

INDIAN WELLS CITY COUNCIL

MARCH 7, 2024



To: City Council
From: Community Development
Prepared by: Jon Berg, Community Development Director
Subject: **Resolution Approving General Plan Amendment No. 2024-01 to Adopt 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. 2024-01 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"). California cities are currently in the 6th Housing Element Cycle, which includes the 8-year period between 2021-2029. 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. Government Code Section 65302(c) mandates that Housing Elements adequately plan for the City's existing and projected housing needs, including its share of the regional housing need (RHNA). The City of Indian Wells has been assigned an allocation of 382 new housing units as its share of the RHNA in Southern California for the 6th Housing Element cycle.

The City Council reviewed and adopted the 2021-2029 Housing Element at their Public Hearing on June 2, 2022 and re-adopted a subsequent draft of the Housing Element at their Public Hearing on July 6, 2023, where they directed staff to submit the re-adopted Housing Element to HCD for their 60-day review to consider certification. However, HCD

issued a letter on September 5, 2023 (Attachment 2), finding that the adopted Element addressed many statutory requirements; however, revisions were necessary to comply with state Housing Element Law. Since that time, staff worked with the City's Housing Consultant, DeNovo Planning Group, and our City Attorney's office to respond to those comments and create a final draft Housing Element.

The final draft Housing Element was posted on the city's website and emailed to interested parties for the required 7-day public review period on November 8, 2023 and then submitted to HCD for their 60-day review on November 15, 2023. HCD issued a letter on December 12, 2023 (Attachment 3), finding that the final draft Housing Element meets the statutory requirements of state Housing Element Law, and that the city must complete any necessary rezoning program as described in Program 3 (Production of New Housing/Shorfall Program) included in the city's Housing Element. HCD finds that the Housing Element will substantially comply with state Housing Element Law (Gov. Code, § 65580 et seq.) when the necessary rezoning is complete and the Element is adopted, submitted to, and approved by HCD.

The Planning Commission recently reviewed the final draft Housing Element at their Public Hearing on February 29, 2024, and unanimously adopted a Resolution (Attachment 4) recommending the City Council approve the General Plan Amendment to adopt the 2021-2029 Housing Element.

DISCUSSION:

In response to comments received from HCD, the City's final draft Housing Element has been updated to address their concerns and has been formatted in a redline strike-out format to show where the updates have been made (Attachment 5). The highlighted text in the document represents the latest updates responding to HCD's September 5, 2023, comment letter. The revisions requested by HCD can be grouped into two topic areas:

1. Affirmatively Furthering Fair Housing (AFFH) Research, Analysis, and Programs
2. Reducing/Removing Governmental Constraints

Below is a summary of the revisions made to the Housing Element to address HCD's requests:

Affirmatively Furthering Fair Housing (AFFH) Research, Analysis, and Programs

- Added approved and entitles projects to the AFFH Analysis
- Revised the following programs to include specific actions, metrics, geographic targets, and/or timelines
 - Program 1: Rehabilitation and Community Revitalization

- Program 2: Preservation of At-Risk Units
- Program 3: Production of New Housing Units (Shortfall Program)
- Program 5: General Plan Update
- Program 8: Accessory Dwelling Units and SB 9 Units
- Program 20: Affirmatively Furthering Fair Housing Program

Reducing/Removing Governmental Constraints

- Revised Program 13: Development Code Amendments - Housing Constraints

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, jurisdictions that do not meet their housing element requirements may face additional financial and legal ramifications. HCD may notify the California Office of the Attorney General, which may bring suit for violations of state Housing Element Law. Further, state law provides for court-imposed penalties for persistent noncompliance, including financial penalties. Other potential ramifications could include the loss of local land use authority to a court-appointed agent.

The Planning Commission has recommended the City Council adopt the final draft of the 6th Cycle Housing Element. With the City Council’s formal adoption, staff will return to the Planning Commission with the associated rezoning program (Program 3) for formal recommendation to City Council. HCD has committed to certifying the city’s 6th Cycle 2021-2029 Housing Element once the rezoning program is complete.

CALIFORNIA ENVIRONMENTAL 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. The city, acting as Lead Agency, has reviewed the project’s potential effects on the environment and has determined that the project is exempt from CEQA 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 September 5, 2023 Comment Letter
3. HCD December 12, 2023 Pre-Certification Letter
4. Planning Commission Resolution
5. Final Draft 6th Cycle 2021-2029 Housing Element