



NEWPORT BEACH

City Council Staff Report

September 13, 2022
Agenda Item No. 18

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2022-60: Amending and Re-Adopting the 2021-2029 6th Cycle Housing Element

ABSTRACT:

For the City Council's consideration is a resolution to amend and re-adopt the General Plan 6th Cycle Housing Element for the 2021-2029 planning period (Final Housing Element). The Final Housing Element includes revisions made since the City Council's adoption on February 8, 2022. The State Department of Housing and Community Development (HCD) issued a review letter on April 11, 2022, which identified three areas of concern to address. City staff prepared responsive revisions and resubmitted the document to HCD on June 28, 2022. On August 24, 2022, HCD issued a letter indicating the City of Newport Beach's (City's) revisions meet statutory requirements. The final Housing Element will comply with State Housing Element Law once it has been adopted. After City Council adoption, City staff will transmit the adopted Housing Element to HCD for a statutory 60-day certification review.

RECOMMENDATION:

- a) Conduct a public hearing;
- b) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- c) Adopt Resolution No. 2022-60, *A Resolution of the City Council of the City of Newport Beach, California, Amending and Re-Adopting the 6th Cycle Housing Element for the 2021-2029 Period as General Plan Amendment No. GP2021-005 (PA2017-141).*

DISCUSSION:

The 6th Cycle Regional Housing Needs Assessment (RHNA) allocation of 4,845 new housing units for Newport Beach is unprecedentedly high and has presented unique challenges for demonstrating compliance. Especially with recent changes in State legislation and a lack of guidance from the State.

On February 8, 2022, the City Council adopted the General Plan 6th Cycle Housing Element. City staff submitted the adopted Element to HCD for a mandatory 60-day certification review. On April 11, 2022 (the 59th day), HCD issued a letter indicating additional revisions were necessary to fully comply with State Housing Element Law. The areas of concern identified in the letter can be summarized as follows:

1. *The City must demonstrate the 6th Cycle Housing Element affirmatively furthers fair housing. The City's assessment of fair housing in Newport Beach is deficient with respect to providing local data and knowledge, assuring the proposed opportunity sites inventory does not exacerbate fair housing conditions, and providing meaningful goals, actions, metrics, and milestones as part of the policy program;*
2. *The City must demonstrate that including housing in mixed-use land use designations is a viable opportunity and should address the likelihood of 100 percent nonresidential development; and*
3. *The City must analyze the Conditional Use Permit requirement for Residential Care Facilities with 7 or more beds as a constraint to providing housing for persons with disabilities. Policy Action 3P must be revised to commit to addressing the constraint.*

City staff met with HCD staff on June 1, 2022, and subsequently prepared revisions to address these concerns. The revised Element was submitted on June 28, 2022, for a mandatory 60-day compliance review.

During the review period, City staff had the opportunity to collaborate with HCD staff on July 28, 2022, and August 3, 2022. After receiving HCD feedback and guidance, City staff prepared mid-review revisions and submitted them to HCD for consideration. On August 24, 2022, HCD issued a letter (included as Exhibit E of Attachment A to this report) to the City indicating that the revised Element meets the statutory requirements and addressed the concerns raised in the April 11, 2022, letter. The revisions made are summarized below.

Housing Element Revisions

Table 1 on the following page summarizes the key revisions made to address all areas of concern from the April 11, 2022, HCD letter. A redline-strikeout version of all changes since the February 8, 2022, City Council adoption is provided as Attachment B to this staff report.

Table 1, Key Revisions Made to Address HCD’s Concerns

<i>Area of Concern</i>
<p>1. <i>The City must demonstrate the 6th Cycle Housing Element affirmatively furthers fair housing. The City’s assessment of fair housing in Newport Beach is deficient with respect to providing local data and knowledge, assuring the proposed opportunity sites inventory does not exacerbate fair housing conditions, and providing meaningful goals, actions, metrics, and milestones as part of the policy program;</i></p>
Revisions Made
<p>a. Provided an expanded narrative that ties into the Policy Program and elaborates on trends and issues that were identified during the City’s community outreach. It also incorporates information from the City’s Code Enforcement Division and Recreation and Senior Services Department.</p> <p>b. Created a new section that discusses the City’s site evaluation and selection process and provides additional contextual information to justify the various focus areas.</p> <p>c. Reformatted Policy Action 4A as a table to clearly identify the fair housing issue, local contributing factors, the geographic target areas, the City’s actions, and timelines and metrics for implementation.</p>
<i>Area of Concern</i>
<p>2. <i>The City must demonstrate that including housing in mixed-use land use designations is a viable opportunity and should address the likelihood of 100 percent nonresidential development; and</i></p>
Revisions Made
<p>a. Provided additional narrative that describes the City’s rationale for including mixed-use zoned properties as housing opportunity sites and further details previous projects that substantiate the approach.</p>
<i>Area of Concern</i>
<p>3. <i>The City must analyze the Conditional Use Permit requirement for residential care facilities for 7 or more persons as a constraint to providing housing for persons with disabilities. Policy Action 3P must be revised to commit to addressing the constraint.</i></p>
Revisions Made
<p>a. Provided an expanded narrative that specifically discusses the Conditional Use Permit requirement for residential care facilities for 7 or more persons.</p> <p>b. Collaborated with HCD staff on June 1, 2022, and revised Policy Action 3P to review and amend the permitting procedures, application requirements, and development standards applicable to residential care facilities for 7 or more persons to ensure consistency with state and federal laws and to promote objectivity and greater approval certainty.</p>

As of the writing of this staff report, there are only 25 out of 197 Southern California Association of Governments jurisdictions in compliance with a certified Housing Element. Only two of those jurisdictions, Irvine and Yorba Linda, are in Orange County.

The City has made every effort to work with the community to create a 2021-2029 6th Cycle Housing Element that demonstrates capacity to accommodate the RHNA allocation and complies with State law. As evidenced by the resolution for adoption (Attachment A), the final Housing Element is revised in response to HCD's comments and HCD has confirmed it meets all statutory requirements. Once adopted, City staff will transmit the final document to HCD for a statutory 60-day certification review.

FISCAL IMPACT:

While there is no direct fiscal impact related to approval of this item, the City has expended approximately \$1,200,000 in consultant costs for outreach and technical preparation work related to the Listen and Learn efforts of the General Plan update and on updating the Housing Element. The City has received an allocation of \$610,000 in grant funding from HCD to offset the City's costs through the SB 2 Planning Grants Program and the Local Early Action Planning (LEAP) Grants Program.

Implementation and monitoring of the identified housing programs will require staff and consulting resources throughout the 2021-2029 planning cycle. It is also worth noting that implementation of the land use changes provided in Section 4 (Housing Plan) of the Final Housing Element will require an amendment to the General Plan Land Use Element to increase allowable densities in several statistical areas. As such, a vote of the electorate will be required in accordance with City Charter Section 423. The full cost of the vote will be the City's responsibility.

ENVIRONMENTAL REVIEW:

The adoption of the Final Housing Element is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines), the common-sense exemption because it involves policies, programs, and actions to meet the City's RHNA allocation that would not cause a significant effect on the environment.

Moreover, the adoption of the Final Housing Element is statutorily exempt under Section 15262 of the California CEQA Guidelines, which exempts projects involving feasibility or planning studies for future actions which the City has not approved or funded. Section 423 of the Charter and Council Policy A-18 require any amendment to the General Plan be reviewed to determine if a vote of the electorate would be required. If a project includes a general plan amendment, and, separately or cumulatively with other projects over a 10-year span, exceeds more than 100 additional peak hour trips (a.m. or p.m.), adds 40,000 square feet or more of non-residential floor area or adds more than 100 dwelling units in a statistical area, a vote of the electorate is required. The Housing Element's strategy for RHNA compliance adds at least 100 dwelling units in several statistical areas; therefore, voter approval of amendments to the Land Use Element of the General Plan and the Zoning Code is likely to be required for implementation.

As a result, this is a policy document and does not provide development entitlements to any specific land use projects, nor does it make any changes to the General Plan land use map or modify land use designations, densities, or land use intensities. Other similarly situated cities with voter-adopted growth initiatives have not been alleviated, either through State legislation or judicial determination, of their obligations to comply with the voter initiative process.

Due to the nature and scope, the programs and policies would not result in physical environmental impacts. Future housing development pursuant to the Final Housing Element would be subject to compliance with the established regulatory framework, including federal, state, regional, and local regulations. Additional analysis to substantiate these exemptions is included as Attachment C to this report.

NOTICING:

Given the citywide nature of this activity, notice of this hearing was published in the *Daily Pilot* in a one-eighth-page format at least 10 days before the scheduled meeting, consistent with Section 20.62.020(B)(2)(c) of the NBMC. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

ATTACHMENTS:

- Attachment A – Resolution No. 2022-60
(Housing Element is available at www.newportbeachca.gov/heupdate)
- Attachment B – Redline-Strikeout Version of Final Housing Element Revisions
- Attachment C – Environmental Analysis