



AGENDA REPORT

- Meeting Date:** November 15, 2011
- Item Number:** D-3
- To:** Honorable Mayor & City Council
- From:** Susan Healy Keene, AICP, Director of Community Development
- Subject:** A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ADOPTING THE GENERAL PLAN 2008-2014 HOUSING ELEMENT UPDATE, AMENDING THE GENERAL PLAN SAFETY ELEMENT TO INCLUDE THE 2010-2015 HAZARD MITIGATION ACTION PLAN, AND ADOPTING A NEGATIVE DECLARATION PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
- Attachments:**
1. Letter to the City from the California State Department of Housing and Community Development, Dated October 18, 2011
 2. Planning Commission Recommendation
 3. State Law Governing Community Care Facilities, Emergency Shelters, Transitional and Supportive Housing, and Single-Room Occupancy Housing
 4. Resolution
 - a. Exhibit A 2006-2014 General Plan Housing Element Update
 - b. Exhibit B Adopted 2010-2015 Hazard Mitigation Action Plan
 - c. Exhibit C Initial Study and Negative Declaration
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RECOMMENDATION

The Planning Commission and Staff recommend that the City Council adopt a resolution adopting the General Plan 2008-2014 Housing Element Update, amending the General Plan Safety Element to include the 2010-2015 Hazard Mitigation Action Plan, and adopting a negative declaration.

INTRODUCTION

The California State Department of Housing and Community Development has submitted a letter to the City (Attachment 1) indicating that with the City Council's adoption of the 2008-2014 Housing Element Update (Attachment 4, Exhibit A), the State would certify the document. This would be the first time that the City's Housing Element Update has received State certification. State certification would be beneficial for the City and this is summarized in the discussion section of this report.

The item before the City Council today consists of three separate actions. The Planning Commission reviewed these actions and made their recommendation (Attachment 2) during a public hearing held on October 18, 2011. The first action would be to adopt a negative declaration per the requirements of the California Environmental Quality Act (CEQA). The second action would be to adopt the updated General Plan Housing Element for the period of 2008-2014. The third action would be to amend the General Plan Safety Element to include the City's adopted Hazard Mitigation Action Plan for the period of 2010-2015. These three actions are presented and discussed separately in this report.

Adopting a Negative Declaration Pursuant to CEQA

Following the requirements of the California Environmental Quality Act (CEQA), adopting the Housing Element Update and amending the Safety Element were reviewed for potential impacts to the environment (Attachment 4, Exhibit C). An initial study was conducted and that study concluded that there would be no significant environmental impacts. A notice of availability was released on October 3 advertising a 35-day public comment period which ended at 5:00 pm on November 7, 2011. A Negative Declaration has been prepared and attached, along with the initial study for the City Council's consideration. Summary of the environmental review is continued in the discussion section of this report.

Adopting the General Plan 2008-2014 Housing Element Update

The State of California requires every jurisdiction to periodically update its Housing Element to assure the housing needs of the community are provided for. The City's current Housing Element was for the planning period of 1998-2005. The proposed Housing Element Update would be for the planning period of 2008-2014, with the 2005-2008 "gap" period being accounted for in the current document. Adoption of the proposed 2008-2014 Housing Element is further outlined in the discussion section of this report.

Amending the Safety Element to Include the 2010-2015 Hazard Mitigation Action Plan

The State of California requires every jurisdiction to update its Hazard Mitigation Action Plan every five years. The current Hazard Mitigation Action Plan (Attachment 4, Exhibit B) is for the 2010-2015 planning period and was adopted by the City Council on August 17, 2010, and approved by the Federal Emergency Management Agency (FEMA) on March 4, 2011. Amending the City's General Plan Safety Element to include the adopted Hazard Mitigation Action Plan (HMAP) is procedural and will enable the City to seek larger reimbursements for costs incurred responding to disasters.

DISCUSSION

As mentioned previously, this item consists of three actions. These three actions are discussed separately in this section.

Environmental Review - Adopting a Negative Declaration Pursuant to CEQA

Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City completed an initial study to analyze whether the proposed update of the Housing Element and addition of the HMAP to the Safety Element (together the "Update") would result in any significant impacts.

The Initial Study (Please see Attachment 4, Exhibit C), concluded that the Update would not result in any significant impacts on the environment. As discussed in the Initial Study, the City of Beverly Hills is located within an urbanized area, is almost entirely built out and includes established roadways, circulation patterns and utility services. The Update includes the adoption and implementation of two City of Beverly Hills planning documents. The first is the 2008-2014 Housing Element of the City of Beverly Hills General Plan. The second is the 2010-2015 HMAP. Neither of the updated plans includes modifications to development patterns or changes in the pattern of land uses established in the General Plan. The Update does not propose or contemplate specific development projects; however, goals and policies of the plans may result in future actions that could have environmental effects. All new development and redevelopment projects in the City, however, are required to be consistent with the general plan and development regulations established in the municipal code. As projects come forward in the future, each project will be reviewed for consistency with these documents and for impacts to the environment per CEQA.

The Initial Study and Notice of Intent to Adopt a Negative Declaration were completed and circulated for public review. The public comment period commenced on October 3, 2011 and ended at 5:00 pm on November 7, 2011. Any comments received during the 35-day comment period have been included as an attachment to this report.

For the reasons summarized in the resolution (Attachment 4) and discussed in further detail in the environmental checklist (Please see Attachment 4, Exhibit C), implementation of the Amendments as a whole would not have a significant impact on the environment.

Adopting the General Plan 2008-2014 Housing Element Update

In a letter to the City dated October 18, 2011, the California State Department of Housing and Community Development (HCD) has indicated it is prepared to certify the City's proposed 2008-2014 Housing Element Update upon adoption and submittal (Attachment 1). This is the first time Beverly Hills will have attained HCD certification of its Housing Element. For certification the State requires that each jurisdiction evaluate housing needs of its community and provide programs to meet the community's housing needs. The State also requires each jurisdiction to review and assure that any governmental constraints to the production of housing are reduced or eliminated.

In the past, the City has opted to not attain State certification and to, instead, self-certify. What self-certification means is that the City assumed the responsibility of assuring that

its housing programs would produce the minimum number of housing units required by the State (e.g. would meet the City's RHNA Numbers¹).

With State certification, if the number of housing units constructed in the city does not meet the RHNA numbers by the end of the planning cycle, SCAG would not include the balances as part of the next cycle of RHNA allocations to the City. With self-certification, if the number of housing units constructed does not meet the RHNA numbers allotted, the remaining numbers carry over and are added to the new RHNA number allotted in the next cycle. In the prior cycle, the City self-certified and no affordable units were built. Therefore, as a result of self-certifying, the number of housing units that the City was required to plan for in the last housing cycle were carried-over and added to the number of housing units allotted in the current planning cycle².

Benefits of a State Certified Housing Element

- **Reduced Litigation Risks.** The City could face litigation regarding its housing element or general plan, or with respect to disapproval of a housing project. Courts can impose a range of sanctions if they rule the Housing Element invalid, including a moratorium on all development and local land use authority until the element is brought into compliance. Furthermore, the jurisdiction is responsible for paying the litigant's attorney fees. Settlement agreements between the parties often include stipulations for mandatory rezoning and affordable housing production requirements. With certification by the State, the City's Housing Element would enjoy a rebuttable presumption of validity, pursuant to Govt. Code Section 65589.3.
- **No RHNA Carryover.** Where the jurisdiction's prior Housing Element fails to identify adequate sites to address the RHNA, the unmet RHNA carries over to future Housing Element cycles, rendering future compliance more and more difficult.
- **Ability to Qualify for State Funding.** State housing, community development and related infrastructure funding programs typically use Housing Element compliance as a ranking or threshold requirement. Examples include:
 - The State's Infill Incentive Grant Program
 - Workforce Housing Reward Program
 - Infrastructure and Economic development Bank Revolving Loan Program

¹ The following is background information regarding RHNA Numbers: Approximately every seven years (the State's "planning cycle"), the State allots a household growth need to the regional government (*In our area this is the Southern California Association of Governments, or SCAG*), SCAG in turn assigns a specific number of new housing units to each city and county through a process called the "Regional Housing Needs Assessment" or "RHNA" (*pronounced: "rhee-nah"*). This housing allotment, or "RHNA Numbers", is the minimum new housing units that each city and county must plan for in the next 7-year planning cycle. The RHNA Numbers are divided into four separate income categories – very low income, low income, moderate income, and above moderate income - based on the "Area Median Income" or "AMI" for the local county. Each city and county must update their Housing Element to assure that their General Plan includes enough housing sites – either vacant or underdeveloped - and programs to accommodate the housing units allotted.

² The City's current RHNA Numbers are: Market Rate – 178 Units, Moderate – 117 Units, Low – 113 Units, Very Low – 146 Units. These numbers include carry over from the prior cycle because the State did not certify the City's prior Housing Element.

Compliance with State Housing Law. The State requires jurisdictions to update their zoning codes to allow community care facilities, emergency shelters, transitional and supportive housing, and single-room occupancy housing in certain areas of the City. Currently the City’s zoning code does not address any of these housing types.

Adoption of the proposed Housing Element does not include immediate changes in the City’s zoning rules; however, for State compliance the City will need to accomplish this within the next year. Supplemental information, including definitions, for each housing type is provided in Attachment 3.

State Housing Law

(Definitions Are Provided in Attachment 3)

Housing Type	Required Zoning Provision
Community Care Facilities	
6 or fewer residents	All residential areas, By-Right
7 or more residents	Multiple Family areas, with a Conditional Use Permit
Emergency Shelters	Multiple-family Residential Congregate Housing for Elderly and Disabled Persons Overlay Zone, By-Right
Transitional, and Supportive Housing	Treat as residential uses subject to the same requirements as other residential uses of the same type in the same zone
Single-Room Occupancy Housing	Multiple-family areas, with a Conditional Use Permit

Amending the Safety Element to Include the 2010-2015 Hazard Mitigation Action Plan

As mentioned in the introduction, amending the City’s General Plan Safety Element to include the adopted Hazard Mitigation Action Plan (HMAP) is procedural and will enable the City to seek larger reimbursements for costs incurred responding to disasters. No substantive changes have been made to the previously approved HMAP.

PREPARING FOR THE NEXT HOUSING ELEMENT UPDATE

Once the City Council has considered and acted on the current Housing Element update, staff will begin preparing for the next (2013 – 2021) update. Recent changes in the State’s regional planning processes reduced the current Housing Element cycle from ending in 2014 to ending in 2013. Additionally, with this next cycle there will be a penalty for not adopting a Housing Element by October, 2013. If the City meets this deadline, its next Housing Element update will be due in eight years. If the City misses this deadline, the City’s next Housing Element update will be due in four years. Staff will be including completion of the 2013 – 2021 Housing Element as a priority project in the proposed work plan for this next fiscal year.

FISCAL IMPACT

There are no immediate fiscal impacts from either adopting the General Plan 2008-2014 Housing Element Update, or amending the General Plan Safety Element to include the 2010-2015 Hazard Mitigation Action Plan. However, both documents include specific action items that, when implemented, will have a cost to the City. These specific actions will require further City Council action and at the time that such actions are brought forward a complete assessment of fiscal impacts will be presented.

The fiscal benefits of adopting the General Plan 2008-2014 Housing Element and amending the General Plan Safety Element to include the 2010-2015 Hazard Mitigation Action Plan will qualify the City for State funding for housing programs which the City has not qualified for in the past and will allow the City to seek greater reimbursements for costs incurred responding to disasters.


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