



Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: January 18, 2023

Item Number: 1

Item Description: Adoption of 2023-2031 Housing Element Update

Supplemental/Revision Submitted By: Jordan Klein, Director, Planning and Development

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

New information from other jurisdictions suggests that the State may require a finding in the proposed Resolution which more specifically identifies the methodology used by the City in preparing our sites inventory. To facilitate State approval, staff further clarified the City’s criteria in one of the findings in this revised Resolution.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds roll call vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revision agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

RESOLUTION NO. ##,###-N.S

A RESOLUTION TO (A) CERTIFY THE ENVIRONMENTAL IMPACT REPORT (SCH# 2022010331) AND ADOPT RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING PROGRAM; AND (B) APPROVE AND ADOPT A GENERAL PLAN AMENDMENT TO UPDATE THE HOUSING ELEMENT OF THE GENERAL PLAN FOR THE PERIOD OF 2023-2031.

WHEREAS, California Government Code Section 65300 et seq. requires every city and county in California to adopt a General Plan for its long-range development, and further, to periodically update that plan to reflect current conditions and issues; and

WHEREAS, California Government Code Section 65302(c) mandates that each City shall include a Housing Element in its General Plan, and that the Housing Element be updated regularly on a schedule set forth in the law to reflect current conditions and legal requirements; and

WHEREAS, the City of Berkeley ("City") adopted the 2015-2023 Housing Element Update of the Berkeley General Plan on April 28, 2015 with Resolution No. 67,008-N.S.; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Title 14, Sections 15000 et seq. of the California Code of Regulations ("CEQA Guidelines"), the City of Berkeley, as lead agency, prepared an Environmental Impact Report for the City of Berkeley 2023-2031 Housing Element Update (SCH No. 2022010331) ("EIR" or "Final EIR"); and

WHEREAS, on January 14, 2022, the City issued a Notice of Preparation of a Draft Environmental Impact Report ("Draft EIR") to analyze the environmental effects of the Housing Element Update; and

WHEREAS, a duly noticed Draft EIR scoping hearing was held by the Planning Commission on February 9, 2022, to receive comments on the scope and content of the Draft EIR; and

WHEREAS, a Notice of Availability/Release of a Draft EIR was issued on August 30, 2022 along with the publication of the Draft EIR itself, both of which were made available to the general public and governmental agencies for review and comment; and

WHEREAS, on September 7, 2022, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and

WHEREAS, a Notice of Availability/Release of a Final EIR was issued and a Final EIR was published on November 30, 2022; and

WHEREAS, the Final EIR consists of the August 2022 Draft EIR and the November 2022 Final EIR; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California; and

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 “Among 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 (Article 10.6 of Gov. Code) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City’s regional housing need allocation (RHNA) of 8,943 housing units, comprised of 2,446 very-low income units, 1,408 low-income units, 1,416 moderate-income units, and 3,664 above moderate-income units; and

WHEREAS, the Housing Element must be adopted to comply with State law, accommodate the RHNA, affirmatively further fair housing (Gov. Code Section 65583(c)(5)), 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, the City prepared the 2023-2031 Housing Element in conformance with State and local planning law and practices, considering local conditions and context, including economic, environmental, and fiscal factors; and

WHEREAS, State law generally states that the Housing Element and the City’s zoning must support housing for all income levels, and residential densities under 30 units per

acre do not support construction of housing for lower income households (Gov. Code Section 65583.2(c)(3)(B)(iv)); and

WHEREAS, the Housing Element includes an inventory of sites that can accommodate new housing sufficient to meet the City's RHNA obligation at each income level; and

WHEREAS, more than fifty-percent (50%) of the sites identified to accommodate the City's low-income RHNA obligation are non-vacant. However, the City specifically finds that based on age, low building to land value, low Floor Area Ratio relative to zoning trends, condition of non-residential structures, local land use trends including the redevelopment of auto-related uses, banks, low-intensity retail and commercial uses, church properties, and adjacency to new residential development, the existing uses on such non-vacant parcels identified in the sites inventory to accommodate the lower income RHNA are likely to be integrated with new residential uses or discontinued during the planning period, and therefore will not constrain development or redevelopment of additional residential units during the 2023-2031 planning period, and so such sites can meet their development potential; 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 17 months, including three public workshops, six outreach events, three online surveys, two walking tours, approximately 28 stakeholder interviews and meetings, four City Council work sessions, five Planning Commission meetings, and presentations before the Homeless Services Panel of Experts, Commission on Disability, Landmarks Preservation Commission, Zoning Adjustments Board, Commission on Aging, Energy Commission, Children, Youth and Recreation Commission, Housing Advisory Commission, Rent Stabilization Board, Civic Arts Commission, and the City/UC/Student Relations Committee; and

WHEREAS, public input influenced the development of the housing goals and policies, housing opportunity sites, and housing program of the Housing Element; and

WHEREAS, on August 10, 2022, the City submitted the draft Housing Element to the State Department of Housing and Community Development (HCD) for its initial review, following 30-day public review between June 13 and July 14, 2022, and incorporating revisions over the course of 18 business days between July 15 and August 10, 2022 (Gov. Code Section 65585); and

WHEREAS, on September 23, 2022 and October 10, 2022, HCD provided the City with a number of preliminary comments about the draft Housing Element. City staff revised the draft Housing Element to include additional information and analysis based on preliminary comments and a revised draft was made available for public comment from October 18 through October 25, 2022 and City staff held office hours on October 24,

2022. On November 1, 2022, the City submitted a revised draft Housing Element to HCD for follow-up review; and

WHEREAS, on November 8, 2022, the City received a letter from HCD stating that while the draft Housing Element addresses many statutory requirements, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Government Code). The letter noted that the Housing Element would meet the statutory requirements of State Housing Element Law once it has been revised and adopted to comply with the letter's requirements. On November 23, 2022, the City published a revised draft Housing Element with the additional descriptions, analysis, and clarifications requested by HCD and sought public comment on the draft; and

WHEREAS, on December 1, 2022, the City submitted the revised draft Housing Element to HCD for subsequent review with a cover letter listing in detail the City's response and revisions to address HCD's comment letter in order to bring the draft Housing Element in substantial compliance with State Housing Element Law; and

WHEREAS, notice of public hearing was prepared pursuant to Zoning Ordinance Section 22.04.020, *Amendment-Procedures required-Planning Commission and City Council*, and Gov. Code Section 65355; and

WHEREAS, on December 7, 2022, the Planning Commission conducted a public hearing, reviewed the revised 2023-2031 Housing Element and its six appendices, including the findings and changes recommended by HCD, the City's response to HCD's findings, and public comments, and recommended that the City Council adopt a General Plan Amendment to update the Housing Element; and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley, as the final decision-making body for the lead agency, hereby certifies that the Final EIR has been completed in compliance with CEQA and reflects the independent judgment and analysis of the City.

BE IT FURTHER RESOLVED, that no recirculation of the EIR is required.

BE IT FURTHER RESOLVED, that the City Council adopts and incorporates into the Project all of the mitigation measures that are within the responsibility and jurisdiction of the City and that are identified in the CEQA Findings.

BE IT FURTHER RESOLVED, that the City Council adopts and incorporates by reference into this Resolution the Mitigation Monitoring and Reporting Program (Exhibit A to Attachment 3, in the January 18, 2023 report to the Berkeley City Council recommending adoption of this Resolution).

BE IT FURTHER RESOLVED, that the City Council as the final decision-making body for the lead agency, hereby adopts and incorporates by reference into this Resolution the CEQA Findings and Statement of Overriding Considerations with regard to the significant

environmental effects of the Project (Exhibit B to Attachment 3, in the January 18, 2023 report to the Berkeley City Council recommending adoption of this Resolution).

BE IT FURTHER RESOLVED that the City Council makes the following findings pursuant to the General Plan Amendment to update the Housing Element of the General Plan:

1. The 2023-2031 Housing Element and its FEIR comply with the provisions of CEQA.
2. The 2023-2031 Housing Element is internally consistent, and is consistent with the rest of the City's General Plan.
3. The 2023-2031 Housing Element process was developed through diligent effort by City staff to achieve public participation of all economic segments of the community (Gov. Code Section 65583(c)(9)).
4. The 2023-2031 Housing Element consists of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Furthermore, the Housing Element identifies adequate sites for housing, including rental housing, factory-built housing, mobile homes, and emergency shelters, and makes adequate provision for the existing and projected needs of all economic segments of the community (Gov. Code Section 65583).
5. The 2023-2031 Housing Element affirmatively furthers fair housing by analyzing and taking action to overcome patterns of segregation and foster inclusive communities (Gov. Code Section 65583(c)(10) and 65584.0). The Housing Element provides an analysis of barriers that restrict access to opportunity, and a commitment to specific meaningful actions to affirmatively further fair housing. In particular:
 - a. The Housing Element proposes to allow for multi-unit development in all residential zones, including R-1;
 - b. The RHNA strategy reflects the overall composition of Berkeley and does not exacerbate existing segregation conditions related to race or ethnicity;
 - c. The RHNA strategy does not exacerbate existing low and middle income ("LMI") household trends by disproportionately placing lower income units in LMI areas at a higher rate. A larger proportion of moderate and above moderate income units are in LMI areas compared to lower income units;

- d. The RHNA strategy does not disproportionately place lower income units in Racially or Ethnically Concentrated Areas (“R/ECAPs”). Of the units included in the sites inventory, 26.6% are located in R/ECAPs. A significantly smaller proportion of lower income units are located in R/ECAPs compared to moderate and above moderate income units;
 - e. The RHNA strategy helps fair housing conditions by placing future lower income households in high resource areas. Approximately 60% of RHNA units, including 67.3% of lower income units, are in highest or high resource tracts. There is only one low resource tract (Southside), and the City allocated a mix of units of various income levels in this tract;
 - f. Appendix E identifies goals and actions to address four identified fair housing issues, including expanding fair housing testing and outreach, pursuing strategies to produce more affordable housing and protect tenants from displacement in cost-burdened neighborhoods, seeking grants to fund affordable housing, establishing a development arm of the Berkeley Housing Authority to develop new affordable units, funding home modifications for lower income households, creating opportunity for infill middle housing in single-family districts, and developing a housing preference policy to assist residents at risk of displacement;
 - g. In response to HCD’s feedback, the Housing Element now evaluates programs relative to specific neighborhoods for purposes of AFFH, such as targeting fair housing outreach and enforcement, rental housing safety programs, and rental assistance programs in Central and South Berkeley where there are higher proportions of lower income households and cost-burdened renters.
 - h. Program 36 – *Adequate Sites for RHNA and Monitoring* includes a mid-term evaluation of the RHNA strategy and development progress, including a commitment to make adjustments as appropriate to achieve the City’s goals, including AFFH.
6. HCD staff reviewed the City’s Draft Housing Element as required by Section 65585(b) of the Government Code, and the City’s responses, described in the staff report, have been included as part of the adopted 2023-2031 Housing Element.
7. Based upon the comments from HCD and the City’s responses to those comments, the 2023-2031 Housing Element is in substantial compliance with State Housing Element Law.

BE IT FURTHER RESOLVED, that the City Council hereby adopts the 2023-2031 Housing Element and its appendices, which has addressed and has incorporated findings from HCD, as shown in Attachment 1 to the January 18, 2023 report to the Berkeley City Council recommending adoption of this Resolution.

BE IT FURTHER RESOLVED, that the 2023-2031 Housing Element supersedes and replaces the 2015-2023 Housing Element.

BE IT FURTHER RESOLVED that the City Council intends to complete the HCD review process to obtain their finding of substantial compliance and certification and hereby authorizes the City Manager to make non-substantive changes to the 2023 – 2031 Housing Element in response to comments received from HCD to achieve certification.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to distribute copies of the Housing Element in the manner provided in Gov. Code Section 65357.