



DATE: February 7, 2023

TO: Mayor and City Council

FROM: Acting Director of Development Services

SUBJECT: Housing Element: Adopt a Resolution Amending the General Plan to Include the 2023-2031 Housing Element

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) approving an Amendment to the General Plan for the 2023-2031 Housing Element; and review an EIR Addendum related to the General Plan Amendment prepared pursuant to the California Environmental Quality Act.

SUMMARY

The City Council is being asked to review and adopt a General Plan Amendment for Hayward's 6th Cycle Housing Element (2023-2031). Pursuant to State Law, all local jurisdictions in California must update the Housing Element, a required chapter of the City's General Plan every five to eight years. The City of Hayward is on an eight-year cycle. The last Housing Element was adopted on December 2, 2014, and the updated Housing Element was due January 31, 2023.

A Housing Element is an opportunity for a community to analyze local housing challenges and develop solutions to address those issues. Thus this Housing Element is composed of the goals, policies, programs and actions to remove constraints and streamline new development; allows for the establishment of a variety of housing types; prioritizes funding for affordable housing development, particularly for special needs populations; ensures that programs affirmatively further fair housing goals; provides education and outreach opportunities for residents; and identifies sites that are zoned to accommodate the City's Regional Housing Needs Allocation (RHNA). It is essential to note that State Housing Law does not require that jurisdictions build or finance new housing, but we must plan for it in a manner that affirmatively furthers fair housing.

Following adoption of the Draft Housing Element, staff will incorporate any changes recommended by the City Council and submit the final adopted version to the State Department of Housing and Community Development (HCD) for certification. To streamline the certification process, the accompanying Resolution would authorize the Acting Development Services Director to make all non-substantive changes to the Housing Element

to make it internally consistent or to address any non-substantive changes or amendments requested by HCD to achieve certification.

BACKGROUND

California Government Code Title 7, Division 1, Chapter 3, Article 10.6 [65580 – 65589.11]¹ regulates the use and requirements of housing elements in California. The state law requires that the City update its General Plan Housing Element every eight years. State law further requires the current update for jurisdictions in the Association of Bay Area Governments (ABAG) region to comply by January 31, 2023.

On July 20, 2021², the City Council adopted a Resolution authorizing the City Manager to execute an agreement with Rincon Consultants to prepare a comprehensive update to the Housing Element, the Climate Action Plan, Safety Element, and to prepare an Environmental Justice Element. These updates were combined because issues of housing, environmental justice, safety and hazard planning, and climate change are inextricably linked and conducting outreach and planning for all of these efforts simultaneously would result in a more comprehensive and holistic approach to each of these issues. While outreach and analysis was conducted for all elements simultaneously, the Safety Element and Environmental Justice Element are slated to be considered by decisionmakers in Spring 2023, and the Climate Action Plan is slated to be considered by decisionmakers in Fall 2023.

On October 19, 2021, the Planning Commission and City Council held a joint Housing Element Work Session. At that meeting, staff provided an overview of recent State legislation related to housing and provided updates on the Housing Element and Residential Objective Standards Project. Staff provided background on the City's RHNA and the Housing Element process and discussed conducting a broad, equitable outreach plan. See the Public Outreach section below and Housing Element, Appendix A for an overview of public outreach and feedback collected throughout this effort.

On May 11, 2022, pursuant to Government Code Sections 65352 – 65352.5, Hayward provided project information related to the Housing Element to all California Native American tribes on the contact list provided by the Native American Heritage Commission (NAHC). Following that notice, a representative from the Confederated Villages of Lisjan Nation (Tribe) requested a consultation about the Draft Housing Element. On August 3, 2022, staff met with representatives from the Confederated Villages of Lisjan Nation to discuss the Housing Element in general and the sites inventory, in particular. At that meeting, Tribal representatives requested to be added to the list to receive notification about future development projects. On October 20, 2022, following written notification to the Tribe, the City closed formal consultation on the Housing Element.

¹ California Government Code, Article 10.6, Housing Elements.

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65583.&nodeTreePath=11.1.9.11&lawCode=GOV

² July 20, 2021 City Council Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=5034289&GUID=A1DD2D35-7B4A-42C8-9284-7DEB78AAD470&Options=&Search=>

On June 23, 2022³ and July 5, 2022⁴, respectively, the Planning Commission and City Council held work sessions on the Draft Housing Element with emphasis on the proposed sites inventory to meet the RHNA (Housing Element, Appendix C, Housing Resources) and the Housing Plan, a set of policies and actions to ensure development of housing at a variety of income levels throughout the City during the next Housing Element cycle. Based on feedback at these work sessions, staff updated the Housing Element sites inventory to remove sites intended for commercial uses, bolstered programs related to outreach and education, and clarified information about publicly owned land. Additional information related to comments and feedback at those work sessions are included in the Draft Housing Element.

The Draft Housing Element was made available for a 30-day public review from July 14, 2022 to August 14, 2022. The City received 15 comment letters from organizations and members of the public. Copies of all comment letters and the City's responses to comments and questions, including where and if the Housing Element was modified, are included at the end of Appendix A, Public Participation Report, of the Housing Element. On July 27, 2022, the City also held a public workshop to take questions and comments on the Draft Housing Element. The conversation at the workshop centered around housing and services for individuals experiencing homelessness, a desire to see more affordable housing production for minimum wage workers and students, and a desire to see more inclusionary housing. Overall, in response to public comments in the letters and at the workshop, the City provided clarifying information and added a policy related to Fair Chance Housing to provide support for individuals with poor credit history, poor or no references, formerly incarcerated and others to fairly obtain housing.

On August 31, 2022, the City submitted the Draft Housing Element to HCD for formal review. HCD provided written comments 90 days later on November 28, 2022. Based on those comments, a subsequent meeting and correspondence with HCD, the City revised the Draft Housing Element. Attachment XII contains HCD's comment letter, and Attachment XIII contains the City's comprehensive response to the letter with references to Housing Element sections and pages that were modified to address the comments.

The updated Draft Housing Element was re-released for public review between December 19, 2022 and January 2, 2023. The Draft provided to the public included strikethrough and underlined text to reflect deletions and insertions, respectively, so that the public could easily review the changes in the updated draft. The City did not receive any comments during this comment period and on January 3, 2023, the City resubmitted the revised Draft Housing Element to HCD and has not received any additional comments on the document.

On January 4, 2023, after the public comment period closed, a representative from the Carpenters Union reached out to the City to indicate that their written comment was not addressed in the Draft Housing Element. Staff met with the Union representative on January 11, 2023 and developed Action language that staff recommends be added to the Housing

³ June 23, 2022 Planning Commission Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=5700918&GUID=32FA9808-163E-481B-8A1A-35338F2B92E5&Options=&Search=>

⁴ July 5, 2022 City Council Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=5714861&GUID=624B48B9-038C-4471-8B4A-F14D45C988B0&Options=&Search=>

Element. Further discussion on this topic and draft Action language is provided in the Staff Analysis section below.

On January 26, 2023⁵, the Planning Commission held a public hearing and recommended 7:0 that the City Council adopt the Housing Element. The Planning Commission's motion recommended that the City Council include the Action related to meeting with trades unions annually but recommended it be expanded to include "contractors and other groups that employ construction laborers" in order to support all efforts to expand the labor pool. Commissioners asked clarifying questions, voiced concerns about State Laws such as Senate Bill 9 that reduce local control over land use decisions, and voiced support for amending and strengthening the City's Rent Stabilization Ordinance to strengthen rent control, but did not include those statements in the motion.

DISCUSSION

Hayward Housing Element: The Hayward 2023-2031 Housing Element⁶ (Attachment IV)*, is structured to provide a general overview and summary of all of the statutorily required sections of a Housing Element pursuant to State Law. Each section that comprises the Housing Element is briefly summarized and a link to the relevant Appendix, which provides additional information on the Housing Element section, is provided below.

*Please note that Attachments IV through XI contain clean, adoption ready versions of the Draft Housing Element while the hyperlinked footnotes show the Draft Housing Element and Appendices that contain strikethrough and underlined text to reflect deletions and insertions based on HCD's comments.

Part 1, Introduction. This section of the Housing Element provides an introduction, data sources, and a summary of public participation which included but was not limited to the activities outlined in the Background section above. Early outreach efforts focused on education about housing, climate change, safety issues, notification about the Housing Element process, and connecting with and listening to people's stories about their neighborhoods and housing situations. This was done through social media campaigns, surveys, email and mail blasts, flyers, and creation of an interactive website. One unique outreach effort included a partnership between the City and Chabot College to have students interview over 400 residents about issues related to housing, discrimination, segregation, and community assets. The interviews were compiled into a GIS map⁷ and provided lived experiences about Hayward residents' struggles and hopes about housing, segregation, neighborhood pollution,

⁵ January 26, 2023 Planning Commission Meeting. <https://hayward.legistar.com/LegislationDetail.aspx?ID=6001387&GUID=057F2DB7-293C-4ED9-B5F7-8BC62780E6C9&Options=&Search=>

⁶ Hayward Housing Element. <https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/City-of-Hayward-Draft-2023-2031-Housing-Element-6th-Cycle.pdf>

⁷ Chabot College Housing Surveys GIS site. <https://maps.hayward-ca.gov/portal/apps/experiencebuilder/experience/?id=3645991a4e864b3e80ef54803dd83d20>

and community assets. These interviews informed staff's approach to the project and quotes were threaded throughout the Housing Element and Appendices.

The City used Balancing Act, an interactive housing sites simulation tool, to provide the public with an opportunity to review and weigh in on housing element sites. For the most part, people focused development on vacant lots in Downtown, along Mission Boulevard, near BART, near Chabot and Cal State East Bay campuses and along other transportation corridors such as Tennyson and Industrial. There were also a number of comments related to neighborhood livability such as requiring a mix of uses, adding bike lanes, investing in public transit and maintaining open space. The proposed sites inventory strongly correlates with the areas prioritized for development in this Balancing Act feedback.

Later outreach focused on informing the public about the Draft Housing Element, presenting and taking comments at community events, workshops and public meetings with decision makers and updating the Draft Housing Element to provide clarification and additional information or amending it to address comments.

Appendix A, Public Participation Report⁸ (Attachment V), contains detailed background documents, summaries, and results from the surveys, interviews, and various outreach activities. It also contains copies of all of the comment letters received on the Draft Housing Element and a comprehensive response to those comments.

Part 2, Housing Needs Summary. The Housing Needs Summary provides insight into Hayward's demographic, socioeconomic, and housing characteristics to ensure that the City understands and directs resources towards households with the greatest needs. Over the past two decades, Hayward's population has steadily increased while it has aged and grown more diverse ethnically and racially (Appendix B, Tables B-2 and B-3). Household incomes in Hayward tend to be lower than those in Alameda County as a whole (Appendix B, Table B-7 and Figure B-1) and Hayward has an average household size that is larger than most surrounding communities.

Identified special needs groups in Hayward include senior headed households, persons with disabilities, large households (five or more persons in a household), female headed households, people living in poverty, individuals experiencing homelessness, extremely low-income households, and students (Appendix B, Table B-12). It is essential to note that many of these demographic or special needs attributes are intersectional; for example, seniors tend to have one or more disability and may be considered low or extremely low income due to fixed incomes. Thus, there are sometimes compounding issues that could impact individuals' ability to find and maintain housing and access services.

⁸ Housing Element, Appendix A, Public Participation Report. https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-A-Public-Participation-Report_Revised-Submittal-Per-HCD-Comments.pdf

Over the past two decades, the growth in population has significantly outpaced available housing stock. The majority of housing units in Hayward were built between 1940 and 1999 and many are in need of rehabilitation and repair (Appendix B Table B-5). Further, housing is becoming more expensive. From 2015 to 2020, home values increased by 41 percent, and median monthly rent is above \$2,000 per month (Appendix B, Section 1.8, Housing Costs and Affordability). This precipitous increase in housing costs has led to overcrowded conditions, particularly for renter households who do not have access to larger units (Appendix B, Section 1.7.5 and Figure B-3).

Increased housing costs have a disproportionate impact on households based on tenure and race leading to a higher cost burden for low income, renter households (Appendix B, Figure B-4, Tenure by Race of Householder). Rates of homeownership are significantly higher among non-Hispanic White and Asian householders than Black/African American, Hispanic/Latino and householders belonging to another racial groups due to historical patterns of segregation, discriminatory lending, and urban renewal. While approximately 40 percent of all households in Hayward are housing cost burdened, 48 percent of Hispanic/Latino households and 53 percent of Black/African American households are cost burdened (Appendix B, Section 1.8.4, Cost Burden).

Housing Element Programs: Specific Programs in the Housing Element that are intended to support low income and special needs groups include Program H-3, Preservation of At Risk Housing; Program H-4, Affordable Housing Development Assistance; Program H-7, Housing Choice Vouchers; Program H-19, Housing for Special Needs Populations; Program H-23, Rent Stabilization and Tenant Protections; and, Program H-24, Tenant Relocation Assistance. In addition, there are Programs related to access, outreach and education including Program H-20, Community Outreach and Education; Program H-21, Foreclosure Prevention and Counseling; and Program H-22, Fair Housing Services.

Appendix B, Housing Needs Assessment⁹ (Attachment VI), contains detailed data, tables, and references related to these topics.

Part 3. Projected Housing Needs. This section of the Housing Element summarizes Hayward's RHNA allocation, which is derived from the State's projections for growth. To determine these projections, HCD analyzes demographic population information from the California Department of Finance and develops a formula to calculate a figure for each region/Council of Governments based on projected growth. In the 2023-2031 cycle, the Bay Area was allocated 441,176 units (a 234% increase over the last cycle allocation) with about 26% allocated to Very Low Income, 15% to Low, 16% to Moderate and 43% to Above Moderate-income households. The Association of Bay Area Government's (ABAG) Housing Methodology Committee released the final RHNA in December 2021. Hayward's allocation for this cycle is 4,624 units, approximately 18% higher than the previous cycle.

⁹ Housing Element, Appendix B, Housing Needs Assessment. <https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-B-Housing-Needs-Assessment-Revised-Submittal-Per-HCD-Comments.pdf>

Table 1. City of Hayward RHNA Allocations

	Very Low Income (<50% of Area Median Income)	Low Income (50-80% of Area Median Income)	Moderate Income (80-120% of Area Median Income)	Above Moderate Income (>120% of Area Median Income)	Total
2015-2023 Allocation	851	480	608	1,981	3,920
2023-2031 Allocation	1,075	617	817	2,115	4,624

Part 4, Housing Resources. This section provides a description of the various resources needed to construct housing: land resources, financial resources, and administrative resources.

Land Resources: The City can comfortably accommodate the RHNA allocation at all income levels with a healthy buffer of additional sites if a site does not develop in accordance with assumptions provided in the Housing Element. This section provides a list of entitled and pending projects; an estimate of Accessory Dwelling Units based on past performance; and an identification of suitable sites with zoning to accommodate the projected housing need (Attachment VIII). According to the Draft Housing Resources chapter, there are 2,073 approved or pending developments at a variety of income levels (Appendix C, Table 4-3 and Figure 4-1). The City also assumes that a minimum of 320 ADUs will be constructed during the eight year cycle. This leaves a total of 2,231 units to plan for in the Housing Element. See Appendix C, Tables C-3 and C-5.

Primary areas anticipated for development include property within the Downtown Specific Plan, along the Mission Boulevard corridor, and on former Caltrans 238 parcels, which follows the development patterns that we have seen across the City in the past few years. The Housing Element provides a methodology for how the projected housing units on each inventory site and within each Zoning District is calculated; provides samples of development in Hayward to provide evidence for the City’s assumptions as well as a description of constraints to development, infrastructure, and services to serve the future development; and, details resources available for affordable housing development including financing and administrative resources at the local and statewide level. The City’s analysis shows that there is a 26% buffer between the Residential Sites Inventory and the RHNA. Further, there is a 31% buffer for lower income units in the event that development does not occur based on the City’s assumptions (Appendix C, Table C-12, Adequacy of Residential Sites Inventory).

Table 2. Adequacy of Residential Sites Inventory

	Lower Income	Moderate Income	Above Moderate Income	Total
RHNA Allocation	1,692	817	2,117	4,624
Planned and Approved Units	610	82	1,381	2,073
ADUs Anticipated	192	96	32	320
Remaining RHNA	890	639	702	2,231
Downtown Specific Plan Area	643	486	477	1,606
Mission Boulevard Corridor	541	252	540	1,333
Former Route 238 Corridor	0	200	310	510
Total Units on Vacant Sites	433	249	477	1,159
Total Units on Underutilized Sites	751	689	850	2,290
Total Units on Vacant and Underutilized Sites	1,184	938	1,327	3,449
Total Unit Surplus	294	299	625	1,218

It is important to note that while the City’s assumptions primarily rest on higher density development in specific areas, there will likely be additional incremental, infill development in lower density neighborhoods throughout the City during the next Housing Element cycle. This is illustrated by the recent implementation of Senate Bill 9, which allows for any single-family parcel to be split into two lots and developed with a duplex on each lot, subject to minimum setback and other standards, that went into effect on January 1, 2022. Since its implementation, Planning staff developed SB9 Frequently Asked Questions guidance and a Checklist application¹⁰. To date, staff has processed two applications for urban lot splits and development of duplexes on each lot. The combination of ADUs and SB9 along with the City’s pending Objective Standards long range planning project, which will allow for site specific intensification of development in line with adopted General Plan densities, will result in additional development that cannot be predicted at this time. Further, over the next eight years, sites unknown to staff at this time are also likely to be redeveloped into housing at varying densities in accordance with the City’s General Plan and zoning allowances.

Financial resources including but not limited to Community Development Block Grant funds, HOME funds, County A-1 funds, and City Inclusionary funds can be used to develop and subsidize new development, preserve existing housing stock, and provide for rehabilitation and homebuyer and rental assistance. Additional State grants (SB2 and LEAP) can be used to streamline permitting processes to allow for additional development opportunities with a focus on development of housing at all income levels and for identified special needs populations. For example, the City received both SB2 and LEAP grant funding to update the Density Bonus Ordinance, which was recently adopted, and to develop Objective Design and Development Standards, which is currently underway.

Administrative resources include City resources (Planning, Building, Code Enforcement, Community Services and Housing Division); County resources (Section 8 vouchers, EveryOne

¹⁰ Hayward Senate Bill 9 webpage: <https://www.hayward-ca.gov/your-government/departments/planning-division/senate-bill-9>

Home); service providers contracted by the City to provide legal assistance, fair housing services, financial and foreclosure education (ECHO, Centro Legal de la Raza); and affordable housing developers and service providers (Eden, RCD, Abode among others).

Housing Element Programs: Programs related to development of housing are set forth in Goal H-3 and Program H-8, Ensure Adequate Sites to Accommodate Regional Fair Share Housing Growth; Program H-9, No Net Loss Zoning; Program H-10, Replacement Housing; and Program H-13, Variety of Housing Types. Further, various programs in the Housing Element align financial and administrative resources to preserve, conserve, and improve existing housing stock such as Program H-1, Minor Home Repair Program; H-2, Residential Inspection Program; H-3, Preservation of At-Risk Affordable Housing; H-4, Affordable Housing Development Assistance; and H-7, Housing Choice Vouchers.

Appendix C, Housing Resources¹¹ (Attachments VII and VIII), contains additional information on each of these topics.

Part 5, Housing Constraints. This section outlined the various constraints to development of housing. Governmental constraints include zoning standards, requirements to construct on and off-site improvements, development and impact fees, development application processing, and Building Code requirements. Market constraints include the costs of land, materials, and labor, which have risen substantially over the past decade and were exacerbated by supply chain issues during COVID. The increased costs of construction are reflected in increasing housing costs because rent or sales prices are priced to justify the cost of development. As described in the December 8, 2022 presentation to the Planning Commission, governmental policies and incentives combine with market forces to impact feasibility.¹² Other constraints include neighbor opposition, labor opposition against projects that do not include specified labor agreements, and individuals and groups opposed to new development based on environmental concerns.

Housing Element Programs: Housing Element Programs designed to remove or relieve constraints associated with housing development include Program H-14, Development Incentives; Program H-16, Expedited Project Review; and Program H-19, Housing for Special Needs Populations. All of the programs include specified actions to reduce or eliminate barriers to development of housing and housing that is affordable to special needs populations in particular.

Appendix D, Housing Constraints¹³ (Attachment IX), contains additional information on each of these topics.

¹¹ Housing Element, Appendix C, Housing Resources. https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-C-Housing-Resources_Revised-Submittal-Per-HCD-Comments.pdf

¹² December 8, 2022 Planning Commission. Affordable Housing Ordinance Feasibility Study. <https://hayward.legistar.com/LegislationDetail.aspx?ID=5953434&GUID=A7E831B1-A639-4A1D-842E-B1A5D1F1AAAF&Options=&Search=>

¹³ Housing Element, Appendix D, Housing Constraints. https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-D-Housing-Constraints_Revised-Submittal-Per-HCD-Comments.pdf

Part 6, Fair Housing. During this Housing Element cycle, each jurisdiction was required to analyze contributing factors to fair housing choice and access to opportunities to implement programs to affirmatively further fair housing. Historic exclusionary governmental policies, discrimination in mortgage lending practices, and long-term disinvestment in communities have created patterns of racial and ethnic segregation and facilitated racial and ethnic concentrations of poverty across neighborhoods (Appendix F, Section 10.1, Historic Patterns of Segregation).

As part of the fair housing analysis, a jurisdiction must show that they are disbursing housing throughout the City and in high resource areas based on Opportunity Maps developed by the California Fair Housing Task Force (Appendix F, pg. 6). The maps take into account economic, environmental, and educational indicators to determine resource status for census tracts. Of the 50 census tracts in Hayward, about 64% are considered Low Resource, 28% are considered Moderate Resource, and the remainder (8%) are considered High Resource. In comparison, 35% of census tracts in Alameda County are considered Low Resource, 25% of the census tracts are considered Moderate Resource, and 40% of census tracts are considered High Resource.

Appendix F, Sites Inventory, Figure F-48 and Table F-2, Sites Inventory by Census Tract Characteristics provides the location of Housing Element Sites in Relation to TCAC/HCD Opportunity Areas and shows that the Housing Element sites are located in Low and Moderate Resource areas because those are areas with access to transit, commercial uses and services, and where development trends indicate future development will occur. High resource tracts are located in the far eastern Hayward hills where there is very little development other than agricultural land and some portions of the southeastern portion of Hayward bordering Union City.

When considering this topic, it is important to remember that people's lived experience of a place might not assign it a "resource" quality and that people's neighbors, communities, and families who live in these neighborhoods provide rich social and community connections that are valuable to residents. It is also important to note that livability and quality of place were important to community members throughout the outreach process, so the Housing Element contains programs to improve place-based strategies to encourage community conservation and revitalization to improve the quality of lived experiences within "low" resource areas.

Housing Element Programs: Appendix F, Table F-3, Fair Housing Issues, Contributing Factors and Key Programs contains a comprehensive list of Fair Housing-related Programs in the Housing Element that are intended to protect existing residents from displacement; improve place-based strategies to encourage community conservation and revitalization including conservation and preservation of existing affordable housing; encourage development of new affordable housing in areas of high opportunity; and enhance fair housing outreach and housing mobility strategies.

See Appendix F, Fair Housing Assessment ¹⁴ (Attachment X) for an in-depth analysis of this topic.

Part 7, Housing Plan. The Housing Element (Attachment IV) concludes with a Housing Plan that the City will undertake in the next eight-year cycle to support, incentivize, and produce housing in the City. The Housing Plan contains the following Goals:

- Preserve, Conserve and Improve Existing Housing Stock
- Assist in the Development of Affordable Housing
- Provide Adequate Sites
- Remove Constraints on Development
- Provide Housing for Persons with Special Needs and
- Provide Equal Housing Opportunities for All Persons

Each of the Goals is followed by a set of Policies, Actions, Objectives, Timeframes, and importantly sets forth the Responsible Agency and Funding Sources for achieving the Action.

Some Programs and related Actions are specific and measurable such as providing grants for home repair (Program H-1); conducting a certain number of rental inspections per year (H-2); providing housing subsidies to specific populations and holding a certain number of workshops for tenants and landlords every year (Programs H-7, H-20, H-21, H-22); and zoning text amendments to support a variety of housing types (Program H-13). Some Programs and Actions are intended to monitor, measure, and pivot, if needed, during the Housing Element cycle meet the subject Goal. These include: issuing Notices of Funding Availability that can only occur if funding is available (Programs H-3, H-4, H-7, H-19 and H-21); monitoring development of ADUs and SB9 developments and implementing changes in procedures or the Municipal Code to incentivize development of this type of housing in High Resource areas throughout the City (Program H-17 and H-18); and providing expedited project review for affordable housing, which can take on many forms (Program H-16). Some of the Policies and Actions are prescribed by HCD but all of them are modified to meet Hayward's specific characteristics, policies, practices, and community desires and needs.

Summary of HCD Comments and Modifications

On November 27, 2022, HCD provided a comment letter detailing necessary revisions to the Draft Housing Element in order to comply with State Housing Element Law (Attachment XII). Comments centered around providing additional information related to housing needs for specific populations; additional fair housing analysis; suitability of non-vacant sites for redevelopment; program changes for publicly owned land; processing and permit program changes related to emergency shelters, group homes, permanent supportive housing, employee housing and by right zoning for previously

¹⁴ Housing Element, Appendix F, Fair Housing Assessment. <https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-F-Fair-Housing-Assessment-HCD-Revisions-Revised-Submittal-Per-HCD-Comments.pdf>

used housing element sites; fees and exactions; energy conservation; and quantified objectives and public participation.

On December 8, 2022, city staff met with the HCD reviewer to discuss the comments and the City's planned responses. HCD's comments, the City's response, and sections amended to address the comments are provided in Attachment XIII to this staff report and were released for a second public review between December 19, 2022 and January 2, 2023. The City did not receive any additional comments during the comment period on the recirculated Housing Element with the exception of a late comment noted in the Background section above and discussed further in Staff Analysis below.

On January 3, 2023, the City submitted the revised Draft Housing Element to HCD for review and has not received additional feedback from HCD.

Policy Context and Code Compliance

Pursuant to California Government Code Title 7, Division 1, Chapter 3, Article 10.6 [65580 – 65589.11], the Housing Element shall contain the following statutorily defined sections:

1. **Housing Needs Assessment:** Examine demographic, employment and housing trends and conditions and identify existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).
2. **Evaluation of Past Performance:** Review the prior Housing Element to measure progress in implementing policies and programs.
3. **Housing Resources and Sites Inventory:** Identify locations of available sites for housing development or redevelopment to ensure there is enough land zoned for housing to meet the future need at all income levels as provided in the RHNA.
4. **Constraints Analysis:** Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
5. **Housing Plan:** Establish policies and programs to be carried out during the 2023-2031 planning period to fulfill the identified housing needs.
6. **Affirmatively Furthering Fair Housing:** Assembly Bill 686 (AB 686), passed in 2018, created new requirements for jurisdictions to affirmatively further fair housing in this Housing Element Cycle by taking “meaningful actions, in addition to combatting discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics” as mandated by the 1968 Fair Housing Act.
7. **Community Engagement Plan:** The Housing Element must include a robust community engagement program, reaching out to all economic segments of the community with an emphasis on traditionally underrepresented groups.

Pursuant to Hayward Municipal Code Section 10-1.3425(b), the City Council may recommend approval of an amendment to the General Plan upon making the following findings:

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience and general welfare of the residents of Hayward;
2. The proposed change is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans;
3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified; and
4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and further, a beneficial effect will be achieved which is not obtainable under existing regulations.

Findings

Staff believes that the City Council can make the findings to approve the Draft Housing Element as presented, with an amendment to add an Action related to coordination with labor groups and minor edits for typos (such as correcting the name of the Hayward Area Planning Association on Action 20.3), as detailed below.

There is substantial proof that the proposed change will promote the public health, safety, convenience and general welfare of the residents of Hayward in that the amendments are being undertaken to comply with State Law. Compliance with State Law and annual reporting on ongoing compliance is required to access transportation, housing, and other funding sources and makes the City more competitive for grant funding to construct affordable housing and infrastructure improvements.

In adopting State Housing Element Law, the legislature 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.” (Government Code Section 65589.5.). As documented in the Draft Housing Element and specifically in Appendix A, Housing Needs Assessment, Hayward’s residents are also experiencing a crisis in affordability that is related to a lack of affordable housing, particularly for low-income and special needs households.

Staff believes that the Housing Element and related Appendices are consistent with State Law requirements and provide a comprehensive overview of public outreach and relationship building conducted throughout this Housing Element effort (Appendix A); a thorough overview of community demographics including special needs households (Appendix B); a description of housing resources including a robust sites inventory with a healthy buffer to accommodate the City’s RHNA (Appendix C); a thorough analysis of constraints to housing development (Appendix D); a review of past accomplishments (Appendix E¹⁵); and, a thorough fair housing analysis (Appendix F), all of which was used to develop a robust set of goals, policies, programs, and actions

¹⁵ Housing Element, Appendix E, Review of Past Accomplishments. https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-E-Review-of-Past-Accomplishments_Revised-Submittal-Per-HCD-Comments.pdf

intended to create more affordable housing to works towards meeting the needs of a variety and diversity of households over the next eight years (Housing Element, Section 7, Housing Plan).

The proposed Housing Element is in conformance with the purposes of the Zoning Ordinance, and all applicable, adopted policies and plans in that it will implement State Housing Law, and is consistent with the City's Strategic Priorities related to housing and the Let's House Hayward Plan. Several Actions set forth in the Housing Plan call for amendments to the Zoning Ordinance to comply with State Law and to incentivize a variety of housing types. Such amendments include the following:

- Replacement housing requirements (Action 10.1)
- By right approval for certain sites with minimum affordable requirements that were used in the previous Housing Element cycle (Action 11.1)
- To allow for a variety of housing types on church owned properties and parking lots; and streamline processes to establish supportive housing, group homes, and emergency shelters (Actions 13.1 through 13.7)
- Update to reflect SB9 allowing urban lot splits and duplexes on single family residential lots (Action 18.1)
- Update of Reasonable Accommodations Ordinance (Action 19.14)

The Amendments detailed above would implement the Housing Element, ensure consistency with State Law, and affirmatively further fair housing, particularly for special needs groups. Because the proposed Housing Element does not include any land use changes, its adoption would not have an impact on streets or public facilities.

The proposed Housing Element and related Housing Plan will be compatible with present and future uses, and a beneficial effect will be achieved following adoption of this Housing Element not obtainable under existing regulations in that the Housing Element contains an updated roadmap to achieve housing related goals to streamline housing production, allow for a variety of housing types to be developed throughout Hayward, and to allocate funding toward activities that will support special needs households. Realistically, the Housing Element will not be able to solve Hayward or the State's housing crisis; however, it contains a roadmap to increase the amount and variety of housing available to Hayward's residents and to assist our most vulnerable households.

Following the second public comment period, staff met with a representative from the Carpenters Union who reiterated their initial request that the City adopt an Ordinance for developments with ten or more units to include apprenticeship and local hire requirements. As described in the responses to comments provided in Appendix A to the Housing Element, staff believes that the adoption of such an Ordinance could be considered a new constraint to development, which is in opposition to Housing Element Law - to identify and remove constraints to the extent feasible. However, staff also acknowledges that availability of an adequate, trained workforce is a constraint to

building additional housing. To this end, staff recommends that the following Action language be added to the Housing Plan as a new Action:

Recognizing that labor supply is a constraint to development, the City will meet with trades labor groups and organizations to discuss ways in which the City can support an adequate supply of labor to build new housing. Hold at least one meeting with labor groups per year.

Similar language was adopted by a neighboring jurisdiction; thus, staff does not believe that the addition of such language would be construed as a new constraint by HCD. The Planning Commission recommended that the motion above be expanded to include “contractors and others that employ construction laborers” to ensure that any identified constraints from union and non-union groups are understood and minimized to the extent feasible.

Following submittal of the adopted Housing Element, staff also recommends that the City Council authorize the Acting Development Services Director to make all non-substantive changes to the Housing Element to make it internally consistent or to address any non-substantive changes or amendments requested by the Department to achieve certification.

ECONOMIC IMPACT

The Housing Element is a long range policy document prepared pursuant to State Law that shows how the City can accommodate development of the RHNA, and contains specific goals, policies, and actions to remove constraints to development in order to achieve those housing goals. Production of more deed restricted affordable housing, education for homeowners and renters, strengthening renter protections, and provisions for low interest loans and grants to improve housing would likely have positive overall economic impacts for Hayward residents. In addition, actions intended to remove or reduce regulatory constraints would have beneficial economic impacts for developers, trades unions and construction workers.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priorities to Preserve, Protect and Produce Housing and implementation of the following project:

- Preserve, Protect and Produce Housing – Project 8, Update the Housing Element Plan

Specific Actions included within the Draft Housing Element would also implement additional housing-related Strategic Priorities:

- Preserve, Protect and Produce Housing – Project H2, Implement Let’s House Hayward: The Homelessness Reduction Strategic Plan
- Preserve, Protect and Produce Housing – Project H4, Implement housing incentives and production work plan in accordance with State housing limits.

- Preserve, Protect and Produce Housing – Project H6, Expend the Affordable Housing Trust funds.

FISCAL IMPACT

Adoption of the updated Housing Element will require City expenditures in order to accomplish all of the Actions detailed in the Plan over the eight-year cycle. It is not possible to estimate the costs associated with each of the individual Actions; however, many of the Actions are anticipated in the work plans of the Housing Division, Community Services Division, Planning Division, Code Enforcement Division and other Divisions and are anticipated in adopted plans such as the Let's House Hayward Strategic Plan, Incentives to Housing Production Work Plan, Strategic Roadmap and Federal Stimulus Expenditure Plan to Address Economic Impacts of the Public Health Emergency. Some actions will require application for grant funds, partnership with developers or other entities, and may require additional budget allocation. This will be evaluated and included in the annual citywide budgeting process depending on the timeframe for completion of the Action.

Adoption of the Housing Element will have positive fiscal impacts in that it will make the City eligible for planning grants to accomplish much of this work, housing grants to construct new development, as well as transportation-related funding as most state funding hinges on adoption of and annual reporting on Housing Elements.

SUSTAINABILITY FEATURES

All new residential development shall comply with Title 24 of the California Building Code which is designed to reduce wasteful consumption of energy. In addition, the City's Reach Code requires all new residential development to be designed as all electric and provide EV (electric vehicle) charging infrastructure above and beyond that required by the California Green Building Standards Code.

The Housing Element also includes a sites inventory and specific policies that support transit oriented development in close proximity to high frequency transit and services to reduce mobile source emissions (Policies H-3.2 and H-3.4); and, including a Sustainable Development Policy that supports construction of housing that is integrated into the building site, consuming less water, improving water quality, reducing energy use and the use of other resources, and minimizing development impacts on the surrounding environment (Policy H-3.3).

PUBLIC CONTACT

Between August 2021 and August 2022, the Hayward Housing and Climate Team comprised of staff from the Planning Division, Environmental Services Division, and the Housing Division have conducted extensive outreach related to the Housing Element, Climate Action Plan and Environmental Justice Element including but not limited to:

- Development of a project website with project information, interactive components, readings and videos about housing, Hayward history, climate change and environmental justice.
- Compilation of extensive contact lists for community and advocacy groups, faith-based and school organizations, Homeowners Associations, Neighborhood Groups, Mobile Home Parks, attendees at various events and interested parties who wrote in and requested to be notified about project updates.
- Development of a bilingual informational gallery that was used at farmers markets, the Hayward Main Branch Library, Chabot College, and at events for the Hayward Promise Neighborhood, NAACP, Hayward Community Family Fair, the Juneteenth Event and the Downtown Street Fair.
- Focus group with Community Resources for Independent Living (CRIL)
- Partnership with Chabot College to interview over 400 Hayward residents around the topic of housing, segregation, community amenities and environmental pollution in neighborhoods.
- Social media campaign
- Bilingual flyers in water bills and excise tax bills to all households in Hayward
- Handing out flyers at grocery stores, farmers market, laundromats, and BART
- Development of housing and climate surveys in English, Spanish and Chinese and prizes for participation
- Balancing Act Housing Sites Simulation activity
- Four community workshops on Housing, Environmental Justice, and the Climate Action Plan

As described in the Background section above, the Draft Housing Element was released for a 30-day public review from July 14, 2022 to August 14, 2022. The City received 15 comment letters from organizations and members of the public. Copies of all of the comment letters and the City's responses to comments and questions, including where and if the Housing Element was modified, are included at the end of Appendix A, Public Participation Report, of the Housing Element.

On July 27, 2022, the City held a public workshop to take questions and comments on the Draft Housing Element. The conversation at the workshop centered around housing and services for individuals experiencing homelessness, a desire to see more affordable housing production for minimum wage workers and students, and a desire to see more inclusionary housing. Overall, in response to public comments in the letters and at the workshop, the City provided clarifying information and added a policy related to Fair Chance Housing to provide support for individuals with poor credit history, poor or no references, formerly incarcerated, and others to fairly obtain housing. The updated Draft Housing Element was re-released for public review between December 19, 2022 and January 2, 2023.

On January 27, 2023 and January 17, 2023, respectively, notice of this public hearing was published in The Daily Review and sent to the City's email contact list containing community and advocacy groups, faith-based and school organizations, Homeowners Associations, Neighborhood Groups, Mobile Home Parks, attendees at various events, and interested parties who wrote in and requested to be notified about project updates.

ENVIRONMENTAL REVIEW

On July 1, 2014, the City Council adopted Resolution No. 14-108, approving the Hayward 2040 General Plan Update and related Program Environmental Impact Report (EIR)¹⁶.

In accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Such conditions include:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of any new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

An EIR Addendum (Attachment III) was prepared for the Housing Element Update Project finding that the proposed project would not require rezoning or land use changes not

¹⁶ Hayward 2040 General Plan Draft and Final EIR with Mitigation Monitoring and Reporting Program: <https://www.hayward-ca.gov/your-government/documents/planning-documents>

previously known or analyzed in the General Plan EIR; therefore, the previously certified EIR and Mitigation Monitoring and Reporting Program remains valid and applicable with the proposed General Plan Amendment.

NEXT STEPS

Following adoption of the Draft Housing Element, staff will incorporate any changes recommended by the City Council and submit the final adopted version to HCD for certification. The accompanying Resolution would authorize the Acting Development Services Director to make all non-substantive changes to the Housing Element to make it internally consistent or to address any non-substantive changes or amendments requested by HCD to achieve certification. Substantive changes could result in further outreach, public review and an additional General Plan Amendment, which would require review and approval by the City Council.

Prepared by: Leigha Schmidt, Principal Planner

Recommended by: Sara Buizer, AICP, Acting Development Services Director

Approved by:



Kelly McAdoo, City Manager