



CITY OF

NEWPORT BEACH

City Council Staff Report

January 14, 2020
Agenda Item No. 20

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Housing Action Plan to Address State Mandate for Additional
Housing and Resolution No. 2020-6: Dissolving the General Plan
Update Steering Committee and Establishing the Housing Element
Update Advisory Committee

ABSTRACT:

At the November 7, 2019, Southern California Association of Governments (SCAG) meeting, the Regional Council radically changed the Regional Housing Needs Allocation (RHNA) methodology that was developed without input from the City. The “substitute motion” RHNA methodology submitted by the County of Riverside cities, was approved by SCAG’s Regional Council, and changed the City’s RHNA allocation from 2,751 to 4,832 housing units while reducing the County of Riverside cities’ RHNA allocations. The City’s increased RHNA number accelerates four decades worth of planning and development into the next decade. Due to this State mandate to plan for additional housing and the un-vetted changes by SCAG, the City Council directed staff to create an action plan to immediately address the exceptionally high number of housing units. Staff was also directed by the General Plan Update Steering Committee to seek guidance from the City Council about how the revised RHNA affects the City’s General Plan update process.

Staff has drafted the Housing Action Plan (Attachment B) that takes an aggressive approach to addressing the recent SCAG change that significantly increased the City’s RHNA allocation. As part of the Housing Action Plan, staff is also recommending the City Council consider establishing a Housing Element Update Advisory Committee to focus on updating the necessary elements of the City’s General Plan that address the RHNA allocation.

RECOMMENDATION:

- a) Determine the recommended actions exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;

- b) Direct staff to file an appeal to SCAG regarding the RHNA methodology;
- c) Adopt Resolution No. 2020-6, *A Resolution of the City Council of the City of Newport Beach, California, Dissolving the General Plan Update Steering Committee and Establishing the Housing Element Update Advisory Committee*; and
- c) Provide direction to staff on the Housing Action Plan and amending Section 423 of the City's Charter to be voted upon by the residents.

FUNDING REQUIREMENTS:

No additional funding is being requested at this time.

DISCUSSION:

At the November 7, 2019, SCAG meeting, the Regional Council radically changed the RHNA methodology that had been developed and vetted over a long period of time without meaningful analysis by SCAG staff or member jurisdictions. The "substitute motion" RHNA methodology approved by SCAG would change the City's RHNA allocation from 2,751 to 4,832 housing units. To obtain compliance with the State mandate, the City must update its Housing and Land Use Elements. The Housing Element must be submitted to the California Department of Housing and Community Development (HCD) by October 15, 2021. Combining excessively high housing units with recent changes to Housing Element law limiting what would potentially qualify as a housing opportunity site will make it nearly impossible for the City of Newport Beach to obtain Housing Element certification. Furthermore, the City's Charter Section 423 will require a vote of the electorate given the magnitude of the RHNA housing unit increase. Given the October 2021 deadline, a special election will be necessary, costing the City approximately \$400,000.

At its November 19, 2019, meeting, the City Council requested that staff bring forward an action plan to address the estimated 4,832 RHNA housing units anticipated to be distributed to the City through the State's mandate. Staff has developed a 12-point Housing Action Plan with four main objectives:

- A. *Pursue legislative amendments to assist the City to obtain compliance with the Housing Element deadline of October 15, 2021;*

With the projected 4,832 RHNA housing units to be distributed to the City, the Land Use Element of the General Plan would be required to increase residential development opportunities. The update would necessitate a vote of the residents due to Charter Section 423, which requires a vote for any major General Plan amendment resulting in a density increase greater than 100 dwelling units. A special election vote would increase cost and add significant time to the overall schedule for updating the necessary elements. Therefore, to help ensure a successful adoption of a certified Housing Element, staff believes the City must pursue the following legislative amendments to housing element law:

1. An extension of time beyond the current October 15, 2021, Housing Element due date;
2. Reform CEQA to allow for an exemption for general plan element updates due to the housing crisis declared by the State;
3. Amend Government Code Section 65583.2 to allow for more flexibility or automatic approval of sites meeting certain objective standards when determining suitability of housing opportunity sites needed to meet RHNA; and
4. Amend allowance that permits a local government to credit up to 25 percent of their RHNA sites requirements through existing units that will be substantially rehabilitated, converted from non-affordable to affordable housing, or preservation of affordable units that are at-risk of converting to market-rate units. The current allowance is severely limiting and revisions to the law may allow for greater use of this credit.

B. Find ways to reduce Regional Housing Needs Allocation;

Staff recommends the City file an appeal after HCD issues their comments to SCAG's methodology and SCAG adopts the final RHNA in February 2020.

C. Review priorities of the General Plan Update process to focus on housing;

Staff recommends the City Council redirect the City's resources (staffing and budget) towards a focused update of the Housing, Land Use, and Circulation Elements. As part of this shift, staff also recommends dissolving the General Plan Update Steering Committee and establishing a Housing Element Update Advisory Committee to provide guidance on policy decisions and act as the advisory committee for the more focused update.

D. Regional Collaboration

Collaborate with surrounding and regional cities, the League of California Cities, and Association of California Cities of Orange County.

General Plan Update Steering Committee Feedback

It is important to note that the General Plan Update Steering Committee (Committee) was created by City Council resolution in January 2019 and has been meeting since February 2019. The Committee was not tasked with guiding policy decisions, rather its focus was on overseeing the outreach and engagement process. In this capacity, the Committee has worked with City staff and City Council to select an outreach consultant and has shaped the Listen and Learn (i.e., the community engagement and outreach process). During the 13 meetings the Committee held, and even since the Listen and Learn kickoff in October, a lot has changed. The Committee frequently received updates from City staff on SCAG's determination of 4,832 new housing units for the City. The Committee was consistently mindful of this requirement, as it worked to guide the Listen and Learn process.

Most recently, the Committee met on December 4, 2019, to discuss the Listen and Learn process and to consider staff's recommendation on immediately forming a broader General Plan Advisory Committee (GPAC) to help guide policy decisions. The Committee expressed frustration with the State mandating the City to plan for 4,832 RHNA housing units, especially given a seemingly unreasonable time constraint with an October 15, 2021, deadline to update the City's Housing Element. The Committee believed there were still unanswered questions, such as: what will the final RHNA number be for the City? What will the HCD guidelines state? How many ADUs can the City utilize in the Housing Element? Instead of recommending or not recommending the formation of a GPAC, the Committee believed that staff should seek further direction from the City Council on the General Plan update process, as much has changed since they received their initial charge. Of particular concern is how the City Council would like to address the immediate need of pursuing a General Plan update in response to the updated RHNA numbers. The Committee discussed the current update efforts and concluded the City's focus should be on planning for the 4,832 RHNA housing units. A more broad and comprehensive General Plan update would follow later.

In summary, the Committee believes there should be an immediate pause in the overall General Plan update process and a redirection of the priorities and resources towards addressing the RHNA housing numbers.

Some of the comments received from the Committee are:

1. Go back to City Council and receive direction on the General Plan update process before forming the GPAC;
2. Redirect the General Plan update process and focus on addressing the RHNA housing numbers;
3. It is premature to continue with further community workshops on a broader General Plan update;
4. The City should not let the Housing Element submittal deadline dictate the City's process;
5. The City should not rush the update process, as it should be done right;
6. Our City is too important and this issue is so very transformational; and
7. The City may compromise too much if it goes too fast.

Staff's Recommendations

Based on the Committee's comments and recommendation to seek guidance from the City Council on these issues, City staff recommends the following:

1. Pause the overall General Plan update and refocus the City's resources on updating the Housing, Land Use, and Circulation Elements. Environmental justice policies would be included where appropriate to be compliant with State law;

2. Create a new advisory committee (the Housing Element Update Advisory Committee) to guide the refocused update and build upon the progress already established by the General Plan Update Steering Committee. Staff recommends nine voting members with the Mayor or a City Council Member serving as a non-voting ex-officio member. The committee would serve as a forum for public participation and they would provide guidance on policy decisions. The GPUSC would dissolve with the appointment of the new committee; and
3. With consultation and direction from the new committee, redirect the existing outreach consultant to focus on obtaining community consensus on where and how to plan for the RHNA-mandated housing units.

Charter 423 Amendment

Accommodating the State-mandated increase in dwelling units (the RHNA) within the City's General Plan will necessitate a vote of the residents because one or more General Plan Statistical Areas will likely receive increases over 100 units. The residents might not approve the General Plan amendment, resulting in a non-compliant Housing Element potentially subjecting the City to significant penalties and fines. The City would likely need to seek intervention from the Courts in that circumstance.

One way to avoid this potential situation is to consider a Charter amendment for the November 2020 General Election exempting the City's General Plan amendment to accommodate the State mandate. The Charter amendment would be carefully written to not apply to any other proposed amendment. In other words, only the City's plan to accommodate a State-mandated increase in housing units would not require a vote. If a property owner requested a change to the Land Use Element to accommodate additional housing at a site not included in the Housing Element update sponsored by the City, then that application would require a vote if it were classified as a major amendment. While this concept may be controversial and might not be successful if pursued, the attempt to avoid a non-compliant Housing Element requiring Court intervention might be viewed favorably by the State and the Courts. If such a Charter amendment is successful, it would simplify the Housing Element update process. Staff is requesting that the City Council consider placing this amendment on the November 2020 ballot.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find the recommended actions is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. None of the recommended actions authorize development but only provide a framework for future planning. The future update of the General Plan to accommodate the RHNA will require environmental review consistent with CEQA prior to adoption.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Resolution No. 2020-6
Attachment B – January 2020 Housing Action Plan