes the identified Chapter / Section from "17.12 Article 2" to "17.14" to be consistent with the new location of the City's ADU Ordinance, which will be presented to the City Council at their December 16th meeting.

C: Permit Streamlining Act

The Permit Streamlining Act (Government Code Section 65920, et seq.) was passed into state law many years ago to ensure that development projects are processed in a timely manner and are not unduly held up by local jurisdictions. While jurisdictions are required to comply with the Permit Streamlining Act in tandem with the California Environmental Quality Act (Public Resources Code Section 21000, et seq), the State Department of Housing and Community Development has requested that the City adopt a policy to ensure that it complies with these laws and provide clarity on a project's CEQA determination.

Proposal

This ZTA will add a new Article and Sections to the City's Zoning Ordinance Chapter 17.02, General Provisions, commencing with the Purpose in Section 17.02.190. This new City ordinance will be the City's acknowledgement of entitlement projects processed under the Zoning Ordinance being done to in compliance with the Permit Streamlining Act and CEQA, together with their appropriate sections in

state law (Section 17.02.200 and 210).

Section 17.02.220 describes the City's own procedures for making the determination whether a project is complete and the appropriate follow-up with the project applicant. The code in part restates the state law that the City shall make determination and notify an applicant within 30 days of application submittal whether that application is complete or incomplete.

Section 17.02.230 then describes the City's responsibility for a project that is determined to be complete to determine the required level of environmental review within the timeframe required by CEQA. Government Code Section 65950, et seq, specifies the periods for which a jurisdiction shall approve or disapprove an environmental review upon an application being determined as complete. If a project application is determined to be exempt from CEQA, then the City is required to approve or disapprove the project within 60 days from its determination that the project is exempt.

As summarized above, the new Zoning Ordinance sections contain a focus more on the procedures for making a determination of project completeness, including the level and detail of required environmental review. The text makes direct reference to state code, which in turn will help reduce the need to make updates in the future if the state passes amendments to the law.

State of California Department of Housing and Community Development (HCD)

To ensure jurisdictions that have received certification of their 6th Cycle Housing Element from HCD and are committing to making changes as defined in their Housing Element programs as required by Housing Element Law, HCD is e-mailing letters to obtain updates on the status and timeline of implementation of programs. The City of Visalia received a letter of inquiry from HCD on December 4, 2024 (see Exhibit "C"). The letter requests a response from the City regarding its progress on completing ordinance updates to implement Programs 1.1 (Designate Sufficient Land) and 1.7 (Annexations to Accommodate Future Housing Needs) to satisfy our RHNA allocation by December 31, 2024. HCD is requesting that the City provide an update on the status and timeline of implementation for Programs 1.1 and 1.7 by January 3, 2025. Staff is preparing a response letter to HCD informing them of our timeline and our efforts to have get these changes implemented, thereby bringing Visalia's ordinance into compliance with state law and the programs as noted in the 6th Cycle Housing Element.

Fiscal Impact:

None.

Prior Council Action: On December 18, 2023, the City Council voted to adopt the 6th Cycle 2023-2031 Housing Element.

Planning Commission Review and Action: On December 9, 2024, the Planning Commission voted 5-0 to recommend approval of Zoning Text Amendment No. 2024-05 as presented by staff. No public comment was received regarding the proposed changes to the ordinance.

Alternatives:

The City Council may, in lieu of the recommended motion, consider any of the following alternative motions:

1. Deny the Zoning Text Amendment in whole or in part, or
2. Return the item to the Planning Commission for further consideration.

Recommended Motion (and Alternative Motions if expected):

I move to introduce for first reading Ordinance No. 2024-17 for Zone Text Amendment No. 2024-05.

Environmental Assessment Status:

The requested action is considered exempt under Section 15061(b)(3), Per Section 15061(b)(3) of the State Guidelines for the California Environmental Quality Act (CEQA). A Notice of Exemption has been prepared for the project because Section 15061 (b) (3) states that the project is exempted from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed text amendment will not have a significant effect on the environment.

CEQA Review:

The requested action is considered exempt under Section 15061(b)(3), Per Section 15061(b)(3) of the State Guidelines for the California Environmental Quality Act (CEQA). A Notice of Exemption has been prepared for the project because Section 15061 (b) (3) states that the project is exempted from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed text amendment will not have a significant effect on the environment.

Attachments:

1. Ordinance No. 2024-17 for Zoning Text Amendment No. 2024-05
2. Excerpts of Related Sections of State Law
 - Government Code Section 65583.2 Subsections c, h, and i - Housing Elements
 - Government Code Section 65920 - Permit Streamlining Act
3. Complete Table of 6th Cycle Housing Element Implementation Programs
4. State HCD Letter of Inquiry, December 4, 2024