

PLANNING COMMISSION RESOLUTION NO. 24-005

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRENTWOOD RECOMMENDING THAT THE CITY COUNCIL ADOPT A GENERAL PLAN AMENDMENT GPA 24-001 TO REPEAL THE 2023 HOUSING ELEMENT AND ADOPT THE NOVEMBER 2023 HCD SUBMITTAL HOUSING ELEMENT OF THE GENERAL PLAN FOR THE PERIOD OF 2023-2031, IN COMPLIANCE WITH STATE HOUSING ELEMENT LAW.

WHEREAS, the California Legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives” (Gov. Code Section 65589.5.); and

WHEREAS, the Legislature has further found that “[a]mong the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration” (Gov. Code Section 65589.5.); and

WHEREAS, the Legislature recently adopted the Housing Crisis Act of 2019 (SB 330) which states that “In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years”; and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City of Brentwood (City) regional housing need allocation (RHNA) of 1,522 housing units, comprised of 402 very-low income units, 232 low-income units, 247 moderate-income units, and 641 above moderate-income units; and

WHEREAS, to comply with State Housing Element Law, Brentwood has prepared the 2023-2031 Housing Element, titled: November 2023 HCD Submittal, and incorporated here by reference (the Housing Element) in compliance with State Housing Element Law and has identified sites that can accommodate housing units meeting the City’s RHNA; and

WHEREAS, as provided in Government Code Section 65350 et. seq., adoption of the Housing Element constitutes a General Plan Amendment; and

WHEREAS, State law requires that the City take meaningful steps to promote and affirmatively further fair housing (Gov. Code Section 65583(c)(5)); and

WHEREAS, State law requires that the City make zoning available for all types of housing, including multifamily housing (Gov. Code Sections 65583.2 and 65583(c)); and

WHEREAS, the Housing Element must be adopted to comply with State law, accommodate the RHNA, affirmatively further fair housing, and facilitate and encourage a variety of housing types for all income levels, including multifamily housing (Gov. Code Sections 65583.2 and 65583(c)); and

WHEREAS, as provided in Government Code Sections 65352 – 65352.5, the City referred the Housing Element to all California Native American tribes on the contact list provided by the Native American Heritage Commission and to other entities listed; and

WHEREAS, no California Native American tribe requested consultation; and

WHEREAS, the preparation, adoption, and implementation of the Housing Element requires a diligent effort to include all economic segments of the community; and

WHEREAS, the City conducted extensive community outreach over the last 16 months, including nine public workshops, outreach events, and hearings before the Planning Commission and City Council; and

WHEREAS, in accordance with Government Code Section 65585 (b), on August 25, 2022, the City posted the draft Housing Element and requested public comment for a 30-day review period, and on October 17, 2022, after responding to public comments, the City submitted the first draft Housing Element to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on January 13, 2023, the City received a letter from HCD providing its findings regarding the draft Housing Element; and

WHEREAS, on February 21, 2023, City staff met with an HCD representative to discuss HCD's findings and the City's proposed revisions to the draft Housing Element in response; and

WHEREAS, on February 17, 2023, the City gave public notice of a Planning Commission public hearing to be held to consider adoption of the Housing Element by advertisement in the Brentwood Press, a newspaper of general circulation, in accordance with City policies and Government Code Section 65090; and

WHEREAS, on February 23, 2023, the City published a revised draft Housing Element dated February 23, 2023, responding to HCD's findings, and requested public comment on the draft; and

WHEREAS, on February 28, 2023, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider a Resolution regarding the proposed Housing Element, reviewed the Housing Element and all pertinent maps, documents and exhibits, including HCD's findings, the City's response to HCD's findings, the staff report and all attachments, and oral and written public comments received to date. Following the public hearing, at which no member of the public spoke, the Planning Commission did not recommend that the City Council adopt the proposed resolution; and

WHEREAS, on February 28, 2023, concurrent with the commencement of the Planning Commission meeting, Discovery Builders, Inc., and WCHB Development, Inc., emailed correspondence to the City's Planning Division with comments on the draft Housing Element; and

WHEREAS, on March 3, 2023, the City gave public notice of a City Council public hearing to be held to consider adoption of the Housing Element by advertisement in the Brentwood Press, a newspaper of general circulation, in accordance with City policies and Government Code Section 65090; and

WHEREAS, on March 9, 2023, the City published a revised draft Housing Element dated March 2023, further responding to HCD's findings, and requested public comment on the draft; and

WHEREAS, on March 14, 2023, the City Council held a duly-noticed public hearing to consider this resolution regarding the proposed Housing Element, including: (1) the public testimony and agenda reports prepared in connection with the resolution, (2) the revisions and considerations discussed therein, (3) the consideration by the City's Planning Commission, and (4) HCD's findings and the proposed City response to HCD's findings; and

WHEREAS, on March 14, 2023, the City Council approved GPA 23-001 to repeal the 2015 Housing Element and adopt the draft Housing Element dated March 2023; and

WHEREAS, on March 17, 2023, after responding to public comments, and after being available for review for at least seven days pursuant to AB 215, the City submitted the adopted second draft Housing Element to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on May 16, 2023, the City received a second letter from HCD providing its findings regarding the draft Housing Element; and

WHEREAS, on June 6 and 7, 2023; July 10, 2023; August 29, 2023; September 11, 2023; September 29, 2023; and October 23, 2023, City staff met with an HCD representative to discuss HCD's findings and the City's proposed revisions to the draft Housing Element in response; and

WHEREAS, on October 23, 2023, the City published a revised draft Housing Element dated October 2023, further responding to HCD's findings, and requested public comment on the draft; and

WHEREAS, on November 3, 2023, after responding to public comments, and after being available for review for at least seven days pursuant to AB 215, the City submitted the third draft Housing Element titled November 2023 HCD Submittal to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on November 8, 2023, after submittal to HCD, East Bay for Everyone emailed correspondence to the City's Planning Division with comments on the draft Housing Element; and

WHEREAS, on January 2, 2024, the City received a third letter from HCD providing its findings and concluding that the draft Housing Element received by HCD on November 3, 2023 meets the statutory requirements that were described in HCD's May 16, 2023 review letter. In addition, the housing element will substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq) when it is adopted, submitted to and approved by HCD, in accordance with Government Code section 65585; and

WHEREAS, the City published a notice of public hearing in the Brentwood Press on January 5, 2024, in accordance with City policies and Government Code Section 65090; and

WHEREAS, on January 16, 2023, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider this Resolution regarding the updated proposed Housing Element titled: November 2023 HCD Submittal, reviewed the Housing Element and all pertinent maps, documents and exhibits, including HCD's findings, the City's response to HCD's findings, the staff report and all attachments, and oral and written public comments; and

WHEREAS, the City has determined that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section §15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposed 2023-2031 Housing Element Update would have a significant effect on the environment, in that no new policies adopted modify the density or physical design of housing and so do not have the potential for causing a reasonably foreseeable direct or indirect change in the physical environment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Brentwood based on the entire record of proceedings, including the oral and written staff reports and all public comment and testimony:

1. Finds that the foregoing recitals are true and correct and are incorporated by reference into this action.
2. Hereby finds that:

a. The amendment is deemed to be in the public interest;

This amendment is in the public interest in that it will support employment growth; work to address any imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration associated therewith; and allow the City take meaningful steps to promote and affirmatively further fair housing. The Housing Element also incorporates the City's goals, quantifiable objectives, and policies to affirmatively further fair housing and the maintenance, preservation, improvement and development of housing per Government Code Section 65583(b), and is thus in the public interest.

b. The amendment is consistent and/or compatible with the rest of the General Plan as evidenced by, among other things:

- i. The amendment implements General Plan Land Use Goal LU 1 ('Establish a land use pattern in Brentwood that provides for a diverse, self-sufficient community that offers a broad spectrum of job opportunities, housing types, community facilities, and commercial services') inasmuch as it plans for a broad spectrum of low, medium, and high density housing across the City.
- ii. Housing Element Action H.1i ("Continue implementation of the City's water Conservation Program. The program promotes the use of water conservation devices in existing structures, including use of low-flow toilets and shower heads, and water-conserving landscaping"), is consistent with Conservation and Open Space Policy COS 9-6 ("Continue to require new development to incorporate water efficient fixtures into design and construction").
- iii. Housing Element Goal H.1 ("Facilitate a diversity of housing opportunities to enhance the City's living environment and

to satisfy the shelter needs of all Brentwood residents”), is consistent with Land Use Policy LU 2-8 (“Provide for a variety of residential products through the Zoning Ordinance in order to accommodate the housing needs of all segments of the city’s population”).

- iv. Housing Element Goal 3 (“Encourage an equitable distribution of housing for all economic groups throughout the community”), is consistent with Land Use Policy LU 2-7 (“Strongly encourage residential development in the city in a balanced and efficient pattern that reduces sprawl, preserves open space, and creates convenient connections to other land uses”). It also encourages residential development in the city in such a way as to reduce sprawl, preserve open space, and create convenient connections to other land uses.

- c. *The potential impacts of the amendment have been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and*

As noted above, the potential impacts of the amendment have been assessed and have been determined not to be detrimental to the public health, safety, or welfare, inasmuch as they will address the housing needs of the residents of the City of Brentwood and will not have the potential for causing a reasonably foreseeable direct or indirect change in the physical environment

- d. *The amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA).*

As noted above, the Project is exempt from CEQA pursuant to Section §15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposed 2023-2031 Housing Element Update would have a significant effect on the environment, in that no new policies adopted modify the density or physical design of housing and so do not have the potential for causing a reasonably foreseeable direct or indirect change in the physical environment.

3. Recommends that the City Council find that the November 2023 HCD Submittal Housing Element substantially complies with Housing Element Law, as provided in Government Code Sections 65580, et seq., and contains all provisions required by State Housing Element Law, as shown in Attachment 1 to this resolution, incorporated herein by this reference.
4. Recommends that the City Council direct the Director of Community Development (Director) to transmit the adopted 2023-2031 Housing Element to HCD for its earliest action and certification as provided by law; and further direct and authorize the Director to make all non-substantive changes to the Housing Element as required to make it internally consistent, or to address any non-substantive changes or amendments suggested or requested by the HCD. Should HCD require substantive changes to the adopted Housing Element, the Planning Commission recommends the City Council direct City staff to bring such changes or amendments back to the City Council for its further review and appropriate action.
5. Recommends that the City Council state that the Housing Element incorporates the City's goals, quantifiable objectives, and policies to affirmatively further fair housing and the maintenance, preservation, improvement and development of housing per Government Code Section 65583(b).
6. The Planning Commission recommends that the City Council repeal the March 2023 Housing Element and adopt the November 2023 HCD Submittal Housing Element that has been modified in response to the findings of the Department (to be in substantial compliance with the requirements of State Housing Element Law).
7. This resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the Planning Commission of the City of Brentwood at its regular meeting of January 16, 2024, by the following vote:

AYES:
NOES:
ABSENT:
RECUSE:

APPROVED:

Planning Commission Chairperson

ATTEST:

Erik Nolthenius
Planning Manager