

# Capitola City Council

## Agenda Report



**Meeting:** February 9, 2023

**From:** Community Development Department

**Subject:** Citywide Housing Element

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Recommended Action: 1) Receive the presentation introducing the Housing Element Update;

Background: In accordance with applicable State housing law, local government agencies are legally required to adopt plans and programs for housing that provide opportunities for and do not unduly constrain housing development. The Housing Element, which is one of seven State-mandated components of the City's General Plan, is therefore a mechanism by which the State requires local jurisdictions to provide a variety of housing options and strive toward reaching regional housing needs while maintaining civic and local responsibility toward economic, environmental, and fiscal factors and community goals stated within adopted General Plan documents.

Housing Elements are required to be updated every eight years and are required to be certified by the State of California Department of Housing and Community Development (HCD) prior to finalization, in order for HCD to ensure that cities are taking necessary steps to promote the creation of housing for all income categories and of all housing types.

The City's current Housing Element was adopted by the Capitola City Council in 2015 and certified by the State of California in 2016, and will be in effect through December 2023. The City is required by law to update the Housing Element for the 2023-2031 planning period (also known as the sixth cycle) and have the updated Housing Element adopted and certified by HCD by December 31, 2023.

On May 12, 2022, the City Council authorized an agreement with RRM Design Group (RRM) for the preparation of the 2023-2031 Housing Element. Staff has worked with RRM to assess existing and projected housing needs, review the existing Housing Element, and commence work on the updated Housing Element. In addition, pursuant to applicable State housing law, the City has started soliciting public participation from all segments of the community in the preparation of the Housing Element.

Discussion: Unlike State housing law, the composition and condition of Capitola's housing stock has remained relatively stable during the past housing cycle. Between 2015-2021, one very-low-income, two moderate-income units, and 39 above-moderate-income units were developed in Capitola. Moderate-income units include secondary dwelling units and above-moderate-income units include new and replacement home construction. In addition, Capitola has accomplished the following during the 2015-2023 5<sup>th</sup> cycle:

- Updated the entire zoning code; commercial corridors updated to include mixed-use
- Adopted Objective Design Standards for all multi-family and mixed-use
- Adopted a prototype accessory dwelling unit (ADU) design (building plan-ready)
- Created an ADU Guidance Document for the public
- Updated Inclusionary Housing Ordinance and housing impact fees
- Funded emergency housing program and rental assistance for low-income
- CDBG mobile home rehabilitation programs (8) and down payment assistance program (1)

## **Housing Element Compliance**

Failure to comply with applicable Housing Element law, or to incorporate the abovementioned statutory requirements in a Housing Element, may result in HCD issuing findings of non-compliance and withholding certification of a Housing Element. In such cases, the City may be subject to significant consequences, including disqualification from obtaining certain funding grants or bonds from the State of California, suspension or termination of various State-issued proposition funds, potential litigation, the imposition of a moratorium on land use approvals and building permit issuance, the potential loss of post-redevelopment dissolution funds (Housing Asset Funds), and the requirement to update the associated Housing Element on a four year planning cycle, rather than an eight year cycle. In addition to facing significant fines, a court may limit local land use decision-making authority until the jurisdiction brings its Housing Element into compliance. Additionally, the City may lose eligibility for housing-related grant funding, such as SB 2 Planning Grants and CalHome funds, among others.

## **Housing Element Key Components**

State law (California Government Code Sec. 65583 et seq) sets forth requirements for Housing Elements and related land use regulations related to housing. The Draft 2023-2031 Housing Element will include the following components:

- **Background Information:** A housing needs assessment which identifies and analyzes the existing and projected housing needs within the City by examining demographic, employment, and housing trends and conditions, with attention paid to special housing needs (e.g., seniors, large families, persons with disabilities).
- **Constraints on Housing Analysis:** An analysis of existing and potential governmental and nongovernmental barriers to housing development.
- **Housing Resources:** An inventory of resources relevant to meeting the City's housing needs.
- **Housing Plan:** A statement of goals, policies, quantifiable objectives, and financial resources available for the preservation, improvement, and development of housing.
- **Evaluation of Past Performance:** Review of the 2015-2023 5<sup>th</sup> cycle Housing Element to measure progress and effectiveness of housing and outreach policies and programs.
- **Public Participation:** Implement a robust community engagement program, reaching out to all economic segments of the community plus traditionally underrepresented groups.
- **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.

## **Regional Housing Needs Allocation (RHNA)**

The Regional Housing Needs Allocation (RHNA) is mandated by State law to quantify the need for housing throughout the State. This informs the local planning process to address existing and future housing needs resulting from projected state-wide growth in population, employment, and households. Every City and County in California must plan for its fair share of the region's housing need, as determined through the RHNA process. HCD identifies the total housing need for each region of the state. In the Monterey Bay region, the Association of Monterey Bay Area Governments (AMBAG) distributes this regional need to local governments. Once a local government has received its RHNA, it must revise its Housing Element to demonstrate how it plans to accommodate its portion of the region's housing need.

Capitola's 5<sup>th</sup> cycle RHNA requirement was 143 units, which was the same requirement as the previous 4<sup>th</sup> cycle. AMBAG has allocated Capitola 1,336 housing units for the current 2023-2031 6<sup>th</sup> cycle.

It is important to note that the Housing Element is a policy document, and no actual development is proposed as part of the adoption of the housing element. Further implementation actions will need to be undertaken in accordance with state law (Assembly Bill 1398). In general, housing units are not built by the City but instead developed primarily by private and nonprofit developers on private property.

## Housing Programs

During the 2015-2023 5<sup>th</sup> cycle Housing Element update, the City adopted 32 programs that strive to accommodate housing through preservation, improvement, and the development of new housing units. Moreover, opportunity sites identified in the 2015-2023 5<sup>th</sup> cycle Housing Element could provide a total of 75 units for very low- and low-income households which exceeded the 57 unit RHNA requirement by 18 units.

Strategies and programs identified within the Housing Plan focus on the following list. Specific goals, policies, and programs to accomplish each of these will be identified within the Housing Plan section of the draft housing element.

- Conserve and improve existing housing stock;
- Assist in the development of affordable housing;
- Improve the safety, quality, and existing housing condition;
- Facilitate housing development for all income levels and household types, including special needs populations and new affordable housing;
- Remove governmental constraints to housing development; and
- Promote fair housing opportunities for all.

## New Housing Element Requirements

Recent changes to state law have imposed new requirements for the Housing Elements which introduces substantial challenges to the City's ability to identify sites to accommodate our required RHNA allocation. New Housing Element requirements include:

- Higher RHNA Allocations: The City's 2015-2023 Housing Element RHNA allocation was 143 units, including 57 lower-income units. Comparatively, the 2023-2031 Housing Element RHNA allocation of 1,336 units, including 712 lower-income units, is approximately 9.3 times higher than the previous element's allocation.
- Affirmative Further Fair Housing (AFFH): Assembly Bill 686 was passed in 2018 as the statewide framework to affirmatively further fair housing (AFFH) to promote inclusive communities, further housing choice, and address racial and economic disparities through government programs, policies, and operations. AB 686 defines "affirmatively furthering fair housing" to mean "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" for persons of color, persons with disabilities, and other protected classes. The bill added an assessment of fair housing to the housing element which includes the following components: a summary of fair housing issues and assessment of the City's fair housing enforcement and outreach capacity; an analysis of segregation patterns and disparities in access to opportunities, an assessment of contributing factors, and an identification of fair housing goals and actions.
- Eligible Lower-Income Sites: There are new regulations on the extent to which the City can reuse sites included in previous Housing Elements and increased scrutiny of small, and non-vacant sites when these sites are proposed to accommodate units for very low- and low-income households.
- No Net Loss: A 2017 amendment to Government Code Section 65863 (No Net Loss) requires that jurisdictions preserve sufficient and available sites for lower-income housing throughout the RHNA planning period at all times. The City cannot permit the reduction of residential density for any site unless the reduction is consistent with the adopted General Plan, including the Housing Element. Additionally, if the City allows development of any site with less units by income level than identified in the Housing Element for that site, it must determine if the remaining sites identified in the Housing Element are adequate to meet that need by income level. If sites identified for lower-income housing are developed with less units than identified in the Housing

Element or developed for a higher income group, the City shall either identify and rezone adequate substitute sites or demonstrate that the land inventory already contains adequate substitute sites so that there is no net loss of residential unit capacity.

### **Sites Inventory and Density**

The City must demonstrate in its Housing Element the ability to meet its RHNA allocation, through the provision of sites suitable for residential development. To meet the assigned housing needs, the Housing Element will identify sites that may be suitable for residential development, including vacant and non-vacant sites throughout the City. In addition, the City will include an estimate of ADUs projected to be constructed during the planning period based on development trends. The sites inventory analysis will demonstrate that the City has adequate capacity to accommodate the RHNA for the 2023-2031 6<sup>th</sup> cycle planning period. The City will also be required to specify the projected housing type/density for each identified site.

The statutory deadline for the Housing Element update is December 31, 2023. State law requires that the adequate sites for RHNA must be available for the entire duration of the Housing Element planning period. Therefore, upon the deadline of the Housing Element update, adequate sites (with appropriate designation/zoning and development standards) must be available, or the Housing Element must commit to a program to address the shortfall of sites within a specified timeframe.

If sites are made available after the statutory deadline (through rezoning), those sites are subject to higher standards:

- Zoning districts and sites to accommodate lower income RHNA must provide a density range with a “minimum density of 20 du/ac and a maximum density of at least 20 du/ac”. While this language may seem confusing, it is reflective of current state law.
- Sites for lower income RHNA must be able to accommodate at least 16 units on site.
- Non-residential zones to accommodate lower income RHNA must allow standalone residential and for mixed use development – cannot require more than 50% of the floor area as non-residential.
- Must permit by right approval if project includes 20% affordable to lower-income.

If sites are made available before the statutory deadline (through rezoning), these conditions do not apply. To avoid the above conditions, the rezoning must be completed on or before the statutory deadline of December 31, 2023, and concurrent or before the Housing Element adoption.

The rezoning process also requires a minimum six-month review period to be adopted locally and then certified by the California Coastal Commission. Staff plans to evaluate the necessary density zoning adjustments for the Updated Housing Element and to work toward Planning Commission, City Council and California Coastal Commission approval of density rezoning before the end of this year (2023) to avoid unwanted complications and/or restrictions.

### **Public Participation**

The 2023-2031 Housing Element update process has provided, and will continue to provide, residents and other interested parties with opportunities to review draft documents and proposed policies, and to provide recommendations for consideration by decision-makers pursuant to Government Code §65583. To date, the following public outreach efforts have been made during the update process:

- Online Housing Needs Survey (currently ongoing)
- Stakeholder Interviews

The following public outreach efforts will be conducted throughout the remainder of the update process:

- Planning Commission Study Session (February 2, 2023)
- City Council Meeting (February 9, 2023)

- Community Workshop #1 (February 2023, date TBD)
- Public Review of Draft Housing Element (30 days; Spring 2023)
- Community Workshop #2 (During Public Review period)

### **Next Steps**

City staff and RRM will coordinate on providing the following for the 6<sup>th</sup> cycle Housing Element Update:

- Proceed with the sites inventory analysis;
- Host two community workshops;
- Draft the Housing Element document and housing programs;
- Periodically report to the Planning Commission for recommendations and input;
- Prepare and refine draft CEQA documents;
- Submittal to HCD (14 days after close of Public Review);
- HCD Mandatory Review of Draft Housing Element (90 days);
- Respond to HCD comments; and
- Conduct Planning Commission/City Council hearings for adoption of the Housing Element (Fall/Winter 2023)

As part of the upcoming process, the draft housing element will be available for public review and will require an initial review period by HCD of 90 days. Subsequent review cycles of review by HCD will be in increments of 30 days.

Fiscal Impact: There is no fiscal impact associated with this report.

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