

**INDIAN WELLS CITY COUNCIL
JULY 06, 2023**



To: City Council
From: Community Development Department
Prepared by: Jon Berg, Community Development Director
Subject: **Resolution Approving General Plan Amendment No. 2023-01 for Adoption of the 6th Cycle 2021-2029 Housing Element, and Finding the Action Exempt under the California Environmental Quality Act (CEQA)**

RECOMMENDED ACTIONS:

Council **OPENS** the Public Hearing, takes any public testimony, and **CLOSES** the Public Hearing; and

ADOPTS Resolution approving General Plan Amendment No. 2023-01 for the 6th Cycle 2021-2029 Housing Element; and

FINDS the action exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines.

BACKGROUND:

The Housing Element is a state-mandated element of the City's General Plan and is required to be updated every 8-years and certified by the State Department of Housing and Community Development ("HCD"). The primary purpose of the City's Housing Element is to identify existing and projected housing needs, and include the City's goals, policies, quantified objectives, and programs for the preservation, improvement, and development of housing. California cities are currently in the 6th Housing Element Cycle, which includes the 8-year period between 2021-2029.

In November 2021 the City circulated a Public Review Draft 6th Cycle 2021-2029 Housing Element ("Housing Element"), collected comments from the public and HCD, and then prepared a revised version which was adopted by City Council at a Public Hearing June 2nd, 2022. The Adopted Housing Element was sent to HCD for their State mandated review in consideration for certification. However, the City received a comment letter from HCD on August 12, 2022 (Attachment No. 2) requiring substantive changes to the Housing Element before HCD considers final certification. Since that time, staff worked

with our Housing Consultant, DeNovo Planning Group, and our City Attorney's office to respond to those comments and create a Subsequent Draft Housing Element. On June 22, 2023 the City posted the Subsequent Draft Housing Element online and notified interested parties, housing advocates, and local and regional health and human service providers of its availability and scheduled public hearings with the Planning Commission and City Council. On June 29, 2023, a public hearing on the General Plan Amendment for the Subsequent Housing Element was held by the Planning Commission who recommended approval to the City Council by a vote of 4 to 0, with 1 excused absence. With the City Council's adoption, staff will send the Subsequent Adopted Housing Element back to HCD to continue their review and certification process.

DISCUSSION:

The City's Subsequent Draft Housing Element has been updated to address 2 rounds of comments from HCD. Revisions made prior to the City Council's adoption in June 2022 are shown in track changes (including additions and strikeouts). The most recent revisions, specifically addressing HCD's August 2022 comment letter, are also shown in track changes but are highlighted in yellow (Attachment 3). Generally, HCD's can be grouped into four topic areas:

1. Affirmatively Furthering Fair Housing (AFFH) Research and Analysis
2. Reducing/Removing Governmental and Nongovernmental Constraints
3. Implementation of Housing Programs
4. Public Participation

Below is a summary of the revisions made to address HCD's August 2022 comments:

Affirmatively Furthering Fair Housing (AFFH) Research and Analysis

- Modified Appendix B to provide summary of outreach tailored to AFFH assessment
- Added to outreach portion of Background Report to relate outreach efforts to AFFH analysis
- Added Fair Housing and Equal Opportunity (FHEO) and Department of Fair Employment and Housing (DFEH) data
- Added information on lawsuits, judgements, etc.
- Incorporated latest RCAA data and added analysis
- Elaborated on transit routes and access to transportation in neighborhoods
- Added Table 6-7 to the Background Report quantify number of units by socio-economic conditions and location
- Re-analyzed sites inventory
- Added local data and knowledge
- Added Table 1 to the Housing Plan under Program 20 to summarize AFFH actions and highlight specific commitments, timing, geographic targeting, and metrics

Reducing/Removing Governmental and Nongovernmental Constraints

- Added to analysis of land use controls
- Added impact fees and analyzed difference between multi- and single-family fees
- Added length of time between submittal for Building plan check and issuance of building permits for typical housing development project
- Added additional analysis of emergency shelters and group homes

Implementation of Housing Programs (Revised Metrics, Targets, and Timelines)

- Program 3: Production of New Housing Units (Shortfall Program)
- Program 4: Residential Development Monitoring (No Net Loss)
- Program 5: General Plan Update
- Program 6: Evaluate Alternative Funding and Financing Sources
- Program 8: Accessory Dwelling Units
- Program 9: Public Property Conversion to Housing Program/City-Owned Sites
- Program 13: Development Code Amendments – Housing Constraints
- Program 15: Emergency Shelters
- Program 16: Fair Housing Policy Procedures
- Program 17: Section 8 Housing Choice Vouchers
- Program 19: Support for Persons with Developmental Disabilities
- Program 20: Affirmatively Furthering Fair Housing Program

Public Participation

- Elaborated on the public participation process, including a direct conversation with Lift to Rise, an affordable housing collaborative action network in the Coachella Valley. Updated Housing Plan programs to include more specific efforts for future outreach and consultation.

Schedule

State law has established clear disincentives for local jurisdictions that have not yet adopted their 6th Cycle Housing Element and received HCD's certification. AB 1398 became effective on January 1, 2022, which imposes penalties for not having a certified Housing Element. Cities that have not adopted and received a letter from HCD finding their Housing Element in substantial compliance with State law by February 12, 2022, are required to complete any rezoning identified in their housing program prior to final certification by HCD.

Various consequences may apply if the City does not have a Housing Element in compliance with State Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require a compliant Housing Element as a prerequisite. Second, HCD may notify the California Office of the Attorney General, which may bring suits for violations of State Housing Element Law. Further, state law provides

for court-imposed penalties for persistent noncompliance, including financial penalties. Other potential ramifications may include the loss of local land use authority to a court-appointed agent.

The Planning Commission has recommended City Council adopt the Subsequent Draft 6th Cycle Housing Element. City Council's formal adoption will initiate HCD's 60-day review process for substantial compliance. Once the City receives HCD's letter of substantial compliance, staff can then complete the rezoning program (Program 3) for the housing opportunity site overlay (8-10 acres on APN 633-360-002) to receive HCD's formal certification of the 6th Cycle 2021-2029 Housing Element.

CALIFORNIA ENVIRONMENT QUALITY ACT (CEQA):

This action has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. Staff's recommended Planning Commission action is a recommendation that the City Council find the General Plan Amendment exempt from the California Environmental Quality Act in accordance with Section 15061(b)(3) of the CEQA Guidelines because the activity is governed by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the adoption of this policy document would have a significant effect on the environment, directly or indirectly.

ATTACHMENTS:

1. Resolution
2. HCD August 12, 2022, Comment Letter
3. Subsequent Draft 6th Cycle 2021-2029 Housing Element