

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD APPROVING A GENERAL PLAN AMENDMENT (GPA23-001) TO REPEAL THE MARCH 2023 HOUSING ELEMENT AND ADOPT THE NOVEMBER 2023 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 “[i]n 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, the 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 the State Housing Element Law, Brentwood has prepared the 2023-2031 Housing Element, titled: November 2023 HCD Submittal, Attachment 2 to the resolution and incorporated herein by reference (the Housing Element) in compliance with the 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, 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 Section 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 25 months, including 13 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 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 by the conclusion of the meeting. 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 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, oral and written, and agenda reports and all attachments prepared in connection with the resolution, (2) the revisions and considerations discussed therein, (3) the recommendations of the City's Planning Commission, (4) HCD's findings and the proposed City response to HCD's findings, and (5) all pertinent maps, documents and exhibits and all oral and written public comments received by the conclusion of the meeting; 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, 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 letter from HCD providing its findings regarding the draft Housing Element and stating that additional changes were required for the Element to conform with State law; 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 HCD staff 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, 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 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; and

WHEREAS, on January 5, 2024, 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 January 11, 2024, the City published the Planning Commission agenda report including the November 2023 HCD Submittal draft Housing Element previously made available to the public on October 23, 2023; and

WHEREAS, on January 16, 2024, 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 one member of the public spoke, the Planning Commission voted to recommend that the City Council not adopt the proposed Housing Element; and

WHEREAS, on February 2, 2024, the City gave public notice of a public hearing to be held by the City Council to consider this resolution regarding the City's Housing Element by advertisement in The Brentwood Press; and

WHEREAS, on February 8, 2024, the City again published the November 2023 draft Housing Element, with no additional changes; and

WHEREAS, on February 13, 2024, the City Council held a duly-noticed public hearing to consider this resolution regarding the proposed Housing Element, including: (1) the public testimony, oral and written, and agenda reports, including all attachments, prepared in connection with the resolution, (2) the revisions and considerations discussed therein, (3) the recommendations of the City's Planning Commission, (4) HCD's findings and the proposed City response to HCD's findings, and (5) all pertinent maps,

documents and exhibits and all oral and written public comments received by the conclusion of the meeting; 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 City Council 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; and
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 housing 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, insomuch 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.

2. Finds that the 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 1B to this resolution, incorporated herein by this reference; and
3. Finds, as required by Government Code Section 65585(e), that the City Council has considered the findings made by the Department of Housing and Community Development included in the Department's letters to the City dated May 16, 2023 and January 2, 2024, consistent with Government Code Section 65585(f) and as described in Attachment 1A to this resolution. In addition, the City Council finds that the modifications to the Housing Element in the November 2023 HCD Submittal responded to the findings of the Department and substantially comply with the requirements of State Housing Element Law as interpreted by HCD, including the Department's findings of substantial conformance with State law as stated in the Department's letter dated January 2, 2024.
4. Finds that based on substantial evidence in the record (contained in the record, including but not limited to Appendix B to the proposed amended Housing Element), the existing uses on the non-vacant sites in the Housing Element site inventory identified to accommodate the need for lower income housing do not constitute an impediment to planned residential development on the sites during the planning period. As required by Section 65583.2(g)(2) of the Government Code, the City further finds that, based on substantial evidence in the record, including but not limited to Appendix B, the existing uses on these non-vacant sites are likely to be discontinued during the planning period. The City has provided such substantial evidence in the Housing Element that the existing uses have already been or will be discontinued during the planning period. This is based on factors including, but not limited to, the physical characteristics, existing uses, redevelopment potential (including land value to improvement value ratio, existing structure age, existing uses not including housing units, City-owned sites, and developer interest), location and context, local knowledge,

environmental and infrastructure constraints, development trends, market conditions, current and past planning applications, regulatory incentives provided by the City, and owner interest. Specifically, four of the sites are vacant of structures and have improvement values of \$0 but cannot be considered vacant due to their seasonal agricultural uses. Despite this classification, the property owners are working with developers to construct residential projects. The sites are not zoned for agriculture; however, the seasonal use allows the property owners to benefit from their land until they move forward with development.

5. Directs the Director of Community Development (Director) to transmit the adopted 2023-2031 Housing Element to HCD for its earliest action and review as provided by law; and further directs and authorizes 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 requested by HCD to achieve a finding of conformance with State Housing Element Law. Should HCD require substantive changes to the adopted Housing Element, the City Council directs City staff to bring such changes or amendments back to the City Council for its further review and appropriate action; and
6. Finds 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), and is thus in the public interest; and
7. Repeals the March 2023 Housing Element and adopts the November 2023 Housing Element as shown in Attachment 2 and incorporated herein; and
8. This resolution shall become effective immediately upon its passage and adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Brentwood at its regular meeting of the 13th day of February 2024, by the following vote:

AYES:

NOES:

ABSENT:

RECUSE:

APPROVED:

Joel Bryant, Mayor

ATTEST:

Margaret Wimberly, MMC
City Clerk

ATTACHMENTS

Attachment 1 – Response to HCD Findings, Pursuant to Government Code section 65585, subdivision (b), HCD reviewed the draft Housing Element and reported the results of its review.

Attachment 1A describes the changes requested by HCD on May 16, 2023 and January 2, 2024 and the City of Brentwood’s response.

Attachment 1B demonstrates that the City of Brentwood’s Housing Element contains each of the elements mandated by State law.

Attachment 2 – Housing Element dated November 2023