



CITY COUNCIL AGENDA ITEM NO. G.1
08/08/2023

SUBJECT: 2023-2031 (6th Cycle) Draft Housing Element Status Update

DEPARTMENT: Community Development Department

STAFF: Alexis Morris, Director of Community Development
Jennifer Hagen, Senior Planner

TITLE/RECOMMENDATION

Review and consider comments from the California Department of Housing and Community Development (HCD) on the City's second Draft Housing Element Update and provide direction and input on proposed revisions to be incorporated into the third Draft Housing Element Update.

FISCAL IMPACT

There is no financial impact associated with this discussion. The cost of the update is included in the adopted 2022/23 – 2026/27 Capital Improvement Program (CIP), which includes the Housing Element Update and Safety Element Update, CIP Project No. 337-37258, the majority of which has been funded by the General Fund (\$585,846) and a small portion by the Association of Bay Area Government's Regional Early Action Planning grant (\$30,819).

BACKGROUND

The City formally initiated the 6th Cycle (2023-2031) Housing Element Update (HEU) in October 2021 with substantive public meetings beginning in April 2022. Since then, there have been a number of public meetings and outreach events over the last 16 months, including nine public workshops, outreach events, and hearings before the Planning Commission and City Council to review key components of the Housing Element. After initial review and public input, the first Draft Housing Element was submitted to HCD on October 17, 2022. On January 13, 2023, HCD provided its formal response letter to City staff with comments on the initial draft.

On February 14, 2023, staff presented the City Council with HCD's comments on the first draft Housing Element Update and requested direction and input on specific goals and policies to be incorporated into a revised second Draft Housing Element. Additional hearings were then held before the Planning Commission on February 28, 2023 and the City Council on March 14, 2023 to adopt the second Draft Housing



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Element and authorize resubmittal to HCD. After public input and adoption, the second Draft Housing Element was submitted to HCD on March 17, 2023. On May 16, 2023, HCD provided its formal response letter to City staff with comments on the second draft. Staff has included the second HCD letter for reference in Attachment 2.

DISCUSSION

HCD's May 16, 2023, letter includes comments categorized based on various topics and sections of the second Draft Housing Element. The majority of the comments can be described as "minor," while three comments can be described as "major." "Minor" comments are those that do not include major policy changes and can be addressed through additional requested analysis and minor revisions or clarifications in the Housing Element or within the programs. "Major" comments are those that will require major policy changes and substantially revised programs.

The majority of HCD's minor comments primarily affect the analysis portions of Section 2: Community Profile and Section 3: Housing Constraints, Resources, and Fair Housing (AFFH). Many of HCD's comments continue to request further analysis and background information, indicating that the City may need to add new programs or revise draft programs in order to address Affirmatively Furthering Fair Housing (AFFH) requirements. Examples of these programs include hosting annual educational workshops on voucher programs and source of income discrimination, additional marketing to promote equal access to government-assisted housing and to promote housing opportunities throughout the city, and creating and promoting informational materials on housing accessibility, rehabilitation, and maintenance resources.

A summary of the three major comments that were provided by HCD that will require new or modified programs that have the potential to impact future policies include the following:

MID-POINT

The General Plan mid-point policy is described in the *Density Calculation* section of the General Plan (page 9-1 of the Land Use Element) and further detailed in Land Use Policy LU 1-2 (page 9-5). It provides that developments cannot exceed the mid-point of the density range without additional, discretionary approval of the City Council. HCD contends that this policy can act as potential constraint to providing housing for lower-income households. HCD's first formal comment letter stated that



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the element must include an analysis that evaluates how this requirement specifically impacts providing housing for lower-income households, and based on an analysis, the element may need to add or modify programs to mitigate or remove this constraint. Based on the initial comments, staff revised the Draft Housing Element to demonstrate that the current policy was not a constraint.

However, after reviewing the second Draft Housing Element, HCD provided a further comment (comment 13, page 4), that the second Draft Housing Element did not adequately address the comment and concern. After meeting with HCD, it was clearly stated that HCD considers our current mid-point policy a constraint because it requires additional discretion for projects that exceed the mid-point. HCD advised staff that the City's mid-point policy must be removed in order for the Housing Element to be certified by HCD. (Staff requested clarification on this point in writing, however, HCD has yet to provide it.) Based on these comments, staff is recommending the following program:

Action XX: Mid-Point Policy

The City shall amend its mid-point policy to remove any added discretion or constraints such as requiring the exercise of transferable agricultural credits, significant added amenities, extensive off-site public improvements, or other significant improvements for projects requesting densities above the mid-point for all residential land use categories.

Objectives:

- Adopt Zoning Code/General Plan updates removing discretion or constraints for project requesting densities above the mid-point for all residential land use categories.

Timeframe: Adopt the Zoning Code/General Plan updates by January 2025

Responsible Agency: Planning Division

Funding Source: General Fund

Impacts: Based on new legislation, specifically SB 330, the City has been unable to enforce the imposition of subjective criteria such as those outlined in the current mid-point policy, including the requirement to provide a "significant" amount of amenities for projects over the mid-point but within an allowable density range. Based on the current legislation, the City's mid-point policy cannot be objectively applied to new residential projects and, therefore, eliminating the policy would not have substantial impacts on processing of housing applications.



PARKING

HCD has also commented (comment 15, page 5) that requiring units with smaller bedroom types (e.g., studio and one-bedroom units) to provide two parking spaces is a constraint. The Housing Element must therefore include a program committing to reducing parking requirements for units with smaller bedroom types (in other words, fewer bedrooms). Based on these comments, staff is recommending the following program:

Action XX: Parking Standards for Studios and 1-Bedroom Units

The City shall amend its parking standards for multi-family by requiring 1.5 parking spaces per 1-bedroom units and 1 parking space per 0-bedroom units. The City will also continue to provide parking reductions as needed and required by law and for projects that comply with the City's Affordable Housing Ordinance.

Objectives:

- Adopt Zoning Code updates for multi-family unit parking requirements by requiring 1.5 parking spaces per 1-bedroom units and 0.5 spaces per 0-bedroom units.

Timeframe: Adopt the Zoning Code updates by January 2025

Responsible Agency: Planning Division

Funding Source: General Fund

Impacts: As proposed, the new policy would reduce the minimum amount of required parking for small units (studio and one-bedroom units) throughout the City. However, these standards would continue to be minimum requirements and would not preclude a developer from providing additional parking if their market analysis showed a need for it. Although this does have the potential to reduce the overall number of required parking stalls for new multi-family development, staff does not believe that this will greatly influence development trends within the City. Although the State Density Bonus law as well as the City's Municipal Code already allow for requests for reduced parking, no requests have been received or processed for multi-family development based on the market conditions and the need of Brentwood residents. In addition, the majority of the proposed units approved recently have been two- and three-bedroom units which would not be impacted by these changes.

DESIGN AND SITE DEVELOPMENT REVIEW

HCD further commented (comment 17, page 5) that the Housing Element must identify and evaluate any approval findings or decision-making criteria for Design and



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Site Development Review (the City's Design Review application), and based on a complete analysis, the Housing Element should include programs to address or remove the identified constraints. Staff reviewed the current approval findings and decision-making criteria as presently defined in the Municipal Code and determined that, as currently written, they are not all objective and include subjective design criteria that will need to be eliminated. Based on these comments, staff is recommending the following program:

Action XX: CUP and Design and Site Development Review Findings

As part of the Zoning Code Update, the City shall amend approval findings for CUP and Design and Site Development Review applications to replace subjective language with objective standards.

Objectives:

- Adopt Zoning Code updates removing subjectivity in application findings for CUPs and Design and Site Development Reviews.

Timeframe: Adopt the Zoning Code updates by January 2025

Responsible Agency: Planning Division

Funding Source: General Fund

Impacts: Based on new legislation, specifically SB 330, the City has been unable to enforce the imposition of subjective criteria such as some of those outlined in the current approval findings for CUP and Design and Site Development Review applications including requirements such as the creation of "well-composed" urban design, "harmoniously" related to other facilities. Addressing the current subjectivity of the CUP and Design Review approval criteria was previously brought up as part of the future Zoning Code Update and has already been included as part of the City's future work plan.

DIRECTION AND NEXT STEPS

Staff is looking for direction on the three specified areas and recommended programs in order to finalize the City's third Draft Housing Element Update. Clear and prompt direction will help move forward with certification by HCD.

The next key steps in the HEU process after receiving Council direction are as follows:

- Staff will release the revised draft HEU incorporating Council's direction. Based on AB 215, new state law provisions require that a draft must be published for a minimum of seven days, and those interested must be notified, before submitting to HCD. HCD has up to 60-days to provide comments for all resubmittals.



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- HCD certifies adopted HEU or provides further comments.

Whether HCD certifies the adopted HEU will depend on whether it finds that the HEU substantially addresses its comments and is compliant with housing element law. If the revisions in the HEU are not adequate as determined by HCD, it will not certify, and a fourth round of revisions and HCD review will be required.

After HCD certification, the HEU will need to be readopted by the City. Since the Housing Element is part of the General Plan, the Draft Housing Element must be presented to the Planning Commission for review and recommendation prior to being brought back to the City Council for final adoption.

CITY COUNCIL STRATEGIC INITIATIVE

Focus Area 4: Community Development

Provide a diversity of housing opportunities, including equitable distribution of affordable housing for all socio-economic segments of the Brentwood community.

- Update the City's Housing Element including: an evaluation of the 2015 Housing Element; assessment of housing needs, resources, constraints; approval of an updated Regional Housing Needs Allocation; and adoption of housing goals, policies, and actions.

PREVIOUS ACTION

Previous Action by the City Council is included in Attachment 1.

DATE OF NOTICE

Not Applicable.

ATTACHMENT(S)

1. Previous Action
2. HCD Comment Letter dated March 14, 2023