



"A City That Works"

City Council Special Meeting

AGENDA ITEM NO. C. 1.

DATE: 06/29/2021

TO: Honorable Mayor and City Council Members

SUBJECT: Discussion and possible direction to City staff relating to a Study Session on the proposed 6th Cycle Housing Element Update for the planning period from year 2022 through year 2029 (Development Services Director Desatnik)

RECOMMENDATION:

Staff seeks comments from the City Council on the selection of potential housing sites for the City's Regional Housing Needs Assessment (RHNA) inventory.

DISCUSSION:

A project team consisting of planning staff and the City's consultant have been working on the City's Housing Element Update since Fall of last year, and are ready to provide the City Council an update on the work progress as well as seek comments from the City Council.

A) Background

What is the Housing Element?

As a required element of the General Plan, the State law requires that every jurisdiction regularly update its Housing Element. The City's current 2013-2021 Housing Element is for the 5th cycle planning period, and will reach the end of its planning cycle this year. Therefore, the City must update its Housing Element in order to comply with the State's Housing Element law (Cal. Gov. Code §§ 65580-65589.8).

Updating the Housing Element regularly allows the City to evaluate changes in demographics and housing needs within the community, demonstrate the City's ability to meet future housing needs, adjust policies and programs to better serve the housing needs of the community, demonstrate compliance with state housing laws, and remain eligible for various State grants and funding opportunities. At the local level, the Housing Element allows each city to prepare a community-specific approach to "how" and "where" housing will be addressed to meet the needs of the community. The City of Redlands is currently on an 8-year cycle for its Housing Element Update. The current 6th Cycle Housing Element Update program will cover the period from 2021 through

2029.

Adoption Deadline

The City of Redlands is part of the Southern California Association of Governments (SCAG) region, and is mandated by SB 375 in terms of timeframe and deadline for the 6th Cycle Housing Element Update. The deadline to locally adopt the 6th Cycle Housing Element Update is October 15, 2021. However, State law does allow for a 120-day grace period for adoption after the October 15 deadline (or February 12, 2022). After the City locally adopts the 2021-2029 Housing Element, the City must obtain certification of the new Housing Element from the California Department of Housing & Community Development (HCD) to avoid a number of serious consequences. The importance of Housing Element Certification is discussed in detail later in this report.

B) Housing Element Update

Content of the Housing Element

Housing Element Law specifies that the Housing Element must evaluate accomplishments from the previous planning cycle, analyze the existing and projected housing needs of the city, identify an inventory of available land for housing that has the capacity to accommodate the City's Regional Housing Needs Assessment (RHNA) obligations for all income categories, identify constraints for housing developments in the City, and provide programs to meet the City's housing needs in the City.

In addition, AB 686 was signed into law in 2018. It sets a statewide framework to affirmatively further fair housing, promote inclusive communities, further housing choices, and address racial and economic disparities through local Housing Elements. It requires jurisdictions to include analysis of existing fair housing conditions within the jurisdiction as part of the Housing Element Update, and incorporate programs that are aimed to prevent residential segregation and exclusion by race, ethnicity, disability, income, and more.

Regional Housing Needs Assessment (RHNA)

California's housing element law acknowledges that, in order for the private market to adequately address the housing needs and demands of Californians, local governments must adopt plans and regulatory systems that provide opportunities for housing development. As a result, housing policy in California rests largely on the effective implementation of local housing elements and identification of land for each jurisdiction's RHNA allocation. However, the State also recognizes that local governments have no control over the housing market. Therefore, the State mandate for RHNA allocation is a "planning target" and not a "building quota." Thus, while the City is required to identify land for housing, the City is not required to enforce actual construction of the units.

The RHNA is an estimate or projection of future housing needs during a specified planning period for all income levels in a jurisdiction, and is required by State law. The State utilizes a top-down process for RHNA allocations whereby HCD distributes RHNA

allocations to the Metropolitan Planning Organization (MPO) in each region, and the MPO then distributes the regional RHNA to each jurisdiction within that region. SCAG is the MPO for the Southern California six County region and was responsible for allocating RHNA to the City of Redlands.

The RHNA allocation process for the 6th Cycle Housing Element was robust and controversial due to the fact that all regions in the state received significantly higher RHNA allocations from HCD than previous cycles. Consequently, jurisdictions in the State are tasked to plan for a significantly higher RHNA allocation for the 6th Cycle than previous updates. For the SCAG region, the RHNA allocation distributed from HCD was 1,341,827 units. Of that number, the City of Redlands received 3,516 units. The table below shows the City’s RHNA allocation by each income level for the 6th Cycle.

6th Cycle RHNA Allocation by Income Level Category

Income Level	RHNA
Very-low (below 50% of median)	967
Low (50%-80% of median)	615
Moderate (80%-120% of median)	652
Above moderate (over 120% of median)	1282
Total	3516

HCD Reviews RHNA Sites

In reviewing local Housing Elements for compliance, the California Department of Housing & Community Development (HCD) exercises its authority to review a jurisdiction’s proposed RHNA site inventory, and to reject RHNA sites proposed if it deems any site to be unsuitable for housing development or that a site is unlikely to achieve its maximum housing density when developed. In order to increase the likelihood for the City’s proposed RHNA sites to be accepted by HCD, the following assumptions have been utilized for the Low Income and Moderate Income sites.

- A 20% buffer has been added to the low and very-low income RHNA to account for potential net loss units
- Actual development density is assumed to be 24 DU/acre for lower income sites based on actual development trend in the City
- A 50% calibration factor has been applied to all parcels in the Transit Villages Specific Plan (TVSP) area due to mixed-use zoning (i.e. no more than 50% of the site will be assumed to be available for housing development)
- All Low Income and Very Low Income parcels outside the TVSP will be designated for Very High Density Residential (R-3)
- All Moderate Income parcels outside the TVSP will be designated for Medium Density Residential (R-2), except for properties with current zoning that already allows for densities above 15 DU/acre

After applying a 20% buffer, the total number of RHNA units for the City is 4,218; the City’s land inventory must have sufficient sites to accommodate this number of housing

units, by income category, during the eight year Housing Element period. Broken down by income category, 1,160 units are for the Very-Low income category (below 50% AMI), 738 units are for the Low income category (50% to 80% AMI), 782 units are for the Moderate income category (80% to 120% AMI), and 1,538 units are for the Above Moderate income category (over 120% AMI).

For the purpose of Housing Element RHNA site inventory analysis, the Very-Low income and Low income categories are combined and referred to as "Lower Income" due to the fact that these two groups are subject to the same minimum housing density requirement. Therefore, the City's RHNA target (with 20% buffer) for the Lower Income category is 1,898 units (1,160 + 738 = 1,898).

RHNA Density Requirements

In identifying sites to accommodate the RHNA allocation, the city needs to consider density requirements and assumptions for each income level. HCD sets the baseline minimum density requirements for the Low and Very-Low income categories, but allows each jurisdiction to set its own density range for the Moderate and Above Moderate income levels. For all jurisdictions within the County of San Bernardino, the default minimum density set by HCD for Low and Very-Low income levels is 30 dwelling units per acre (30 DU/ac). The City is required to use the State's default minimum density of 30 DU/acre for the Low and Very-Low income RHNA sites, as was the case for the City's 4th and 5th Cycle Housing Element Update. The table below shows the density requirement for each income category within the City.

<i>Income Levels</i>	<i>Min. Density (DU/acre)</i>
Very-low income	30
Low income	30
Moderate income	12 to 30
Above moderate income	1 to 12

City's Identified RHNA Capacity

Based on the assumptions on unit yield and density requirements for each income category, the project team has identified sufficient sites to accommodate the City's RHNA requirement. The draft RHNA sites have been mapped on a web-based map which has been made available for public view since April on the City's Housing Element Update webpage ([click here for link](#)).

The draft RHNA sites have been presented to the public at two community meetings on April 26 and May 13, 2021. Additionally, it was reviewed by the Planning Commission at two Housing Element study sessions on April 13 and May 25, 2021. The project team received comments from the Planning Commission and made appropriate adjustments to the site inventory to achieve a refined balance that aligns with the City's goals as well as HCD's expectations. Staff has attached the Planning Commission staff reports for both study sessions (see Attachment A and Attachment B).

The table below summarizes the City's RHNA by income category, the capacity of the

proposed site inventory, and the surplus capacity (site inventory capacity - RHNA requirement).

Number of Dwelling Units on Potential Housing Sites, by Income Category

	<i>Low & Very Low Income</i>	<i>Moderate Income</i>	<i>Above Moderate Income</i>	<i>Total</i>
RHNA Requirement (with buffer)	1,898	782	1,538	4,219
DU Capacity on Identified Sites	2,461	1,245	210	3,916
Accessory DUs (or "ADU")	69	42	9	120
Recently Entitled Projects	80	0	564	644
Pending Projects	0	0	1,134	1,134
Total Identified Capacity	2,610	1,287	1,917	5,814
Surplus (above minimum RHNA requirement)	712	504	379	1,595

Many of the potential housing sites are clustered in four general areas within the City, as follows:

- Transit Villages Specific Plan area (90 acres)
- East Valley Corridor Specific Plan area (92 acres)
- North Redlands area by Citrus Valley High School (120.8 acres)
- The remainder of the sites are distributed throughout the City (140 acres)

The project team will provide the City Council a detailed analysis of each grouping of sites and rationale behind the selections in the presentation at the study session. Detailed discussion of each grouping of sites is also available in the Planning Commission staff report for their study session on May 25, 2021 , (see Attachment B).

The proposed site inventory contains 119 acres of land that the City will need to conduct General Plan Amendment, rezoning, and/or Specific Plan Amendments in order to allow residential development as the primary use. The City will have three years after the adoption of the Housing Element to accomplish the rezoning and necessary General Plan Amendments.

Furthermore, in order to facilitate housing developments on the identified RHNA housing sites (several of which are currently zoned for industrial uses), staff is considering bringing an urgency ordinance to the City Council for consideration at the first meeting in September that would impose a moratorium on warehouse development on sites that may transition to residential use.

The project team would like to receive feedback from the City Council on the draft RHNA housing sites inventory prior to finalizing the City's draft Housing Element.

The Importance of Housing Element Certification

Compliance Incentives

There are various State grant and loan programs that require a city to have an HCD-certified housing element in order to qualify and apply. Examples of these

funding sources include: Community Development Block Grants, Regional Transportation Funding, SB 1 Planning Grants, Permanent Local Housing Allocation, Affordable Housing & Sustainable Communities, CalHome Program, Infill Infrastructure Grants, Prohousing Designation Program, and Local Housing Trust Fund Program. HCD provides an information sheet (see Attachment C) that further describes some of these funding opportunities.

Consequences of Housing Element Non-compliance

HCD is authorized to review local Housing Elements and determine its compliance with the State's Housing Element Law. If HCD determines that a jurisdiction's Housing Element fails to substantially comply with State law, the State legislature has authorized HCD to forward the case to the State Attorney General's Office for enforcement actions. There are potentially serious consequences that extend beyond the realm of residential land use planning if a jurisdiction fails to achieve Housing Element certification by the HCD. These consequences are described in more detail below.

The Housing Element is a required element of the General Plan. If the Housing Element is found to be out of compliance, then the entire General Plan is at risk of being deemed inadequate, and therefore, invalid. This could make the City vulnerable to lawsuits from the State, developers, and advocacy groups. Some possible repercussions include the following:

1. Loss of Local Control

- General Plan consistency findings are required in most planning and development decisions. A jurisdiction without a valid General Plan will not be able to make General Plan consistency findings. Therefore, the jurisdiction may run the risk of approving projects based on a noncompliant General Plan, and expose itself to litigations. If a jurisdiction was challenged in court regarding the validity of the General Plan, and the General Plan would found to be invalid, a court could assume control over local land use decisions.
- State may appoint an agent to bring the City's General Plan and Housing Element into compliance.
- Court approval of housing developments.
- Court takes away the City's ability to approve zone changes, variances, or approve residential and non-residential entitlement projects. The City of Menlo Park is an example.
- Courts have the authority to suspend local land use and permitting powers when the jurisdiction's Housing Element is not in compliance. Courts have the authority to order building permit moratorium, and effectively prohibit jurisdictions from issuing building permits for residential and non-residential projects until the jurisdiction's Housing Element have been certified by the HCD. Examples of jurisdictions that have received court ordered building permit moratorium due to a none-certified Housing Element include County of Humboldt, County of Napa, County of Sonoma, City of Lincoln, City of Mission Viejo, and City of Pasadena.

2. Carryover of RHNA Unit Allocation

- State law provides that if a city does not demonstrate the availability of adequate sites to accommodate its RHNA allocation, the shortfall is carried over and added

to the city's RHNA for the next Housing Element planning cycle.

3. More frequent Housing Element Updates

- When a jurisdiction does not adopt its Housing Element within the statutory deadline, subsequent updates must be completed on a four-year schedule rather than an 8-year schedule for at least two consecutive cycles, resulting in administrative and cost burden for the jurisdiction.

4. State Enforcement and Litigation

- Cities are required by State law to adopt a compliant Housing Element, and failure to do so could result in the State pursuing enforcement action against a non-compliant city. In 2019, Governor Newsom directed the State to file a lawsuit against the City of Huntington Beach due to its failure to comply with the State's Housing Element requirements, which the city subsequently corrected by filing a compliant Housing Element. The City of Encinitas is another recent example where HCD referred the city's noncompliance to the State Attorney General's office, resulting in subsequent cycles of lawsuits.

5. Attorney Fees

- If a jurisdiction faces a court action due to its lack of compliance with the Housing Element Law, and either loses or settles the case, it often must pay substantial attorney's fees to the plaintiff's attorney in addition to the fees paid to its own attorneys.

6. Court Receivership

- Courts may appoint an agent to the jurisdiction to remedy identified Housing Element deficiencies and bring the jurisdiction's Housing Element into substantial compliance with State law.

In conclusion, there are potentially severe consequences if the City does not obtain HCD certification for the Housing Element, or fails to adopt the new Housing Element within the statutory deadline. Over the years, California has steadily increased the penalties for cities not having a legally-compliant Housing Element, and this trend is expected to continue.

C) Project Schedule

The expected project schedule is outlined in the table below. HCD's recently-published new requirements pertaining to Affirmatively Furthering Fair Housing goals which are being enforced for this 6th Cycle Housing Element Update, and may affect (and prolong) the anticipated schedule for adoption depending on the extent of comments or revisions that will be issued by HCD.

Overview of Project Schedule

<i>Months</i>	<i>Tasks</i>
February – April	Public outreach through online housing needs survey and stakeholder interviews
March	RHNA site inventory completed
April 13	Planning Commission study session #1
April 26	Community Meeting #1
May 13	Community Meeting #2
May 25	Planning Commission study session #2
June 29	City Council study session
June-July	Admin. Draft document completed for staff internal review
mid-July	Submit Draft Housing Element to HCD for review prior to local adoption
September – October	City staff receives comments from HCD; revise document as needed
October – November	Planning Commission and City Council hearings to adopt the 2021-2029 Housing Element

HCD recommends that each jurisdiction submit its draft Housing Element for review prior to local adoption. While staff is committed to the project schedule above, it should be noted that there are uncertainties involved with HCD review, particularly in regard to RHNA inventory site selection and the new requirements for Affirmatively Further Fair Housing. It is not uncommon for jurisdictions to undergo multiple rounds of review with the HCD (and revisions may be required prior to re-submittal). Nevertheless, with the assistance and experience of our consultant team, and by staying afresh with the latest State laws on housing policies in addition to being conservative on the RHNA site selections, staff is hopeful for a smooth process.

D) Environmental Review

The City's consultant will be preparing the environmental review documents including an Initial Study for the Housing Element Update in the next few months.

SUBMITTED BY:

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Attachments

Attachment A: Planning Commission staff report of April 13, 2021

Attachment B: Planning Commission staff report of May 25, 2021

Attachment C: HCD Incentives and Consequences
