

## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** JUNE 26, 2019

**TO:** PLANNING COMMISSION

**FROM:** DAVID M. REYES, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

**SUBJECT:** PLANNING COMMISSION MEETING ON IMPLEMENTATION OF THE HOUSING ELEMENT

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#### RECOMMENDATION:

This report is an informational item; therefore, no action is required.

#### EXECUTIVE SUMMARY:

This report provides: 1) an update of the 2014-2021 Housing Element, including the City's progress on achieving the Regional Housing Needs Assessment (RHNA) targets, status of the Implementation Programs, and the 2018 Housing Element Annual Progress Report; and 2) an update on the City's affordable housing production.

#### BACKGROUND:

The Housing Element is one of the State-mandated Elements of the General Plan. Unlike other Elements in the General Plan, the Housing Element must be updated every four to eight years to address the current and projected housing needs of all economic segments of the community according to a schedule set forth in the California Government Code. The current planning period for the Housing Elements of cities in the Southern California Association of Governments ("SCAG") region extends until 2021. The City's 2014-2021 Housing Element was adopted by the City Council on February 3, 2014.

#### DISCUSSION:

##### Status of 2014-2021 Housing Element Implementation

##### Regional Housing Needs Assessment (RHNA)

RHNA is mandated by State Housing Law, and quantifies the need for housing within each jurisdiction. All local governments are required to provide opportunities to address their share of the housing needs as established by the State Department of Housing and Community Development (HCD) and allocated by the Southern California Association of Governments

(SCAG). For the current planning period (2014-2021), the City's share of the forecasted growth, or its RHNA Target, is 1,332 new housing units over the course of the seven years. The RHNA is divided into four income categories established by HCD: Very Low, Low, Moderate, and Above Moderate-Income units. It should be noted that the State does not require a jurisdiction to construct the number of new housing units in its RHNA Target. Instead, each jurisdiction is required to plan for the new housing units by providing appropriate zoning with adequate density to accommodate the number of new units in its RHNA Target. The City uses this number as a goal in order to provide capacity for a sufficient number of housing units to meet the City's estimated housing need.

Between January 1, 2018 and December 31, 2018, a total of 536 housing units were issued building permits, which consists of 1 Very Low Income units and 535 Above Moderate Income units.

The following table summarizes the City's 2014-2021 RHNA by income category and the building permit activities since 2014:

Income Category	% of Area Median Income (AMI)	2014-2021 RHNA	Issued Building Permits 2014 to 2018	Total Remaining RHNA
<b>Very Low Income</b>	<50% of AMI	340	145	195
<b>Low Income</b>	51-80% of AMI	207	38	169
<b>Moderate Income</b>	81-120% of AMI	224	45	179
<b>Above Moderate Income</b>	>120% of AMI	561	2,100	0
<b>Total</b>		1,332	2,328	543

In June 2018, the City exercised right-of-first-refusal acquisition of one affordable deed restricted Inclusionary housing unit at 217 S. Marengo Ave, Unit #206, which will remain under City ownership and operated as an affordable rental unit for a Very Low income household. Also in June 2018, with City loan assistance, nonprofit developer Heritage Housing Partners exercised right-of-first-refusal acquisition of one affordable deed restricted condo unit at 596 N. Fair Oaks Ave, Unit #113. This unit was resold to a Low income homebuyer in October 2018. Also in December 2018, the City Council approved the proposed transaction to financially restructure, rehabilitate and preserve the 150-unit Concord Senior Housing project.

Even though these activities are not counted towards the RHNA, rehabilitation and preservation of existing affordable units play a vital role in maintaining the existing affordable housing stock in the City.

Housing Element Implementation Programs

The Housing Element identifies 24 implementation programs to achieve the goals and policies of the Housing Element, which are organized into 62 program objectives.

Below is a summary of progress made on program objectives with a specific time-frame for completion by 2018 (excluding the program objectives that were previously completed and program objectives that are ongoing):

- *Objective 4.3: Establish program guidelines for a comprehensive acquisition/rehabilitation program by 2015, with goals and work plan - subject to the identification of stable funding sources (assigned completion date: 2015) [Responsible department: Housing]*

Program guidelines were not established during this reporting period due to lack of a stable funding source. However, during the next reporting period of 2019, staff will develop program guidelines for the City's exercise of its right of first refusal to purchase deed restricted for-sale units for operation as affordable rental housing.

- *Objective 10.2: Initiate nexus study as a first step in the process of amending the IHO program; complete and present recommendations on amendments to the IHO to the City Council for consideration that year (assigned completion date: 2014) [Responsible department: Housing]*

On September 29, 2017, AB 1505 was signed into law restoring the long-standing authority of local governments to choose to require the inclusion of affordable rental units as one component of their local inclusionary housing policies, if they choose to adopt such policies. Local governments can already apply inclusionary policies on for-sale housing, as ruled by the California Supreme Court in June 2015.

Staff is currently in the process of developing recommendations for updates to the City's existing inclusionary housing ordinance, including potential amendments to the inclusionary in-lieu fee. An updated study was completed in August 2018, which provides analysis on modifying the in-lieu fee rate structure to reflect current housing market conditions and includes a recommendation for the maximum justifiable increase of those rates. At the direction of the City Council, staff is considering the appropriate approach to the in-lieu fee as part of a holistic review of the Inclusionary Housing Ordinance. This review includes other potential amendments, such as raising the inclusionary housing percentage requirement; amending various administrative components of the inclusionary housing ordinance, such as trade-downs; and creating an affordable housing concession menu for density bonus projects. A public hearing on these revisions is part of the Planning Commission agenda for June 26, 2019.

- *Objective 10.3: Review current [Inclusionary Housing] ordinance to determine if inclusionary requirements can and should be increased in TOD districts (assigned completion date: 2016) [Responsible department: Housing]*

On September 29, 2017, AB 1505 was signed into law allowing cities to enact or maintain ordinances which mandate affordable housing requirements on new housing development.

As part of a comprehensive set of amendments to the City's Inclusionary Housing Ordinance, staff is undertaking a market and feasibility study to understand what the impacts would be on market-rate housing development if inclusionary requirements were increased, and what the maximum increase could be based on various submarkets throughout the City. As part of the submarket-level analysis, special attention was given to the effects of increasing inclusionary housing requirements in TOD districts. The results of the study indicated that there is not strong evidence in support of increasing inclusionary requirements in TOD districts without incorporating additional incentives to offset the costs of providing the affordable units. Various options for increasing the inclusionary housing percentage with corresponding incentive packages will be presented to the Planning Commission at a public hearing on June 26, 2019.

- *Objective 13.1: Review zoning code and consider amendments to facilitate small-lot, single-family subdivisions as a means to providing affordable homeownership opportunities while balancing the need to protect the unique architectural and historical character of the City (assigned completion date: 2016) [Responsible department: Planning & Community Development]*

The City plans to start the research on this implementation program in 2019.

- *Objective 13.2: Review the City's second-unit standards, hold public meetings to solicit input, and evaluate the feasibility of changes to the ordinance to better facilitate such units within the context of maintaining the character and quality of residential neighborhoods (assigned completion date: 2016) [Responsible department: Planning & Community Development]*

On January 30, 2017, the City Council adopted a number of technical changes to the City's Second Unit Ordinance, which were deemed necessary to comply with recently adopted state law (Assembly Bill 2299 and Senate Bill 1069). Also, immediately following the City Council action in January, the Planning & Community Department initiated work on this implementation program. Among actions taken in January, the City Council directed the Planning and Community Development Department to conduct a comprehensive review of the existing accessory dwelling unit regulations and return by the end of June 2017 with potential revisions.

Draft recommendations were presented to Planning Commission on May 24, 2017 and on June 19, 2017, the City Council considered a series of proposed amendments. At the meeting the City Council directed staff to conduct additional research on a number of topics and conduct additional public outreach prior to returning to City Council. Consistent with this direction, staff has performed additional research and has conducted additional outreach. The revised recommendations and additional research were presented to City Council December 11, 2017.

On December 11, 2017, the City Council approved a series of Zoning Code amendments to the City's Accessory Dwelling Unit Ordinance. The City Council approved staff's recommendations, but directed staff to include in the ordinance no minimum lot size requirement for Accessory Dwelling Units on RM-zoned properties. The City Council also directed staff to allow Accessory Dwelling Units larger than 800 square feet on larger lots at a to-be-determined minimum lot size threshold, but requested staff to draft a specific regulation and return to the City Council with a recommendation. The City Council also discussed, but did not approve the staff recommendation to reduce the Residential Impact Fee for new Accessory Dwelling Units. However, the City Council directed staff to reduce the length of time for affordability covenants for Accessory Dwelling Units, as a method to take advantage of the significantly lower Residential Impact Fee that is charged for covenanted-affordable units.

On February 5, 2018 the City Council received an agenda report containing staff recommendations for maximum unit size and affordability covenants for Accessory Dwelling Units, as well as public comments on these two topics. Although the City Council voted to continue the discussion, staff was asked to elaborate on the legalities of the Residential Impact Fee as applied to Accessory Dwelling Units at the next meeting.

On March 12, 2018, the City Council received an agenda report intended to respond to issues raised at the previous meeting regarding maximum unit size and affordability covenants for Accessory Dwelling Units. The City Council approved staff's recommendations for a maximum unit size sliding scale of up to 1,200 square feet that is dependent on minimum lot size. City Council also approved Staff's recommendations to reduce the Residential Impact Fee for ADUs to the affordable fee rate if an applicant chooses to enter into an affordability covenant or landlord agreement. The applicant would have three options: an affordability covenant that would require a homeowner to set the rent for an Accessory Dwelling Unit at a price affordable to households with an income up to 120% of the Area Median Income for seven years; a landlord agreement with the City committing the Accessory Dwelling Unit to be rented out exclusively to the City's rental assistance clients for a term of seven years; or a landlord agreement with the City committing the homeowner to rent the ADU to a family member.

The City Council conducted the first reading of the updated Accessory Dwelling Unit Ordinance on April 9, 2018, and the second reading was conducted on April 16, 2018. Also, on June 18, 2018, the City's Inclusionary Housing Regulations were amended to include Accessory Dwelling Units as a type of residential unit eligible for the same reduced Residential Impact Fee, provided the developer of an ADU complies with one of three aforementioned affordability restrictions.

- *Objective 17.3: Study options to change the tenant protection ordinance and options for preserving non-deed restricted affordable housing (assigned completion date: 2016) [Responsible department: Housing]*

See Objective 23.3, below, regarding the Tenant Protection Ordinance. During the 2018 Housing Element reporting period, staff brought forward to the Economic Development and Technology Committee a proposal to initiate a pilot program that would assist property owners to finance their ADU projects. The program would also target illegal garage conversions and bring them into code compliance. Garage conversions are a source of non-deed restricted affordable housing. It is anticipated that the pilot program parameters will be finalized for approval in the 2019 Housing Element reporting year.

- *Objective 23.3: Study appropriateness and options for strengthening provisions of the [Tenant Protection] ordinance (assigned completion date: 2016) [Responsible department: Housing]*

On October 22, 2018, staff presented to City Council a number of options to strengthen the Tenant Protection Ordinance (TPO). Staff was directed to study the issue further and return to City Council. On June 10, 2019, the City Council approved the second reading of the amended Tenant Protection Ordinance. The amended ordinance is expected to become effective in mid-July 2019.

### Housing Element Annual Progress Report

California Government Code Section 65400 requires municipalities to prepare an annual report on the status and progress of implementing the jurisdiction's Housing Element of the General Plan using forms and definitions adopted by the State Department of Housing and Community Development (HCD). Such a report must be submitted to HCD and the Governor's Office of Planning and Research (OPR) each year.

The Housing Element Annual Progress Report format has changed for this reporting period due to changes in state housing law. The annual report now includes the following:

- Table A – Housing Development Application Submitted
- Table A2 – Annual Building Activity Report (New Construction, Entitled, Permitted, and Completed Units)
- Table B – Progress Towards Meeting RHNA
- Table C – Sites Identified or Rezoned to Accommodate Shortfall Housing Need
- Table D – Program Implementation Status
- Table E – Commercial Development Bonus Approved
- Table F – Units Rehabilitated, Preserved, or Acquired

The annual report covers activities that occurred within each calendar year. Refer to Attachment A for the 2018 Housing Element Annual Progress Report that was submitted to HCD and OPR in March 2019.

## **City's Affordable Housing Production**

### Inclusionary Units

In 2018, one project (21 total units) was issued a building permit and received \$133,704 in impact fee reductions and fee waivers by providing one affordable housing unit.

In addition to the inclusionary units that will be produced from projects that received building permits, a total of \$2,145,544 was deposited into the Inclusionary Housing Trust Fund in 2018 from the payments of Inclusionary Housing In-Lieu Fees by developers.

### Preserved or Rehabilitated Units

The City entered into an agreement with Villa Los Robles Partners LP on June 21, 2018 to provide funding in the amount of \$1,050,000 to assist the rehabilitation of the 8-unit Villa Los Robles affordable rental housing project. Additionally, the proposed transaction to financially restructure, rehabilitate, and preserve the 150-unit affordable Concord senior housing project was approved by City Council on December 17, 2018.

## **Community Workshops**

The Housing Department convened meetings with representative of landlord and tenant advocacy groups in November 2018 and February 2019 to solicit input on the Tenant Protection Ordinance modifications.

## **Next Steps**

A summary of the June 26, 2019 Planning Commission meeting, as well as any recommendations from the Planning Commission will be forwarded to the Ed Tech Committee at its next available meeting.

The next Planning Commission biannual meeting on the Housing Element and related matters is tentatively scheduled for January 8, 2020.

**ENVIRONMENTAL DETERMINATION:**

This item is exempt from the California Environmental Quality Act (CEQA) under Section 15378, as an informational report on Housing Element and other housing related issues do not meet the definition of a project under the established guidelines.


Respectfully Submitted,



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Attachment: A – 2018 Annual Housing Element Progress Report (HCD Form)