



SUBJECT

Adoption of the 2023-2031 Housing Element for the City of Hayward.

RECOMMENDATION

That the Planning Commission recommends that the City Council approve an Amendment to the Hayward 2040 General Plan for the Adoption of the 2023-2031 Housing Element; and review an Addendum related to the General Plan Amendment prepared pursuant to the California Environmental Quality Act.

SUMMARY

The Planning Commission is being asked to review and provide a recommendation to the City Council on a proposed 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 is due January 31, 2023. City staff intends to submit the adopted Housing Element to the California Department of Housing and Community Development (HCD) following the City Council meeting, which is tentatively scheduled for February 7, 2023.

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

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. State law requires that the City update its General Plan Housing Element every eight years. State law further

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

requires the current update for jurisdictions in the Association of Bay Area Governments (ABAG) region 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.

On October 19, 2021, the Planning Commission and City Council held a joint Housing Element Work Session to discuss recent State legislation related to housing, and staff provided updates on status of the Housing Element and Residential Objective Standards Project. Specifically, staff provided background on the City's Regional Housing Needs Allocation (RHNA) and the Housing Element process and discussed a strategy for conducting a broad, equitable outreach plan to enhance community engagement and participation.

Between August 2021 and May 2022, the City's Housing and Climate Team, which was comprised of staff from the Planning Division, Environmental Services Division and the Housing Division, conducted extensive outreach related to updates to the Housing Element, Climate Action Plan and adoption of a new Environmental Justice Element, which included but was 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 and the Juneteenth Event.
- 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

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

- Balancing Act Housing Sites Simulation activity
- Four community workshops on Housing Element, Environmental Justice Element and the updates to the Climate Action Plan

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 Regional Housing Need Allocation (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 public review from July 14, 2022, to August 14, 2022. During that public comment period, the City received 15 comment letters from organizations, stakeholders and members of the public. Copies of all the comment letters and the City's responses to comments are included in Appendix A, Public Participation Report, of the proposed Housing Element.

On July 27, 2022, the City also held another community 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. In response to public comments received during the workshop and in subsequent correspondence, staff provided clarifying information and added a policy related to Fair Chance Housing that provides support for individuals with poor credit history, poor or no references, those individuals which were formerly incarcerated, and others who face obstacles in obtaining fair housing.

On August 31, 2022, the City submitted the Draft Housing Element to HCD for their 90 day review and on November 28, 2022, HCD provided written comments on the draft submitted. Based on those comments and following subsequent meetings with HCD, the City revised the Draft Housing Element to address those comments received in order to obtain certification of the Housing Element. Staff has included HCD's comment letter as Attachment IV, and the City's comprehensive response to that letter, including references to Housing Element sections and pages that were modified to address the comments, as Attachment V.

In December 2022, a revised Draft Housing Element was re-released for a public review period from December 19, 2022, to January 2, 2023. The revised Draft includes strikethrough and underlined text to reflect deletions and insertions so the public could easily review the changes in the updated draft. The City did not receive any comments during the comment period but after the public comment period closed, a representative from the Carpenters

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=>

Union reached out to the City to indicate that their written comment was not addressed in the Draft Housing Element. Subsequent to that comment, staff met with the Union representative on January 11, 2023, and developed proposed Action language that staff recommends be added to the Housing Element to address their comment. Further discussion on this topic and draft Action language is provided in the Staff Analysis section below.

On January 13, 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.

PROJECT DESCRIPTION

The draft Hayward 2023-2031 Housing Element⁵ is structured to provide a general overview and summary of all the statutorily required sections of a Housing Element pursuant to State Law. Each section of the Housing Element is briefly summarized below and a hyperlink to the relevant Appendix with more details is also provided.

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 as highlighted in this report. 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 map⁶ and provided lived experiences about Hayward residents' struggles and hopes about housing, segregation, neighborhood pollution and community assets. These interviews informed staff's approach to the project and quotes were threaded throughout the Housing Element and Appendices.

To further public engagement, the City used Balancing Act, which is an interactive housing sites simulation tool, to help provide the public with an opportunity to review and provide feedback on various housing element sites. The majority of public feedback received focused on the development of 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 several comments related to neighborhood livability and quality of life, such as requiring a mix of uses, adding bike lanes, investing in public transit, and maintaining

⁵ Hayward Housing Element. <https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/City-of-Hayward-Draft-2023-2031-Housing-Element-6th-Cycle.pdf>

⁶ Chabot College Housing Surveys GIS site. <https://maps.hayward-ca.gov/portal/apps/experiencebuilder/experience/?id=3645991a4e864b3e80ef54803dd83d20>

open space. The proposed sites inventory strongly correlates with the areas prioritized for development in this Balancing Act feedback.

Later, the public outreach focused on promoting the Draft Housing Element, presenting and receiving comments at public workshops and meeting, and updating the Draft Housing Element to provide clarification and additional information or amending it to address comments. Appendix A, Public Participation Report⁷, contains detailed background documents, summaries and results from the surveys and interviews, and highlights various outreach activities. Appendix A also contains copies of all of the comment letters received on the Draft Housing Element, including the City's 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.

Special needs groups that were identified in Hayward include senior heads of household, persons with disabilities, large households with five or more persons, female heads of households, individuals living in poverty, individuals experiencing homelessness, extremely low-income households, and students (Appendix B, Table B-12). It is also important 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 also be considered low or extremely low income due to fixed incomes. As such, there are often compounding issues that impact an individuals' ability to find and maintain housing and access services.

Over the past two decades the growth in the City's 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). Additionally, housing is becoming more expensive which adds an additional barrier to overcome. From 2015 to 2020, home values in the City increased by 41 percent with median monthly rent increasing to more than \$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 also 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 householder than Black/African

⁷ 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

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: The Housing Element includes several programs that are intended to support low income and special needs groups, including: 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 Assessment⁸, contains detailed data, tables and references related to each of 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.

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, including land resources, financial resources, and administrative resources. Each section is highlighted below.

Land Resources: As highlighted in Table 2 below, 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

⁸ 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

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. According to the draft Housing Resources Chapter, there are currently 2,073 approved or pending units in the City that meet a variety of income levels (Appendix C, Table 4-3 and Figure 4-1). In addition, the City also assumes that a minimum of 320 ADUs will be constructed during the eight year cycle, which is based on the number of ADU previously entitled in the City. This leaves a total of 2,231 units remaining to plan for in the Housing Element, as reflected in Appendix C, Tables C-3 and C-5.

The primary areas anticipated for development include properties within the Downtown Specific Plan area, along the Mission Boulevard corridor, and the former Caltrans 238 parcels, which follow the general development patterns we've seen in the City over 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 examples of development in Hayward to provide evidence for the City's assumptions and 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 levels. Further, the City's analysis shows that there is a 54 percent buffer for development and a 31 percent buffer for lower income units in the event 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 are primarily focused 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 (SB9) which allows 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 and went into effect on January 1, 2022. Since implementation, Planning staff has developed a SB9 Frequently Asked Questions

brochure and related Checklist application⁹. To date, the City has already processed two SB9 applications for urban lot splits that include new duplexes on each lot. The combination of ADU and SB9, along with the City's Residential Design Standards project, will allow for site specific intensification of development consistent with adopted General Plan densities and result in additional development that has not been predicted at this time. Additionally, over the next eight years there are sites unknown to staff that 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 the City's Inclusionary funds are financial options available for applicants and can be used to help subsidize new development, preserve and/or rehab existing housing stock, and provide homebuyer and rental assistance. Additionally, State grants (SB2 and LEAP) can be used to streamline permitting processes to allow development opportunities that focus on creation of housing at all income levels and for identified special needs populations. The City received both SB2 and LEAP grant funding and used those monies to update the Density Bonus Ordinance, which was recently adopted, and to develop Residential Design Standards, which is currently underway. Administrative resources available include assistance from the City (Planning, Building, Code Enforcement, Community Services and Housing Division); County assistance (Section 8 vouchers, EveryOne Home); various 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: Several programs related to housing resources are included in the Housing Element, including Goal H-3 and Programs 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. Additionally, there are various programs in the Housing Element that align financial and administrative resources to help preserve, conserve and improve existing housing stock in the City. These include 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 Resources¹⁰ contains additional details on each of these programs.

Part 5, Housing Constraints. This section outlines the various constraints to development of housing in the City, including governmental constraints and market constraints. 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 supply chain issues which were exacerbated during the COVID pandemic. The increased cost of construction is reflected in increasing housing costs because rent or home sales prices are adjusted to cover the cost of development. As described in the December 8, 2022, presentation to the Planning Commission, governmental policies

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

¹⁰ Housing Element, Appendix C, Housing Resources. https://haywardhousingandclimateupdate.com/wp-content/uploads/2022/12/Appendix-C-Housing-Resources_Revised-Submittal-Per-HCD-Comments.pdf

and incentives combine with market forces that impact project feasibility.¹¹ Other constraints to consider include neighbor opposition, labor opposition to projects that do not include specified labor agreements, and other individuals and stakeholder groups opposed to new development based on environmental concerns.

Housing Element Programs: There are several programs in the Housing Element designed to remove or relieve constraints associated with housing development including Program H-14, Development Incentives; Program H-16, Expedited Project Review; and Program H-19, Housing for Special Needs Populations. All the programs include specified actions to reduce or eliminate barriers to development of housing and in particular, housing that is affordable to special needs populations. Appendix D, Housing Constraints¹², contains additional information on each of these programs.

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. Historically, 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, a total of 32 are considered Low Resource, 14 are considered Moderate Resource, and 4 are considered High Resource. In comparison, 35 percent of census tracts in Alameda County are considered Low Resource, 25 percent of the census tracts are considered Moderate Resource, and 40 percent 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 reflects development trends where future development will likely occur. When considering this topic, it's 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.

¹¹ 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=>

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

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. Appendix F, Fair Housing Assessment ¹³ contains additional details on each of these programs.

Part 7. Housing Plan. The Housing Element concludes with a Housing Plan that the City will undertake during 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 completing zoning text amendments to support a variety of housing types (Program H-13).

Other Programs and Actions are intended to monitor, measure and pivot, if needed, during the Housing Element cycle in order to meet the subject Goal. These include issuing Notices of Funding Availability, which 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 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 (Program H-16). Some of the Policies and Actions are prescribed by HCD but all of them have been modified and tailored to meet Hayward's specific characteristics, policies, practices and community desires and needs.

Summary of HCD Comments and Modifications

On November 28, 2022, HCD provided a comment letter detailing necessary revisions to the Draft Housing Element in order to comply with State Housing Element Law (Attachment IV). Comments centered around providing additional information related to housing needs for specific populations; additional fair housing analysis; suitability of

¹³ 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>

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 used housing element sites; fees and exactions; energy conservation; 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 original comments, the City's response, and related amendments are provided in Attachment V to this staff report and were released for a second public review between December 19, 2022 and January 2, 2023. On January 3, 2023, the City submitted the revised Draft Housing Element to HCD for review and has not received additional feedback from HCD. The City did not receive any additional comments during the comment period on the recirculated Housing Element, with the exception of a late comment that staff noted in the Background section above. Additional discussion on this comment is noted in the Staff Analysis section below.

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:

- **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).
- **Evaluation of Past Performance:** Review the prior Housing Element to measure progress in implementing policies and programs.
- **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.
- **Constraints Analysis:** Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
- **Housing Plan:** Establish policies and programs to be carried out during the 2023-2031 planning period to fulfill the identified housing needs.
- **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 combating 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.
- **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 Planning Commission 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.

Staff believes that the Planning Commission can make the findings to recommend City Council approval of the Draft Housing Element, with an amendment to add an Action related to coordination with labor groups as detailed below and provided additional analysis in Attachment II.

STAFF ANALYSIS

As mentioned above, staff believe the Planning Commission can make the required finding to support a recommendation of approval to the Council on the Draft Housing Element, as amended with staff's recommended text. Staff believes 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 which 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 E¹⁴); and, a thorough fair housing analysis (Appendix F), all of which was used to develop a robust set of goals, policies, programs and actions intended to create more affordable housing to work towards meeting the needs of a variety and diversity of households over the next eight years (Housing Element, Section 7, Housing Plan).

The Draft 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 in order to comply with State Law and 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, 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 populations. Because the proposed Housing Element does not include any land use changes, its adoption would not have an impact on streets or public facilities.

Proposed Revision. 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 (Appendix A), 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, which is intended to identify and remove any constraints to the greatest 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:

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 trades labor groups per year.

¹⁴ 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

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 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 a plan, consistent with State Law, 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 solve the State, regional or local housing crisis however it contains a roadmap to incrementally increase the amount and variety of housing available to Hayward's residents with an emphasis on assisting the most vulnerable households.

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)¹⁵.

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

¹⁵ Hayward 2040 General Plan Draft and Final EIR with Mitigation Monitoring and Reporting Program:
<https://www.hayward-ca.gov/your-government/documents/planning-documents>

- 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.

NEXT STEPS

Following the Planning Commission hearing and recommendation, the item is tentatively scheduled for a public hearing at the February 7, 2023, City Council meeting. Once adopted, the final, adopted Housing Element will be sent to HCD for review and certification.

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Recommended by:



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Approved by:



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