

D4 Housing Constraints Analysis

Constraints to the development of adequate and housing include market, governmental, infrastructure, and environmental factors. These constraints may result in housing that is not affordable to low- and moderate-income households and may render residential construction economically infeasible for developers. Constraints to housing production significantly impact households with low and moderate incomes and special needs.

According to Government Code Section 65583, local governments are required to analyze governmental and non-governmental constraints to the production, maintenance, and improvement of housing for persons of all income levels and those with special needs and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing as part of its housing element update. Where constraints to housing production are related to the City's regulations or land use controls, the City must identify appropriate programs to mitigate these constraints, particularly ones that impact the production of affordable housing or housing for special needs populations.

The following chapter outlines non-governmental, governmental, environmental and infrastructure constraints to housing and was used in the development of specific policies and actions included in Chapter D7, *Housing Plan*, to remove barriers to housing and to incentivize housing production, specifically targeting housing production at all income levels and housing for persons with special needs.

D4.1 Summary of Local Housing Constraints

- The costs associated with developing housing are increasing, and the availability of financing due to recent trends of rising interest rates make it increasingly difficult for people to buy a home or build new housing. There is a lack of federal, state, and local funding, and the funding that is available is increasingly competitive.
- Although Gustine's development regulations allow for a variety of densities throughout the city, height requirements are not sufficiently flexible. Height restrictions for multi-family developments potentially constrain the development of a variety of housing types.
- The minimum open space requirements for multi-family housing projects with more than five units are considerable. This could potentially constrain the development of multi-family housing in the city.
- The City's Accessory Dwelling Unit (ADU) Ordinance is not in compliance with state law as it does not allow the development of ADUs in all residential zones.
- Gustine's development review and impact fees are much higher than in other small cities in the region.

D4.2 Non-Governmental Constraints

The availability of housing is affected by a complex set of interrelated market factors including, but not limited to, cost of land, cost of construction, and availability of financing. These factors contribute to determining a new home's sale price or the rents required to make a project feasible. Non-governmental constraints include factors outside of direct governmental control that directly

impact housing prices. The cost of construction and the availability of financing contribute to the cost of housing and can hinder the production of housing. The following analysis accounts for these non-governmental constraints.

D4.2.1 Land Costs

The cost of land can impede the production of housing. Land costs are influenced by many variables, including land scarcity and developable density (both of which are indirectly controlled through governmental land use regulations), location, site constraints, and the availability of public utilities.

Costs associated with the acquisition of land include the market price of raw land and the cost of holding land throughout the development process. These costs can account for as much as half of the final sales prices of new homes in very small developments or in areas where land is scarce. Among the variables affecting the cost of land are its location, its amenities, the availability of public services, and the financing arrangement made between the buyer and seller. According to Stephens & Borrelli Real Estate, as reported in the 2019 Housing Element, the typical single-family lot (6,000 to 8,000 square feet) with improvements sold for \$49,000. In 2023, no land was listed for sale in Gustine.

Table D4-1 provides the average price per acre for land sold between January 2021 and December 2022 in Gustine. The average price per acre for land sales was \$448,859. All vacant lots sold between were less than 10 acres in size and in areas zoned single-family residential.

Table D4-1 Sold Land Prices – Gustine

Lot Size	Average Price per Acre (Listed)
Less than 10 acres	\$448,859*
10 or more acres	N/A
Average \$/acre	\$448,859

Source: Zillow, Inc., 2024.

*Note: One property was sold multiple times from 2021-2022. For the purposes of this analysis the sale price of \$479,524/acre was used in the calculation of the average price per acre.

Conclusion

The housing market (vacant and developed land) in the City of Gustine can vary depending on location, allowable density, availability of improvements, and proposed land use of the site. In general, entitled single-family subdivisions with infrastructure extension plans command higher prices than raw undeveloped land.

While land costs increase over time, these raw costs are not necessarily a constraint to housing. In general, land costs in Merced County are lower compared to coastal counties, and comparable in price to other nearby counties such as Madera and Fresno Counties. As a result, raw land costs are not considered a constraint to the development of housing.

Recommended Action

None required.

D4.2.2 Construction Costs

Construction costs can be broken down into two primary categories: materials and labor. A major component of the cost of housing is the cost of building materials, including wood and wood-based products, cement, asphalt, roofing materials, and pipe. The availability and demand for such materials affect prices for these goods.

Another major cost component of new housing is labor. The cost of labor in Merced County is comparatively low because the area’s cost of living is relatively low compared to other areas in California. However, labor for government subsidized housing work is additionally costly for the Central Valley, as wages are rooted in the required State Labor Standards based on higher northern and southern California prevailing wages.

Based on recent affordable multi-family projects, the cost of construction in the county is estimated to be between \$400,000 and \$675,000 per unit.¹ The estimate includes direct and indirect (e.g., insurance, permits, utilities, plans) construction costs, including material, labor, and equipment costs, the price of land, development impact fees, and administrative costs.

Table D4-2 shows the estimated cost of constructing a basic 1,500 square foot single-family home to be \$300,252.19 in incorporated areas of the county and \$243,977.58 in unincorporated areas. This estimate includes construction costs such as materials, labor, and equipment costs, but does not include the price of land, development impact fees, administrative costs, or developer profit.

Table D4-2 Estimated Construction Cost, Gustine

Item	Cost
Material ¹	\$180,151.32
Labor ²	\$114,095.83
Equipment ³	\$ 6,005.04
Total	\$300,252.19

Notes: Based on average costs of lots and units sold in 2022 and 2023. Typical 6,000 sq. ft. residential lot and 1,500 sq. ft. single-family unit; 20 percent administrative costs and developer profit.

Source: Zillow, Inc, 2023; Mintier Harnish., 2023.

Table D4-3 shows the estimated typical development costs in Gustine for a single-family home, assumed to be 1,600 square feet, and a 10-unit multi-family development with 800 square foot units. This includes the price of land, site improvement costs, construction costs, and permit and development impact fees; however, this does not include financing or marketing costs by the developer. As shown in the table below, the typical cost of an individual single-family development is an estimated \$772,779, while the development cost of an apartment unit is an estimated \$367,556.

¹ Central Valley Voice, City of Merced Affordable Housing Project Update, October 1, 2022, <https://centralvalleyvoice.com/2023/02/22/city-of-merced-affordable-housing-project-update/> accessed June 2023.

Table D4-3 Estimated Construction Cost

Cost Type	Single-Family¹	Multi-Family²
Site Improvement Cost	\$8,000	\$20,000
Construction Cost	\$267,790	\$1,198,400
Permit and Impact Fees	\$58,103	\$475,500
Total Cost	\$,333,893	\$1,693,900
Cost per Unit	\$333,893	\$169,390

(1) Assumed to be a 1,600 sq. ft. single-family home.

(2) Assumed to be a 10-unit multi-family complex of 800 sq. ft. units.

(3) Land price based on average price per square foot provided by the City at \$300 per square foot

There is little that municipalities can do to mitigate the impacts of high construction costs, apart from reducing the number of local amendments to uniform building codes that unnecessarily increase construction costs without significantly adding to health, safety, or construction quality.

Conclusion

Although the cost of construction constrains housing development, construction costs are similar across jurisdictions in Merced County, illustrating that the constraints are market driven rather than a result of local policy.

Recommended Action

None required.

D4.2.3 Availability of Financing

Mortgage interest rates have a large influence over housing affordability. Higher interest rates increase a homebuyer’s monthly payment and decrease the range of housing that a household can afford. Lower interest rates result in a lower cost and lower monthly payments for the homebuyer.

When interest rates rise, housing prices typically fall to compensate. Similarly, when interest rates decrease, housing prices begin to rise. There is often a lag in the market, causing housing prices to remain high when interest rates rise until the market catches up. Lower-income households often find it most difficult to purchase a home during this time period.

Where financing is available, construction capital seems to be directed at the best transactions—those with large, established, and well-capitalized sponsors. Given recent trends of increasing interest rates, the availability of financing is likely to be more of a constraint on new housing construction during this Housing Element planning period than it has been in the recent past.

Market-Rate Development Financing

As discussed in *Land Costs and Construction Costs*, above, market-rate development is generally financed by investors, and the cost to build a project must be recovered by revenue from sales or rents, which drives up the ultimate rent or sales prices of new housing as the component costs increase. A market in which housing supply is limited and demand is high can support higher housing prices, but lower-income segments of the community are priced out. Therefore, it is difficult

for the private sector, for-profit developers, and market-rate housing to meet the housing needs of all community members.

Affordable Housing Financing

A description of available funding sources for affordable development is provided in Chapter D3, *Housing Needs Assessment*.

Mortgage and Rehabilitation Financing

The availability of financing affects the ability of residents to purchase or improve a home. Under the Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications and the income, gender, and race of loan applicants. The primary purpose of reviewing the lending activity is to determine whether home financing is available to city residents. The data presented in this section includes the disposition of loan applications submitted to financial institutions for home mortgages, home improvement, and refinance loans.

Lending activity data provides information regarding home financing availability for city residents. The most recent data set available for Merced County from 2022 shows that 10,760 households applied for a home financing loan which includes loans for home purchase, home improvement, and refinancing. As discussed in Chapter 3, *Regional Housing Constraints Analysis*, of the total applications received for home purchase, 47.7 percent of the loans originated while 15.7 percent were denied.

Conventional loans are made by the private sector (banks, mortgage companies, etc.) and are not guaranteed or insured by the U.S. government. Conversely, government-backed loans, such as those issued by the Federal Housing Administration, Department of Veterans Affairs, and the Rural Housing Services/Farm Service Agency, are completely or partially insured by the U.S. government. Within the county, 8,028 of the applications received were for conventional loans and 2,732 were for government backed loans. As discussed in Chapter 3, *Regional Housing Constraints Analysis*, 37.0 percent of the conventional loans originated, and 12.6 percent of the applications were denied. Additionally, 10.7 percent of the government backed loans originated and 3.1 percent of the applications were denied.

County data shows that of the loans originated, Hispanic/Latino applicants comprised approximately 50 percent of approvals, white, non-Hispanic/Latino comprised approximately 30 percent, Asian American represented 16 percent, Black/African American applications represented three percent, and American Indian/Alaskan Native comprised less than one percent of approved applications. American Indian/Alaskan Native and Black/African American residents were the only racial populations that were representative for mortgage applications relative to proportion of population.

Hispanic/Latino residents were underrepresented for mortgage applications (50 percent of applications, 61 percent of population). White, Non-Hispanic residents were overrepresented for mortgage applications approvals relative to proportion of population (30 percent of approvals, 26 percent of population), as were Asian American residents (16 percent of approvals, eight percent of population). Of application denials, Black/African American residents were overrepresented in application denials (four percent of denials, three percent of the population).

Construction Financing Timing

The timing between project approval and requests for building permits affects project viability. Project delays may result from developers' inability to secure financing for construction. In Gustine, the average time between project approval and request for building permit is typically three to nine months but varies by type of project. Some projects take years to pull building permits and secure financing. Single-family homes usually experience the least delay (three to nine months). Multi-family housing construction tends to be more complex and usually requires more time between entitlement and building permit issuance (six to nine months).

Conclusion

Although discrimination in mortgage lending is prohibited by the federal Fair Housing Act, other factors may contribute to a potential homebuyer's ability to secure safe financing, such as credit history, savings, and education regarding the home-buying process. Federal Financial Institutions Examination Council (FFIEC) HMDA data, by itself, does not provide insight into these other factors. Therefore, it is important that the City supports housing education and opportunities for all residents.

Recommended Action

The City will implement Housing Program 14 to support homeownership opportunities and home-buying education, particularly for racial and ethnic groups underrepresented in the homebuying market. This includes maintaining existing local programs such as the Homebuyer Assistance Program as well as state and federal programs.

D4.2.4 Requests for Lower Development Densities

In Gustine, requests for development at densities below anticipated densities are not common. The City spoke with one developer interested in developing lower density than permitted. However, the City has no plans to reduce planned densities. The development approval of such projects at densities lower than maximum allowed densities is often driven by market preferences for the inclusion of certain project features, and are not necessarily due to any singular code requirement.

D4.3 Governmental Constraints

Although local governments have little influence on market factors such as interest rates, local policies and regulations can impact where, how much, and what type of residential development is built. Land use controls, site improvement requirements, fees and exactions, and permit processing procedures, among other policies and regulations, may constrain the maintenance, development, and improvement of housing.

D4.3.1 Land Use Controls

Land use controls provided in the Gustine General Plan and Zoning Code influence housing production in several ways. The permitted and conditionally permitted uses in each zone guide new development and provide both developers and the public with an understanding of how vacant land will develop in the future. This includes the density of development that will occur within a particular zone, the compatibility of planned uses in each area, and the range and type of buildings and uses that will be located throughout Gustine.

D4.3.1.1 General Plan

The Gustine General Plan provides policies and programs to guide development in the City. The City last updated the General Plan in 2002; however, the Land Use Map was updated in 2012, and the Housing Element was updated in 2019. The City ensures that all goals and policies contained within the Housing Element are consistent with the goals and policies set forth in all other elements of the General Plan. The Gustine General Plan contains the following residential land use designations:

- Residential Estate: 1.0 to 2.0 units per acre
- Low Density Residential: 2.0 to 6.0 units per acre
- Medium Density Residential: 6.0 to 10.0 units per acre
- Medium-High Density Residential: 10 to 15.0 units per acre
- Planned Development: 1.0 to 6.0 units per acre
- Mobile Home Park Zone: Up to 12.0 units per acre

Conclusion

The General Plan includes six residential land use designations with a density range from 2.0 to 15.0 dwelling units per acre. However, to provide capacity for affordable multi-family housing development, based on the default density standard as defined by the California Department of Housing and Community Development (HCD), the City should provide a minimum of one multi-family or mixed-use designation that allows at least 20 dwelling units per acre. The densities are not sufficient to provide capacity for affordable housing development.

Recommended Action

The City will implement Housing Program 7 to revise the General Plan to include a minimum of one multi-family or mixed-use designation that allows at least 20 dwelling units per acre.

D4.3.1.2 Zoning Code

The City regulates the type, location, density, and scale of residential development primarily through the Zoning Code, as well as specific plan development codes. A zone is assigned to every parcel in the city and the Zoning Code identifies compatible uses. In general, the City's zoning regulations are designed to carry out the policies of the Gustine General Plan by classifying and regulating the uses of land and structures within the City, consistent with the General Plan. The Zoning and Subdivision Code is adopted to protect and to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents and businesses in the city. More specifically, the purposes of the Zoning and Subdivision Code are to:

- Provide standards and guidelines for the continuing orderly growth and development of the city that will assist in protecting the rural character and community identity of Gustine;
- Create a comprehensive and stable pattern of land uses upon which to plan transportation, water supply, sewerage, energy, and other public facilities and utilities;
- Minimize automobile congestion through pedestrian-oriented development, compact community form, safe and effective traffic circulation, and adequate on- and off-street parking facilities; and
- Ensure compatibility between different types of development and land uses.

The City's Zoning Code allows residential uses in the following zones:

- Residential Estate (R-E): The R-E zone is intended to provide areas that are appropriate for large-lot, single-family residential development along with limited agricultural uses. The maximum allowable density is two dwelling units per acre. The R-E zone is consistent with and implements the Residential Estate Zone land use designation of the General Plan.
- Single-Family Residential (R-1): The R-1 zone is intended to provide areas appropriate for neighborhoods of detached single-family homes and related, compatible uses. The maximum allowable density is 2 to 7 dwelling units per acre. The R-1 zone is consistent with and implements the Low-Density Residential land use designation of the General Plan.
- Medium Density Residential (R-2): The R-2 zone is intended to provide areas appropriate for neighborhoods with a mixture of housing types, including detached single-family homes, zero lot line homes, duplexes, and other related, compatible uses. The maximum allowable density is 10 dwelling units per acre. The R-2 zone is consistent with and implements the Medium Density Residential land use designation of the General Plan.
- Multiple Residential (R-3): The R-3 zone is intended to provide areas appropriate for a variety of housing types, including small-lot single-family housing, and various types of multi-family housing (for example, duplexes, triplexes, and townhouses). The maximum allowable density is 15 dwelling units per acre, with certain provisions allowing up to 20 units per acre, when five dwelling units per acre are restricted to housing for low-income families for 55 years or restricted to housing for extremely low-income families for 50 years, however this provision expires in 2024. The R-3 zone is consistent with and implements the Residential - Medium/High Density land use designation of the General Plan.
- Residential Professional (R-4): The R-4 zone is a specialized zone that allows all the residential uses allowed in the R-3 Zone, plus commercial and professional uses. Development standards for residential uses in this zone are the same as standards for the R-3 zone.
- Planned Development (P-D): The P-D zone is intended to provide greenfield areas within the city that are intended for the development of new neighborhoods. As noted by the General Plan, this use combines residential development densities to allow for a broad range of housing options, while trying to eliminate "cookie-cutter" housing. The P-D zone is also intended to provide for new neighborhoods that are based upon traditional neighborhood development (TND) design features. The P-D zone is consistent with and implements the Planned Development land use designation of the General Plan. The allowable density for this zone is 1 to 6 units per gross acre.

In Gustine, minimum residential lot sizes are required in some zones. Table D4-4 provides the minimum lot area per dwelling unit standard by zone.

Table D4-4 Site Area Per Dwelling Unit

District	Lot Area
R-E	15,000 square feet
R-1	6,000 square feet
R-2	7,500 square feet (1)
R-3	7,500 square feet (1)
R-4	7,500 square feet (1)
PD	7,500 to 15,000

(1) A condominium, townhome, or planned development project may be subdivided with smaller parcels for ownership purposes, with the minimum lot area requirement determined through the subdivision review process, provided that the overall development site complies with the lot area requirements of this Chapter, and the total number of dwellings is in compliance with the maximum density established by underlying General Plan designation.

Source: Gustine Zoning Code

Conclusion

The City’s Zoning Code provides for a range of densities and is consistent with the General Plan land use designations. However, to provide capacity for affordable multi-family housing development, based on the default density standard as define by HCD, the City will need to provide a minimum of one multi-family or mixed-use designation that requires a minimum of 20 dwelling units per acre.

Recommended Action

The City will implement Housing Program 2 to revise the General Plan to include a minimum of one multi-family or mixed-use designation that allows 20 dwelling units per acre.

D4.3.2 Residential Development Standards

Table D4-5 shows the development standards for residential zones. The minimum parcel area for residential zones ranges from 6,000 square feet to 15,000 square feet. Maximum site coverage ranges from 35 percent to 60 percent of the lot area, depending on the zone.

The front setback requirement is 20 feet for all R-1, R-2, R-3, and R-4 zones and 30 feet for R-E and P-D zones. The interior side setback requirement is 20 feet for R-E and P-D zones and 5 feet for R-1, R-2, R-3 and R-4 zones. The street side setback is 25 feet for R-E and P-D zones, and 15 feet for R-1, R-2, R-3, and R-4 zones. Rear setback requirement is 20 feet for R-E and P-D zones; 10 feet for the R-1 zone; and 15 feet for R-2, R-3, and R-4 zones.

Height requirements for ADUs are the same for all residential zones and depend on the height and number of stories of the ADU. Maximum density ranges from 2 units per acre in the R-E zone to 15 units per gross acre in the R-3 zone.

Table D4-5 Residential Development Standards

Zone	Minimum Parcel Area (sq. ft.)	Minimum Setback (in feet)				Maximum Height (feet)	Maximum Height (Accessory Dwelling Unit)	Maximum Lot Coverage (percent of lot)	Maximum Density (du/acre)
		Front	Street Side	Interior Side	Rear				
R-E	15,000	30	25	20	20 ²	30	<i>Single story:</i> may not exceed 16 feet or one story.	35	2
R-1	6,000	20	15	5	10 ³	30		40	6
R-2	7,500	20	15	5	15	30		50	10
R-3	7,500	20	15	5	15	35	<i>Two-story:</i> may not exceed height of primary dwelling.	60	15 ⁴
R-4	7,500	20	15		15	35		60	15 ⁴
P-D	7,500 to 15,000 ¹	30	25	20	20 ²	30		35	6

(1) A condominium, townhome, or planned development project may be subdivided with smaller parcels for ownership purposes, with the minimum lot area requirement determined through the subdivision review process, provided that the overall development site complies with the lot area requirements of this Chapter, and the total number of dwellings is in compliance with the maximum density established by underlying General Plan designation.

(2) 1,000 sq. ft. left uncovered on rear 1/3 of lot.

(3) 800 sq. ft. left uncovered on rear 1/3 of lot.

(4) Maximum of 20 dwelling units per acre under certain conditions.

Source: Gustine Zoning Code, Adopted February 25, 2022

Conclusion

Development standards related to parcel area, setbacks, height of primary structures, site coverage, and density do not constrain residential development. Limiting maximum height to thirty feet in multi-family zones is a potential constraint to affordable housing development. The City should provide an opportunity for minor modifications to height restrictions for developments with an affordable component. The City has identified sites to rezone to allow housing by-right, making it easier to build housing within the city. Additionally, development standards in R-4 districts will be amended to accommodate densities appropriate for low-income housing.

Recommended Action

The City will implement Housing Program 6 to amend the Zoning Code to provide an opportunity for minor modifications to height restrictions for developments with an affordability component.

D4.3.2.1 Parking

According to the Turner Center for Housing Innovation at UC Berkeley, parking can cost \$25,000 to \$75,000 per space to construct. However, given the age of data and the increased cost of land and construction costs discussed above, the costs per parking space are likely much higher.² Parking provided in underground or structured parking facilities, or if required to be covered or enclosed, can significantly increase the cost of housing and could affect the feasibility of various housing projects in the city. In addition, requirements for parking space locations and maximum distances from dwelling units may also increase the cost of housing and affect the feasibility of housing projects. Requiring less parking not only reduces the project budget but can allow for more space to build additional housing units.

² Turner Center for Housing Innovation at UC Berkeley, 2016. Available at: <http://turnercenter2.berkeley.edu/proforma/>

While Gustine does not have any spatial constraints to parking and that would necessitate underground or structured parking facilities, covered or enclosed parking requirements can contribute to increased housing costs that potentially constrain affordable residential development. Gustine’s parking requirements for residential uses are summarized in Table D4-6.

Table D4-6 Residential Parking Requirements

Residential Use		Required Parking Spaces
Single family units		2 spaces per unit
Multi-family dwelling	Studio or 1 bedroom unit	1 per unit
	2 or 3 bedroom unit	2 per unit
	Guest parking	1 guest space per 4 units
Multi-family dwelling in a mixed-use project	Studio or 1 bedroom unit	1 per unit
	2 or 3 bedroom unit	2 per unit
	Guest parking	1 guest space per 4 units
Mobile homes	Individual mobile home	1 covered space for each unit
	Mobile home park	1 covered space for each unit plus 0.5 uncovered guest parking space and 0.25 parking space for each unit for vehicle storage
Organizational house		1 covered or uncovered space for each bedroom
Residential care homes	Six or fewer clients	2 covered spaces
	Seven or more clients	1 space for each 2 residential units, plus 1 space For each 5 units for guests and employees
Rooming and boarding houses		1 covered or uncovered space for each bedroom
Second unit, carriage house		1 off street, all-weather surface parking space, plus the off-street parking required for the main dwelling
Senior housing project		1 per each two units, with half the spaces covered, plus 1 guest parking space for each 10 units

Spaces for single-family units are required to be permanently covered.
 Multifamily units require one guest parking space per four dwelling units.
 Source: Gustine Zoning Code, Adopted February 2022.

Conclusion

Residential parking requirements are not a constraint to housing development.

Recommended Action

None required.

D4.3.2.2 Open Space and Park Requirements

The City’s Zoning Code establishes open space requirements for multi-family projects and mobile home park projects within the Mobile Home Park Combining zone (T). Table D4-7 shows the open space requirements for multi-family projects. For all multi-family development, there is also a minimum private open space requirement of 150 square feet per unit in addition to minimum

requirements for common open space. The required minimum common open space ranges from zero to over 2,000 square feet for multi-family projects. In addition, common open space must be easily accessible, continuous, usable, separated from parking lots, landscaped, safe, and secure. The review authority may allow required open space to be in different locations and of different dimensions if it determines that the alternative approach would provide open space of equivalent utility and aesthetic quality. Multifamily developments with 30 or more units are also required to provide a minimum of 1,000 square feet of indoor recreation space.

Mobile home parks within the T zone, are required to maintain a recreation or open space of at least 1,000 square feet in area, plus 150 square feet for each mobile home space over ten homes. This open space may be distributed over more than one location, but no one location may be less than 1,000 square feet in size.

In addition, ADUs have some requirements related to open space. Primarily, no ADU project construction may cause the total percentage of open space of the lot to fall below 50 percent. While this requirement may limit the size of the ADU, no application of FAR lot coverage, or open space requirement may require the ADU to be less than 800 square feet.

Table D4-7 Multi-Family Project Open Space Requirements

Project Size	Minimum Common Open Space Required ¹	Minimum Private Open Space Required ²
2 units	None, other than required setbacks	150 sq. ft. for each unit
3 or 4 units	200 sq. ft.	
5 to 10 units	500 sq. ft.	
11 to 30 units	1,000 sq. ft.	
31 and more units	2,000 sq. ft., plus an additional 65 ft. for each unit over 31	

(1) Each common open space area shall have a minimum dimension of 20 feet.

(2) Private open space shall be at the same elevation as, and immediately accessible from within the unit. All dimensions of each private open space area shall be a minimum of 10 feet.

Source: Gustine Zoning Code, Adopted February 2022.

Conclusion

Open space requirements in Gustine are more stringent than other jurisdictions throughout Merced County, particularly for multi-family housing projects with more than five units. Most other jurisdictions in Merced County do not require any private open space for multi-family developments. A 10-unit multi-family development in Gustine would be required to provide, a minimum 1,500 square foot private open space for each unit and 500 square feet of common open space per unit, totaling 5,000 square feet of common open space for this sample project. This could potentially constrain multi-family housing developments within the city.

Recommended Action

The City will implement Housing Program 6 to revise the Zoning Code to reduce private open space requirements for multi-family developments.

D4.3.2.3 Density Bonus

California law requires local jurisdictions to provide density bonuses (generally ranging from five to 80 percent) and development incentives or concessions for housing developments that include

housing units that are affordable to lower- and moderate-income households or senior housing or the donation of land for housing within the local jurisdiction (Government Code Section 65915-65918). Certain housing development projects may be granted unlimited density if they meet certain conditions, including projects where 100 percent of units are affordable units (including density bonus units) with no more than 20 percent of units for moderate-income households and the project is located within on-half mile of a major transit stop as defined by subdivision (b) of Section 21155 of the Public Resources Code. An unlimited density bonus means there is no cap on the total number of residential units per acre permitted on the site; however, there are other restrictions, such as height limits, that have a practical limiting effect on the number of units that can be built. Development incentives or concessions are reductions or modifications to site development standards or architectural design requirements that result in cost reductions, such as setbacks, parking requirements, and maximum building height.

Chapter 4.32 of the Gustine Zoning Code establishes the City's affordable housing incentives, which includes its density bonus policy. The City provides a density bonus and other incentives or concessions to applicants for residential projects who agree to provide housing affordable to very low-, low-, or moderate-income households, senior housing, or donation of land for housing, consistent with Government Code Sections 65915-65918. Gustine does not have an inclusionary housing ordinance.

Allowed density bonuses. A project is eligible for a density bonus for a housing development of five or more dwelling units that complies with and satisfies the provisions in Section 4-32-020 of the Zoning Code. A Bonus density of at least a 25 percent increase in the number of dwelling units normally allowed by the applicable General Plan designation and zone is granted.

Types of incentives. Incentives or concessions include any of the following:

1. A modification of development standards pertaining to building height, open space, lot size requirements, street access, off-street parking, landscaping, fencing, a reduction in setback and square footage requirements or off-site improvements. Such reduction or modification requirements must exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq.;
2. Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development and if such nonresidential uses are compatible with the housing project and the existing or planned development in the area where the housing project will be located;
3. Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions; and
4. Direct financial incentives which include, in order of City priority:
 - a. Financial contributions or mortgage financing from the redevelopment agency's twenty percent set aside for low and moderate income housing (as available);
 - b. Modification of dedication requirements;
 - c. Waiver or reduction of fees (not including connection charges);
 - d. Provision of publicly owned land.

Processing of Density Bonus and Incentive Request

Within 30 days of receipt of a complete written proposal, the director shall notify the applicant in writing of: the types of incentives which may be recommended in order to comply with Chapter

17.84 of the Zoning Code; and whether staff may support the granting of a density bonus on the basis of required development standards and findings. The target units must be compatible in floor plan, furnishings, and exterior design to non-designated units. Further, the target units must be reasonably dispersed throughout the development. Each density bonus project shall record an affordable housing agreement and resale and/or rental restrictive covenant, or other equivalent document approved as to form by the City attorney.

Conclusion

The City of Gustine's density bonus policy does not reflect the most recent changes to State Density Bonus Law. This can be considered a constraint to housing.

Recommended Action

The City will implement Housing Program 6 and 8 to revise the Zoning Code to be consistent with State Density Bonus Law.

D4.3.2.4 On/Off Site Improvement Standards

The typical improvements required by local jurisdictions for subdivision and development of property include reasonable off-site and on-site improvements for the parcels being created, including those that are necessary for public health and safety and/or a necessary prerequisite for the orderly development of the surrounding area. As stated in HUD's study of Subdivision Requirements as a Regulatory Barrier, such requirements can reasonably be considered regulatory barriers to affordable housing if Gustine determines that the requirements are greater (and hence, more costly) than those necessary to achieve health and safety requirements in the community. The City provides and operates water, wastewater, and stormwater drainage services. Electricity, gas, communications, and garbage services are provided by outside entities.

If a development borders or is traversed by an existing street, the applicant may be required to do the following sitework as required by the review authority and City public improvement standards:

1. Widen an existing street to the standards of width established by the City.
2. Installation or reinstallation of curb, gutter, and sidewalk on the street bordering the development.
3. Installation of street trees and other landscaping within the public right-of-way(s) bordering the development.
4. Installation of drainage facilities to the full extent of the service requirements generated by the development, as required by the City Engineer.
5. Install other improvements determined by the review authority to be reasonably related to the needs for pedestrian and vehicle circulation, and community infrastructure demands created by the project.

Improvement Standards

The City requires curbs, gutters, and sidewalks on all residential streets, including access ramps at corners. According to the City's Improvement Standards and Specifications, typical right-of-way for local streets varies. Typical residential streets are approximately 52 feet and typical residential collector streets are 70 feet, with 17-foot-wide lanes, six-inch gutters, 4-foot-wide landscaping, and

minimum 5-foot-wide sidewalks. Streetlights and fire hydrants are required at regular intervals within the City to ensure an acceptable level of public health and safety.

Public improvement standards and approximate values for new housing developments are listed below.

- Residential street – street width of 34 feet plus 5 feet for sidewalks and 4 feet for landscaping. Value: range between \$6.00 to \$10.00 per square foot.
- Residential collector – street width of 40 feet plus 5 feet for sidewalks and 10 feet for landscaping. Value: range between \$8.00 to \$12.00 per square foot.
- Onsite Landscaping and Open Space – front yard setback and lot coverage and one street tree per 30-foot length of right-of-way. Value: range between \$4.00 to \$6.00 per square foot.
- Curb, Gutters, Sidewalk, Utilities – require curb, gutters, sidewalks, and roads where they do not exist, as well as connection to City water and sewer and the installation of fire hydrants and undergrounding of utilities. Value: range between \$6.00 to \$10.00 per square foot. Value: curb, gutter, and sidewalk \$6.00 to \$10.00 per square foot; utilities \$100.00 to \$200.00 per linear foot.

Conclusion

On/off-site improvement requirements in Gustine are typical of small cities and comparable to surrounding jurisdictions. These improvements may increase housing costs, but they are necessary to achieve health and safety requirements. The City can mitigate the cost of these improvement requirements by assisting affordable housing developers in obtaining state and federal financing for their projects or providing regulatory and financial incentives.

Recommended Action

None Required

D4.3.3 Provision of a Variety of Housing Types

Housing Element law specifies that jurisdictions must identify adequate sites that are zoned to encourage the development of a variety of housing types available to all economic segments of the population. Individuals and households of different ages, types, incomes, and lifestyles have a variety of housing needs and preferences that evolve over time and in response to changing life circumstances. This includes single-family homes, multi-family housing, accessory dwelling units, mobile homes, agricultural employee housing, homeless shelters, and transitional housing, among others. Table D4-8 summarizes the housing types permitted and conditionally permitted in the City of Gustine.

Table D4-8 Residential Use Matrix

Residential Use	R-E	R-1	R-2	R-3/R-4	P-D(4)	C-N	C-O	C-1	C-2	C-H
Accessory dwelling unit	P	P	P		P(4)					
Employee housing, 6 or fewer clients	P	P	P		P(4)					
Emergency Shelter								UP	UP	UP
Home occupation	P	P	P	P	P(4)					
Live/Work Unit						P	P	UP	UP	

Merced County Association of Governments
Merced County Multi-Jurisdictional Housing Element (2024-2032)

Residential Use	R-E	R-1	R-2	R-3/R-4	P-D(4)	C-N	C-O	C-1	C-2	C-H
Mobile home – in mobile home park	P	P	P	P	P(4)					
Mobile home – outside of mobile home park	P	P	P		P					
Mobile home park			UP	UP	P(4)					
Multifamily housing, 2 units			P	P	P(4)					
Multifamily housing, 3 or 4 units			UP	P	P(4)					
Multifamily housing, 5 or more units				P	P(4)					
Residential accessory use or structure	P	P	P	P	P(4)					
Residential care facility, 6 or fewer clients	P	P	P	P	P(4)					
Residential care facility, 7 or more clients	UP	UP	UP	UP	P(4)	UP			UP	
Residential care facility for the elderly (RCFE)			UP	UP	P(4)	UP			UP	
Residential component of mixed-use project				UP	P(4)	P	P	P	P	
Rooming or boarding house			UP	UP						
Single-family dwelling	P	P	P		P(4)					
Supportive and transitional housing	P(5)	P(5)	P(5)	P(5)	P(4)	P(5)	P(5)	P(5)	P(5)	

P = permitted use, zoning clearance required; UP = use permit required; S= permit required set by specific use regulations; -- = use not allowed

(4) = use allowed in the PD zone only when authorized through Planned Development Permit approval

(5) = use allowed only under conditions set forth in Section 4-44-190 (Transitional and Supportive Housing).

Source: Gustine Zoning Code, Adopted February 2022.

Conclusion

The City allows for a variety of housing types in residential districts.

Recommended Action

None required.

Manufactured Housing

State law mandates that manufactured homes must be permitted in the same manner and in the same zones where conventional single-family structures are permitted (Government Code Section 65852.3). The Zoning Code defines “single-family dwelling” as a building designed for and/or occupied exclusively by one family, that includes factory-built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of

1974, placed on permanent foundations. Therefore, the City’s Zoning Ordinance is in compliance with Government Code Section 6582.3(a) in allowing the installation of manufactured homes on lots zoned for conventional single-family dwellings.

Conclusion

All residential zones permit the construction of manufactured homes, provided that they are placed on permanent foundations.

Recommended Action

None required.

D4.3.3.1 Accessory Dwelling Units

In recent years, several bills have added requirements for local governments related to accessory dwelling unit (ADU) regulation. Updates to state law in 2016 and 2017 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. More recent bills reduce the maximum allowable time to review and approve ADU applications to 60 days and remove lot size and replacement parking space requirements. AB 68 allows an ADU and a junior ADU (JADU) to be built on a single-family lot, if certain conditions are met. The State has also removed owner-occupancy requirements for ADUs, created a tiered permit fee structure for ADUs based on their size and location, and prohibits fees on units of less than 750 square feet. In addition, AB 671 requires the Housing Element to include plans to incentivize and encourage affordable ADU rentals.

In 2022, two laws were passed that affect ADU law. Both went into effect in 2023. SB 897 increases the existing height limit for attached and detached ADUs that meet certain conditions. AB 2221 clarifies existing ADU law to close procedural and permitting loopholes for approving ADUs, including the requirement for approving or denying applications within 60 days of application submittal and providing a full set of comments and remedies to applicants with denied applications. Additionally, AB 2221 adds front setbacks to the list of local development standards that local governments cannot impose if they would preclude construction of an attached or detached ADU of at least 800 square feet, that is at least 16 feet in height and that has at least four-foot side and rear yard setbacks.

ADUs are permitted by-right in R-E, R-1, and R-2 zones subject to development standards outlined in Section 4.44.140 of the City’s Zoning Code and included below:

- A. Height.
 - a. A single-story attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure.
 - b. A second story or two-story attached ADU may not exceed the height of the primary dwelling.
 - c. A detached ADU may not exceed one story.
- B. Number of Units.
 - a. Converted on single-family lot – Only one ADU or JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

- i. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress.
 - ii. Has exterior access that is independent of that for the single-family dwelling.
 - iii. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - b. Limited detached on single-family lot – One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot), if the detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least four-feet.
 - ii. The total floor area is 800 square feet or smaller.
 - iii. The peak height above grade is 16 feet or less.
 - c. Converted on multi-family lot – Multiple ADUs within portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multi-family dwelling, and up to 25 percent of the existing multi-family dwelling units may each have a converted ADU under this paragraph.
 - d. Limited detached on multi-family lot – No more than two detached ADUs on a lot that has an existing multi-family dwelling if each detached ADU satisfies the following limitations:
 - i. The side- and rear-yard setbacks are at least four-feet.
 - ii. The total floor area is 800 square feet or smaller.
- C. Mobile Homes. Mobile homes shall be permitted as an accessory dwelling unit.
- D. Manufactured Homes. Manufactured homes shall be allowed as a detached accessory dwelling unit provided the manufactured unit complies to standards and conditions of this chapter.
- E. Existing Unit. A single-family or multi-family residential unit shall exist on a parcel before an accessory dwelling unit.
- F. Rental term. No ADU or JADU may be rented for a term that is shorter than 30 days.
- G. One Family. The accessory dwelling unit shall provide complete living facilities for one or more persons.
- H. Maximum Size.
 - a. The maximum size of a detached or attached ADU subject to this subsection F. is 850 square feet for a studio or one-bedroom unit and 1,000 square feet for a unit with two bedrooms. No more than two bedrooms are allowed.
 - b. An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
 - c. Application of other development standards in this subsection F., such as FAR or lot coverage, might further limit the size of the ADU, but no application of FAR, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.

- I. Floor Area Ratio (FAR). No ADU subject to this subsection may cause the total FAR of the lot to exceed 45 percent, but no application of FAR may require the ADU to be less than 800 square feet.
- J. Lot Coverage. No ADU subject to this subsection may cause the total lot coverage of the lot to exceed 50 percent, but no application of lot coverage requirements may require the ADU to be less than 800 square feet.
- K. Passageway. No passageway is required for an ADU.
- L. Parking.
 - a. Generally. One off-street parking space is required for each ADU. The parking space may be provided in setback areas or as tandem parking.
 - b. Exceptions. No parking is required in the following situations:
 - i. The ADU is located within one-half mile walking distance of public transit.
 - ii. The ADU is located within an architecturally and historically significant historic zone.
 - iii. The ADU is part of the proposed or existing primary residence or an accessory structure.
 - iv. When on-street parking permits are required but not offered to the occupant of the ADU.
 - v. When there is an established car share vehicle stop located within one block of the ADU.
 - c. No replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.
- M. Owner Occupancy.
 - a. All ADUs created before January 1, 2020 are subject to the owner-occupancy requirement that was in place when the ADU was created.
 - b. An ADU that is created after that date but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - c. All ADUs that are created on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
 - d. All JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
- N. Utilities. If the ADU or JADU will connect to an onsite water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten years.
- O. Fees.
 - a. Impact fees.
 - i. No impact fee is required for an ADU that is less than 750 square feet in size.

- ii. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling.) "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.
- b. Utility fees.
 - i. Converted ADUs and JADUs on a single-family lot are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required unless the ADO or JADU is constructed with a new single-family home.
 - ii. All ADUs and JADUs not covered by subsection above require a new, separate utility connection directly between the ADU or JADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU or JADU, based on either the floor area or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

Conclusion

The City of Gustine's ADU Ordinance was last updated in 2022 and is not in compliance with State ADU Law.

Recommended Action

The City will implement Housing Program 5 and 6 to facilitate the development of ADUs by revising the Zoning Code to allow ADUs in all residential and mixed-use zones, developing pre-approved ADU plans, and spreading awareness of available ADU development resources.

D4.3.3.2 Multi-Family

Multi-family housing is permitted by right or by use permit across the city in all zones allowing multi-family uses, including the R-2, R-3, R-4, and P-D zones. Multifamily development is not permitted in any other zone.

Conclusion

Multifamily development requirements are not a constraint to residential development.

Recommended Action

None required.

D4.3.3.3 Group Homes and Residential Care Facilities

State law requires residential care facilities with six or fewer persons to be allowed by-right in all zones that allow residential uses in zones where single-family residential uses are allowed. Group homes with six or fewer residents are permitted by-right in all residential zones, in compliance with state law. The City allows the development of group homes with seven or more residents through a use permit in all residential zones.

In 2018, AB 2162 required cities to change their zoning to provide a “by-right” process and to expedite review for supportive housing projects of 50 units or fewer. This law applies to sites in zones where multi-family and mixed uses are permitted, including in nonresidential zones permitting multi-family use. Additionally, AB 2162 prohibits local governments from imposing any minimum parking requirements for units occupied by supportive housing residents if the development is located within one-half mile of a public transit stop. AB 2162 requires 25 percent of the units (or a minimum of 12 units, whichever is greater) to be approved by-right with no minimum parking. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers’ units, in the development shall be restricted to residents in supportive housing.

Conclusion

The use permit requirement for group homes/residential care facilities of seven or more is a constraint to the development of housing for residents with a disability.

Recommended Action

The City will implement Housing Program 6 to permit residential care facilities with seven or more residents in all residential zones with objectivity and approval certainty, and subject only to the requirements of residential uses of similar type and form.

D4.3.3.4 Emergency Shelters

The City defines emergency shelters as “facilit[ies] for the temporary shelter and feeding of indigents or disaster victims, operated by a public or non-profit agency.” The definition of emergency shelter in the Zoning Code does not include interim intervention, (e.g., navigation centers, bridge housing, and respite or recuperative care) as required by AB 2339. Emergency shelters are allowed by-right in the M zone, as well as through a use permit in some of the City’s commercial zones, including Downtown Commercial (C-1), General Commercial (C-2), and Highway Commercial (C-H), and Public/Institutional (P-I) zones. There are no parking requirements and there are no additional development standards for emergency shelters.

AB 2339 was passed in 2022 and went into effect January 1, 2023. AB 2339 requires that jurisdictions identify zoning designations where emergency shelters are allowed to include sites that meet at least one of the following:

- Vacant and zoned for residential use;
- Vacant and zoned for nonresidential use and located near amenities and services for homeless individuals;
- Nonvacant and is suitable for use as a shelter in the current planning period.

The M Zone encompasses approximately 21 acres and is generally located along transportation routes, near commercial services, and provides the capacity for at least one emergency shelter. While the M Zone allows manufacturing, it also permits a wide variety of uses, including live/work units, single-family dwellings, child day cares, transit stations, convenience stores, fitness or health facilities, restaurants, cafes, and coffee shops, compatible with the development of emergency shelters. In addition, there are no known environmental constraints or other conditions on land within the M Zone that could render it unsuitable for residential or emergency shelter uses.

The Merced County Point-in-Time Count estimated that 855 people experienced homelessness in Merced County in 2022, including 555 in Merced, 125 in Los Banos, 59 in Atwater, and 116 in the

remainder of the county areas. At the time of this Point-in-Time count, no persons experiencing homelessness were present in Gustine. The 2021 point-in-time count identified seven residents experiencing homelessness in Gustine. As shown on Table D4-9, the M zone has potential capacity for more than 9,940 individuals in emergency shelters, which is significantly greater than the identified housing need (seven individuals counted in 2021).

Table D4-9 Emergency Shelter Capacity Analysis

APN	Acreage	Realistic Capacity (beds)
020-220-002	1.11	241
020-021-004	0.46	100
020-021-005	0.48	104
020-021-011	0.79	172
020-021-007	2.1	457
020-042-031	0.71	154
063-320-006	40	8,712
Total	45.65	9,940

In 2019, AB 101 was passed requiring that a Low-Barrier Navigation Center development be a use by-right in mixed-use districts and nonresidential districts permitting multi-family uses. A Low-Barrier Navigation Center is a low-barrier, temporary, service-enriched shelter that helps homeless individuals and families obtain permanent housing. Low-barrier navigation centers are not listed as permitted uses in any zoning district, and the City will need to amend its Zoning Ordinance to explicitly allow the development of Low-Barrier Navigation Centers, by-right, in residential use and mixed-use districts, as well as nonresidential districts permitting multi-family uses.

Within portions of the MU zone, underlying zoning allows multi-family residential uses. However, these areas do not allow emergency shelters or low-barrier navigation centers.

Conclusion

Currently, emergency shelters are allowed within the M zone which permits single-family homes, among other uses. The M zone has sufficient capacity to meet the identified need for emergency shelters. However, the Zoning Code definition of an emergency shelter does not include a description of, or allow for, interim intervention.

The City’s Zoning Ordinance is inconsistent with state law which requires low-barrier navigation centers be allowed by-right in areas zoned for mixed-use and nonresidential zones permitting multi-family uses.

Recommended Action

The City will implement Housing Program 6 to revise the emergency shelter definition in the Zoning Code to include a description of, and allow for, interim interventions in compliance with state law, and to allow low-barrier navigation centers by-right in areas zoned for mixed-use and nonresidential zones permitting multi-family uses.

D4.3.3.5 Transitional and Supportive Housing

“Transitional housing” is defined as buildings configured as rental housing operating under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from the beginning of the assistance. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

“Supportive housing” is defined as housing with no limit on length of stay that is occupied by the target population and that is linked to on-site or off-site services that assist the supportive housing resident in retaining permanent housing, health services, and employment, as needed. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. AB 2162, which went into effect on January 1, 2019, requires that cities allow supportive housing with up to 50 units by-right in multi-family and mixed-use zones and precludes cities from imposing parking requirements on supportive housing developments located within one-half mile of a public transit stop.

The City defines supportive housing to have the same meaning as stated in Government Code Section 65650(a) and transitional housing is defined to have the same meaning as stated in Government Code Section 65582(j).

Transitional housing and supportive housing are permitted as a residential use and therefore are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g., occupancy limit) not imposed on similar dwellings (e.g., single-family home, apartments) in the same zone in which the transitional housing and supportive housing is located.

Conclusion

The City’s definition of transitional and supportive housing is consistent with state law. The City allows transitional and supportive housing in zones allowing residential uses, in compliance with state law. However, the Zoning Code does not provide any parking requirements for transitional and supportive housing.

Recommended Action

The City will implement Housing Program 6 to revise the Zoning Code to establish parking requirements for transitional and supportive housing, in compliance with state law.

D4.3.3.6 Farmworker Housing and Employee Housing

The Employee Housing Act (Health and Safety Code Section 17021.6) requires that any employee housing consisting of no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household, shall be deemed an agricultural land use. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located. Farmworker/employee housing for 6 or fewer residents is permitted by-right in the R-E, R-1, and R-2 zones, as well as when authorized through Planned Development Permit approval in the P-D zone in accordance with the Employee Housing Act. Single-family dwellings are also only allowed when authorized through Planned Development

Permit approval in the P-D zone. Employee housing for 7 or more residents is permitted by right in the Agricultural-Commercial (A-C) zone.

Conclusion

The Zoning Code does not allow farmworker and employee housing in compliance with state law. Agricultural uses are permitted by-right in the R-E, R-1, P-D(4) zones, however, these zones do not permit employee housing for more than 6 employees. In addition, the I, M, A-C, and P-1 zones permit agricultural uses by-right however only the A-C zone permits employee housing.

Recommended Action

The City will implement Housing Program 6 to amend the Zoning Code to ensure compliance with the Employee Housing Act (Health and Safety Code Section 17021.6).

D4.3.3.7 Single-Room Occupancy Units (SROs)

The City currently has no provisions in the Zoning Code to allow the development of SROs.

Conclusion

Without provisions to address the development of SROs, the Zoning Code potentially constrains the development of these types of units.

Recommended Action

The City will implement Housing Program 6 to revise the Zoning Code to allow the development of SROs in residential zones allowing multi-family uses and/or commercial zones allowing hotel and motel uses.

D4.3.4 Housing for Persons with Disabilities

California Government Code Section 65583 requires local jurisdictions to analyze potential and actual government constraints on the maintenance, improvement, and development of housing for people with disabilities. This is to ensure that persons with either physical or mental disabilities are provided reasonable accommodation for access to and the enjoyment of all facilities, including housing. Government Code Section 65583(c)(3) also requires housing elements to provide a program to "...address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing for persons with disabilities."

This section analyzes if the zoning policies and permitting procedures in Gustine impose any constraints to persons with disabilities accessing appropriate and adequate housing in the city.

D4.3.4.1 Definition of Family

Local jurisdictions may restrict access to housing for households that do not meet the jurisdiction's definition for "family." A restrictive definition of "family" that limits the number of individuals living together may illegally limit the development and siting of group homes for persons with disabilities, but not for housing families that are similarly sized or situated.

The City does not restrict occupancy of unrelated individuals in group homes and does not define family or enforce a definition in its Zoning and Subdivision Code.

Conclusion

The City's definition of "family" is not restrictive.

Recommended Action

None required.

D4.3.4.2 Reasonable Accommodation Procedures

The federal Fair Housing Act and the California Fair Employment and Housing Act require that cities and counties provide reasonable accommodation where such accommodation may be necessary to afford individuals with disabilities equal housing opportunities. Cities and counties must also consider requests for accommodations related to housing for people with disabilities and provide the accommodation when it is determined to be "reasonable" based on fair housing laws and the case law interpreting the statutes.

Reasonable accommodation is one of the tools intended to further housing opportunities for people with disabilities. These accommodations require that local jurisdictions make modifications or exceptions in their zoning laws and other land-use regulations when accommodations are necessary to afford individuals with disabilities an equal opportunity to use and enjoy a dwelling. For example, it may be a reasonable accommodation to waive a setback requirement so that a paved path of travel can be provided to residents with mobility impairments.

Reasonable accommodation enables developers and providers of housing for people with disabilities a means of requesting from the local government flexibility in the application of land use and zoning regulations or, in some instances, even a waiver of certain restrictions or requirements because it is necessary to achieve equal access to housing.

The City's Zoning Code provides a formal procedure to request reasonable accommodation in order to make specific housing available to an individual with a disability, which can be found in Section 4.2.3 of the City of Gustine Zoning Code. Any person may request a modification or exception to the zoning and other land use regulations, policies, practices and procedures for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice. The review authority may grant a variance to the site planning or development standards of the Zoning Code, so long as the variance is necessary to reasonably accommodate the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA).

The following development types shall be submitted to the planning department for review:

1. Name and address of the applicant;
2. Name and address of the property owner(s);
3. Address of the property for which accommodation is requested;
4. The current use of the property for which accommodation is requested;
5. Description of the requested accommodation, and the regulation(s), policy or procedure for which accommodation is sought, which could include site plans, floor plans, and/or details as necessary to define the extent of the accommodation;
6. The basis for the claim that the fair housing laws apply to the individual(s) with a disability and evidence supporting the claim, which may be in the form of a letter from a medical doctor or other licensed healthcare professional, a handicapped license, or other appropriate evidence;

7. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the property; and
8. How the property will be used by the applicant and individual(s) with disabilities.

In addition, if the applicant needs assistance in making the request for reasonable accommodation, City staff will provide assistance to ensure that the process is accessible.

Conclusion

Gustine enforces State requirements related to reasonable accommodation.

Recommended Action

None required.

D4.3.5 Planning and Development Fees

The development review process is intended to regulate all projects. Through this process, residential yard size and other open space uses are determined, which in turn control population density for conformance with the General Plan. Regulation is necessary to conserve and stabilize property values, provide adequate open space, diminish street congestion; facilitate adequate community utilities such as transportation, water, sewage, schools, parks, and other public facility requirements; and to safeguard public health, safety, and general welfare.

The City collects fees to help cover the costs of processing, inspections, and environmental review. The City has a two-part fee schedule. The first fee is intended as a Full Cost Recovery Estimate that is collected to offset full-time staff's costs for processing an application. The second fee is a Cost Recovery Deposit that is drawn upon due to time and effort of a Contract Planner, Contract Engineer, Contract Attorney, and other contracted services. The fee deposit is drawn upon as the contracted person expends time and effort on the application. Additional funding from the deposit is collected as needed. Should funding remain after all work on the application is completed, the remaining balance is refunded.

The City charges various fees and assessments to cover the cost of processing permits and providing certain services and utilities. Development impact fees in Gustine are reasonable in comparison to other jurisdictions in the state and region. Table D4-10 describes residential development planning fees for both single-family and multi-family development.

Table D4-10 Residential Development Planning Fees

Fee Title	Full Cost Recovery (FCR) Amount	Deposit Amount
Tentative Subdivision Map Review	\$448	Up to 100 lots: \$5,500 100 plus lots: \$4,000 +\$15.00 per lot
Final Subdivision Map Review	\$448	\$2,500
Tentative Parcel Map	\$448	\$2,500
Final Parcel Map	\$373	\$2,000
General Plan Amendment	\$492	Text Amendment: \$3,000 Land Use Map Amendment: \$1,500
Master plans/specific plans/development plans	\$1,966	\$5,000

Fee Title	Full Cost Recovery (FCR) Amount	Deposit Amount
Zone change map designation (less than 10 acres)	\$448 + \$600 for zoning map update	\$2,000
Zone change map designation (10 acres or larger)	\$448 + \$600 for zoning map update	\$2,000
Environmental Impact Report	\$888	\$5,000
Negative Declaration	\$30	\$250
Categorical Exemption	\$36	\$300
Conditional Use Permit (minor: within residential zones and open space zones)	\$361	\$600
Conditional Use Permit (major: within commercial zones, industrial zones, and public)	\$1,056	\$1,300

Source: City of Gustine, Master Schedule of User and Regulatory Fees.

Table D4-11 shows development impact and permit fees for single-family and multi-family prototype developments. The single-family prototype is a single-family detached residential dwelling unit with 1,600 square feet of living area. Single-family residential development fees are \$58,103 per unit. Estimated multi-family fees are based on a 20,000 square foot multi-family development, with approximately 23 units. Multifamily residential development fees are \$47,550 per unit.

Table D4-11 Residential Development Fees

	Cost Per Unit	
	Single-Family	Multi-Family
Building Fees ⁽¹⁾		
Building Permit	\$2,566	\$706
Plan Check Fee	\$1,925	\$529
Subtotal	\$4,491	\$1,235
Impact Fees ⁽²⁾		
General Government	\$1,807	\$1,682
Police	\$1,495	\$1,391
Fire	\$2,081	\$1,936
Parks	\$7,455	\$6,938
Storm Drain	\$7,853	\$3,656
Transportation	4,830	2,621
Subtotal	25,521	18,224
Water	\$8,299	\$8,299
Sewer	\$19,792	\$19,792
Subtotal	128,091	\$28,091
Total per Unit Fees	58,103	47,550

Source:

⁽¹⁾Master Schedule of User and Regulatory Fees October 2023.

⁽²⁾ Public Facilities Impact Fee Update for the City of Gustine adopted May 2022.

Single-family development fees in Gustine are higher than similarly sized cities in the same county. Fees for a single-family unit range are approximately \$58,103 in Gustine but range from \$12,326 to \$32,961 in the cities of Atwater, Dos Palos, Livingston, Los Banos, and Merced. Fees for multi-family developments are also higher than neighboring cities. Fees for a multi-family unit are approximately \$47,550 per multi-family unit in Gustine but range from \$8,997 to \$26,423 per unit in other cities. Table D4-12 shows a comparison of development fees in other Merced County jurisdictions.

Table D4-12 Residential Development Fee Comparison

Jurisdiction	Total Cost Per Unit	
	Single-Family	Multi-Family
Atwater	\$22,000	\$14,000
Dos Palos	\$12,435	\$12,435
Gustine	\$58,103	\$47,550
Livingston	\$20,804	\$5,561
Los Banos	\$32,961	\$26,197
Merced (City)	\$12,326	\$8,997
Merced (County)	\$30,996	\$26,423

Conclusion

Planning and development fees are higher in Gustine than in any other city in the region and are a constraint to development.

Recommended Action

The City will implement Housing Program 8 to conduct annual reviews on the City’s development impact fees and revise to be competitive with other cities in the region.

D4.3.6 Permit Types

The City of Gustine provides the full range of services relating to the development of property within its Sphere of Influence. Subdivision map processing, parcel maps, planned developments, special use permits, and building plans are all processed by the City. The City actively encourages developers to meet and confer with its planning staff prior to the formal submittal of an application as a means to facilitate the timely processing of the application. Pre-application conferences can resolve misunderstandings regarding zoning and development standards and processing procedures.

Several permitting processes may be required depending on the type of development proposal:

Subdivision and Merger

City requirements for these actions parallel State Subdivision Map Act requirements. For projects that require separate ownership parcels, a subdivision is required to establish the land division. The subdivision process is subject to Permit Streamlining Act requirements, but also usually requires CEQA review and can take up to a year to complete. Mergers would be accomplished through the filing of a new map creating a smaller number of parcels.

Permitted Uses

Permitted Uses, also known “use by-right,” refer to uses that are permitted in a specific zoning district, and as a result are not subject to additional review or applied conditions for approval by the Planning Commission. Permitted Uses also generally will not cause an adverse environmental impact on surrounding uses. Permitted Uses must still acquire all necessary permits and zoning clearances to proceed with development, however the process is much more streamlined than for projects requiring a Conditional Use Permit. Most residential development is allowed by-right in residential zones.

Conditional Use Permit

Many uses require the applicant to obtain a Conditional Use Permit (CUP). The purpose of a CUP is to allow the proper integration into the community of uses which may be suitable only in specific locations in the zone, or only if such uses are designed or laid out on the site in a particular manner. CUPs are approved or denied by the Planning Commission and can be appealed to the City Council. A Planning Commission public hearing is to be set within 30 days of receipt of an application, although CEQA requirements could extend this time for some projects. CUP processing is subject to Permit Streamlining Act requirements.

The residential uses that require CUP approval in Gustine are mobile home parks in the R-2 and R-3 zones, multi-family housing of three or four units in the R-2 zone, residential care facilities with seven or more clients in zones R-E, R-1, R-2, and R-3, residential care facilities for the elderly in zones R-2 and R-3, and rooming or boarding houses in zones R-2 and R-3. In approving a CUP the Planning Commission provides a process for reviewing uses and activities that may be appropriate in the applicable zoning district, but whose effects on site and surroundings cannot be determined before being proposed for a specific site. A CUP is approved so long as the Commission finds that the proposed structure or use conforms to the provisions of the municipal code, is consistent with the General Plan, the project is compatible with nearby existing and future land uses, that the site is suitable for the project, and that the use will not constitute a nuisance or be detrimental to the public welfare of the community. The submittal requirements are not different than the development plans that would be required for any other approval route.

Planned Development

The purpose and benefits of a Planned Development are described above in the section on Flexibility in Development Standards. A Planned Development application is usually submitted as part of a tentative map application to subdivide the property.

A Planned Development proceeds in two stages: a conceptual plan is reviewed by staff, and a master plan is submitted concurrently with a PD zone change (if the site is not already zoned PD) for Planning Commission recommendation and City Council approval. The City approves both residential and commercial planned developments. For residential development in areas that have PD zoning and a commercial land use designation, a general plan amendment would be necessary. Following approval of a master plan, a detailed development plan is processed for development of all or portions of the site. The development plan is submitted for Planning Commission recommendation and City Council approval, typically concurrent with a tentative subdivision map. If approval of a zone change or general plan amendment is required for residential development, it may be processed concurrently or prior to either the master plan or the development plan.

A Planned Development application also requires CEQA review and is likely to require a negative declaration or environmental impact report. This review would be incorporated with the environmental review already typically required for a subdivision map. Because of the complexities, the Planned Development process can take a year or longer to complete. However, since the tentative map processing can run concurrently with the planned development process, there is usually a high level of efficiency, since the designs of the master plan, development plan, and tentative map are all aligned. Therefore, the conditional use permit process does not result in a constraint on development. Each non-legislative approval process is subject to Permit Streamlining Act requirements.

Land Use Review

Projects such as a Development Agreement, General Plan Amendment, Use Permit, Zone Map Amendment, Zoning & Subdivision Code Amendment, and Planned Unit Developments require public hearings and review by the Planning Commission and/or a public hearing and review by the City Council. The subdivision and land use review authority for the City of Gustine is outlined in Table D4-13.

Table D4-13 Subdivision and Land Use Review Authority

Type of Decision	Role of Review Authority (1)			
	Director (2)	City Engineer	Planning Commission	City Council
Subdivision				
Tentative Map	Recommend		Recommend	Decision
Parcel Map	Recommend			Decision
Final Map	Recommend			Decision
Certificate of Compliance	Decision			Appeal
Lot Line Adjustment	Decision			Appeal
Parcel Merger	Decision			Appeal
Reversion to Acreage	Recommend	Decision		Appeal
Administrative and Legislative				
Development Agreement	Recommend		Recommend	Decision
General Plan Amendment	Recommend		Recommend	Decision
Interpretation	Decision		Appeal	Appeal
Zoning Map Amendment	Recommend		Recommend	Decision
Zoning & Subdivision Code Amendment	Recommend		Recommend	Decision
Planning permit or other development approval				
Architectural Review (Permitted)	Decision		Appeal	Appeal
Architectural Review (Use Permit)	Recommend		Decision	Appeal
Home Occupation Permit	Decision		Appeal	Appeal
Limited Term Permit	Decision		Appeal	Appeal
Master Sign Permit	Decision		Appeal	Appeal
Planned Development Permit	Recommend		Recommend	Decision
Sign Permit	Decision		Appeal	Appeal
Use Permit (UP)	Recommend		Decision	Appeal

Type of Decision	Role of Review Authority (1)			
	Director (2)	City Engineer	Planning Commission	City Council
Variance	Recommend		Decision	Appeal
Zoning Clearance	Decision		Appeal	Appeal

(1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 4-64 (Appeals).

(2) The Director may defer action and refer the request to the Commission, so that the Commission may instead make the decision

Use Permit Review

A Use Permit provides a process for reviewing uses and activities that may be appropriate in the applicable zone, but whose effects on site and surrounding cannot be determined before being proposed for a specific site. Use Permits shall be approved or disapproved by the Planning commission only after first finding all of the following:

1. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of the Zoning and Subdivision Code and the Municipal Code;
2. The proposed use is consistent with the General Plan and any applicable specific plan;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with existing and future uses in the vicinity;
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
5. Granting the permit would not be detrimental to the public comfort, convenience, health, interest, morals, safety, or welfare of the persons residing or working in the subject neighborhood, or materially detrimental or injurious to property or improvements in the vicinity and zone in which the property is located.

Architectural Review

The Architectural Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-city historic, and rural character of the community. The review authority approves or disapproves an application for an Architectural Review concurrently with the approval or disapproval of any other planning permit required for the project. The Architectural Review of permitted uses is staff reviewed and Director approved. However, when a project requires a use permit the Planning Commission has review authority. The review evaluates each proposed project to ensure that the project:

- Provides architectural design compatible with the orderly and harmonious development of the community;
- Provides desirable site layout and design, including, setbacks, drainage, fences and walls, grading, lighting, and signs;
- Provides efficient and safe public access, circulation, and parking;

The Architectural Review is performed concurrent with the processing of any other planning permit required for the project; therefore, it does not impact and/or extend the typical timeframe for approval of a development project in the city. Architectural review approval is granted when it is determined that the project complies with the review criteria listed above. The Architectural Review

authority may request changes to ensure compliance. Architectural Review is required for all proposed single-family and multi-family projects, nonresidential development and new land uses within the city. The review is meant to ensure that a project complies with applicable City standards. There are no inflexible design guidelines; the review is made to ensure the project does not adversely affect community health, safety, or natural resources. The cost is nominal and the review acts as a means of providing greater certainty for developers. It does not create an additional constraint as to timing, cost and/or approval of the development of housing within the City of Gustine. However, the findings are subjective and require the interpretation and discretion of the reviewing authority. This adds time to the review and creates an unpredictable development review process.

Conclusion

As noted above, there are several development review processes that require subjective determinations from the reviewing authority. This is a constraint to the development of housing.

Recommended Action

The City will implement Housing Program 6 to revise permit, site plan, and architectural review criteria to remove subjective development standards, in accordance with SB 330.

D4.3.7 Permit Procedures and Processing Times

While permit processing and development review are necessary to ensure that development proceeds in an orderly manner, permit processing fees, the costs of studies, and implementation of conditions, as well as time consumed, can impact the cost of housing development.

Development review and permit processing are necessary steps to ensure that residential construction proceeds in an orderly manner. However, the time and cost of permit processing and review can be a constraint to housing development if they place an undue burden on the developer. In Gustine, the review process takes approximately two to four weeks for a typical single-family project, six to eight for a typical multi-family project, and approximately 10 to 12 weeks for a planned unit development. The most common housing applications and permit processing times are indicated in Table D4-14. It should be noted that each project does not necessarily have to complete each step in the process (i.e., small scale projects consistent with General Plan and zoning designations do not generally require EIRs, General Plan Amendments, Rezones, or Variances).

The City has worked to improve the permit process through implementation of a pre-application conference. The purpose of this conference is generally to:

1. Inform the applicant in general of City requirements as they apply to the proposed project;
2. Review the City's approval process, possible project alternatives or modifications; and
3. Identify the information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project.

Table D4-14 Timelines for Permit Procedures

Type of Approval or Permit	Typical Processing Time
Conditional Use Permit	2-4 months
Variance	2 months
Planned Unit Development	3-6 Months
Site Plan Review	3-6 Months
Subdivision Map	12-30 Months
Building Permit	1-2 weeks
General Plan Amendment	60-90 Days
Zone Change	1-2 months

Source: City of Gustine, 2023.

Building Permits

Building permit review timelines for all projects are as follows depending on complexity and scope of work:

- First review: 1 to 24 working days
- Second review: 1 to 15 working days
- Third review (if applicable): 1 to 10 working days

State Streamlining

Under the 5th Cycle Housing Element reporting period (2015-2023), the City of Gustine has made insufficient progress toward its lower-income RHNA and is subject to SB 35 streamlining provisions for projects that include at least 50 percent affordability. SB 35 requires that eligible projects be reviewed for compliance and consistency with the City’s objective standards and are not subject to discretionary processes, such as CEQA environmental review and public hearings. Eligible projects with 150 units or fewer must be approved within 90 days and projects with more than 150 units must be approved within 180 days. In addition, AB 1397 requires that 5th cycle opportunity sites re-used in the 6th cycle and identified to accommodate lower-income units (very low-income and low-income) be subject to by-right approval if projects include 20 percent affordable units for lower-income households on-site. The City has not adopted procedures for processing SB 35 applications nor have they created a checklist for SB 35 applications. There have not been any projects approved through SB 35 ministerial approval in Gustine.

Conclusion

The City of Gustine does not have written procedures for SB 35 Streamlined Ministerial Approval process.

Recommended Action

The City will implement Housing Program 6 to amend the Zoning Code to establish written procedures for SB 35 projects.

D4.3.8 Transparency in the Development Process

To increase transparency in the development process, the City’s website publishes resources that help developers and homeowners navigate the residential development and home improvement processes. The City’s webpage provides a link to its Document Center under the Community Development tab (<https://www.cityofgustine.com/documents.aspx>). The document center includes links to building, planning, and zoning resources, including permit application forms, a residential plan review checklist, rate and fee schedule, the 2019 Housing Element update, the City’s General Plan, and financial documents. Links to the zoning ordinance and zoning map can be found in the Building, Planning, and Zoning folder.

Conclusion

The City’s website provides all the necessary information and resources required by the State, and is therefore in compliance with state law.

Recommended Action

None required.

D4.3.9 Short-Term Housing Rentals

The City of Gustine does not currently have a short-term housing rental program that regulates short-term vacation rentals in the city.

Conclusion

Short-term rentals are not considered a constraint.

Recommended Action

None Required.

D4.3.10 Code Enforcement

The City of Gustine implements the California Building Code (CBC), 2022 Edition, which is based on the 2021 International Building Code and is published by the California Building Standards Commission as Part 2 of Title 24 of the California Code of Regulations. The 2022 CBC is set forth to regulate and govern the conditions and maintenance of all property, buildings, and structures within the City by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use and providing for the condemnation and demolition of buildings and structures that are unfit for human occupancy and use.

The City of Gustine provides code enforcement through its Police Department on a complaint basis. When the City Police Department is made aware of violations or health and safety concerns relating to a residence, an inspection will be made and a violation notice issued as appropriate. The City will respond to enforcement issues by utilizing its Police Department.

The City has the power to inspect and declare unsafe any structure or piece of equipment, be it existing or under construction, that does not meet specific Municipal Code standards. These include, but are not limited to, structures with insufficient modes of egress; structures that are unsafe or

that have been made structurally unsound due to fire, earthquake, or other natural disaster; buildings that are deemed a public nuisance; and buildings that have been constructed or maintained in violation of local or state law. Once a building has been declared unsafe, the building official may issue notice that the structure be repaired, vacated, or demolished within a reasonable amount of time and with the appropriate permits.

The enforcement of building codes in the City is centered on the inspection of new construction and remodels or renovations requiring building permits. However, for existing structures, City staff prioritize code enforcement complaints according to the severity of the violation on the community and individuals. Situations that appear to pose a serious risk to health and safety are given top priority; others are pursued in the order in which they are received, as resources are available. In most cases for non-emergency complaints, a warning letter or courtesy notice is sent to the alleged violator to verify the status of the potential compliant and to obtain compliance.

Conclusion

The City has adopted the most recent (2022) California Building Code.

Recommended Action

None required.

D4.4 Environmental Constraints

A community's environmental setting affects the feasibility and cost of developing housing. Environmental issues range from the availability of water to the suitability of land for development due to potential exposure to seismic, flooding, wildfire, and other hazards. If not properly recognized and accommodated in residential design, these environmental features could potentially endanger lives and property. This section summarizes environmental constraints to housing development in Gustine.

D4.4.1 Flood

New development that is being constructed with a potential for flooding, as identified by the Federal Insurance Rate map (FIRM) are required to be constructed at or above the base flood elevation and follow the regulations in the County's "Flood Damage Prevention Ordinance." With this requirement, it significantly increases the cost of construction in cases where a structure must be placed on special supports or additional fill is necessary to elevate a development site. If the property owners can provide proof that the FIRM map is not accurate for a specific site, an exception from the requirement may be granted. As flood control projects are completed, the areas that historically have been subject to flooding have been reduced.

D4.4.2 Seismic Zones

Gustine is located in proximity to major California fault lines, including the San Andreas fault system. As such, there are threats and hazards from seismic ground shaking in residential developments within the county and all new construction must comply with current state building code requirements related to seismic retrofitting. While there is a historic hazard of earthquakes and seismic events in the city and region overall, all new construction must comply with current state building code requirements, and therefore do not pose a constraint to residential development.

D4.4.3 Wildland/Urban Fire Hazards

Fire hazard potential is largely dependent on the extent and type of vegetation, known as surface fuels, that exists within a region. Fire hazards are typically highest in heavily wooded, undeveloped areas as trees are a greater source of fuel than low-lying brush or grassland. Suburban, urban areas, or rocky barren areas have minimal surface fuels and therefore typically have the lowest fire hazard.

The California Department of Forestry and Fire Prevention (CAL FIRE) has designated Gustine as being at increased risk from wildfires, with most of the City mapped as “Local Responsibility Area Unzoned” and small portions of the City designated as “Local Responsibility Area Moderate.” None of the City or surrounding area is designated as a very high or high fire hazard severity zone.³

D4.4.4 Noise

The Santa Fe and Southern Pacific railroads, State Highways 140 and State Highway 33 pass through the City of Gustine and Interstate 5 passes relatively close to the west of the City of Gustine. Any residential development that is within the 65-75 or higher dBA range must mitigate the impact by incorporating noise reduction materials into the construction of new housing units.

The production of noise is an inherent part of many industrial, commercial and agricultural processes, even when the best available noise control technology applied. Noise production within industrial or commercial facilities is controlled indirectly by federal and state employee health and safety regulations (OSHA and Cal-OSHA), but exterior noise emissions from such operations have the potential to exceed locally acceptable standards at nearby noise-sensitive land uses.

Stationary noise sources were studied during the development of the City’s Noise Element. Noise exposure information was developed from operational data obtained from source operators (when available) and noise level measurements conducted at reference locations around the noise source. Only existing noise levels were described since there are too many variables and unknown conditions to predict future noise exposure.

The Noise Element contains a discussion providing generalized information concerning the relative noise impacts of each source, and identifies specific noise sources, which should be considered in the review of development proposals where potential noise conflicts could result. Not all industrial noise sources in the city are discussed. Unidentified industries or other major noise sources may exist, which could generate significant noise levels and result in noise-related land use conflicts. Generalized 50 and 55 dBA hourly L_{eq} noise contours were prepared for major stationary noise sources where it was determined that such contours would be located off the property occupied by the source.

D4.4.5 Endangered Species

The existence of endangered species has been a significant development issue in this area for a number of years. Currently, the species that are most prominent on the endangered list in the Merced County include the Fresno kangaroo rat, San Joaquin Kit Fox, and blunt nosed leopard lizard. The U.S. Fish & Wildlife Service has the authority and backing of the Federal Government to limit new development from encroaching into the habitat of these species. The constraints include the designation of corridors to allow movement of the species, exclusion of new development, and the

³ County of Merced. 2021. Multi-Jurisdictional Hazard Mitigation Plan. <https://web2.co.merced.ca.us/pdfs/oes/MercedCounty-MJHMP-2021-2016.pdf>

requirement of an environmental impact report for certain projects to determine what impacts there may be to the habitat of these endangered species.

Conclusion

There are few environmental constraints on future development of lands for housing in the Gustine area. The topography of the land is level, with no steep slopes or deep ravines. There are no identified sensitive natural communities in the vicinity, including wetland areas or other significant areas of protected habitat.

Recommended Action

None required.

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