



## Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Jimenez

**SUBJECT:** SEE BELOW

**DATE:** June 16, 2023

Approved

Date: 6/16/2023

**SUBJECT:** GPT22-001 & ER21-032 - City-Initiated General Plan Text Amendment to Revise the Envision San José 2040 General Plan Housing Element for the 2023-2031 Regional Housing Need Allocation (RHNA) Cycle Projection Period Pursuant to State Law and Related Amendment to Chapter 7 of the General Plan.

### RECOMMENDATION

- 1) Adopt a resolution certifying the City of San Jose 2023-2031 Housing Element Update Supplemental Environmental Impact Report and making certain findings concerning no significant impacts of the project, mitigation measures and project alternatives in accordance with CEQA.
- 2) Adopt a resolution approving the General Plan Text Amendment to amend the Envision San José 2040 General Plan to include the 2023-2031 Housing Element, revise Chapter 7 of the General Plan, and repeal the 2014 2022 Housing Element, but eliminate the language in Section 10 of the Resolution and direct the City Manager to return to Council in a study session for direction in the event that HCD does not certify the Housing Element as adopted.
- 3) Direct the City Manager to submit the Housing Element to the state Department of Housing and Community Development (HCD) with the following revisions:
  - a) Enhance and update the narrative provided in Chapter 1 to show the explicit connection between public input and the programs included in Chapter 3.
  - b) Incorporate clear and objective milestones and metrics for all programs identified in public comments, including:
    - i) H-14, Emergency Shelters, which must be designated as an affirmatively furthering fair housing (AFFH) program pursuant to AB 686 and HCD guidance;
    - ii) P-35, Small multifamily housing, which must be designated as an AFFH program;
    - iii) P-24, Housing on Public/Quasi Public Lands, which should be designated as an AFFH program and must specify development standards if different from the current development standards for permanent supportive housing permitted in the PQP Zoning District; and
    - iv) P-7, City ministerial infill approval ordinance, which should specify the eligibility criteria for qualifying residential developments.
  - c) Enhance analysis of Zoning Districts and development standards as constraints that impede the production of housing in Chapter 4.

- d) Include analysis of staff capacity as a constraint in Chapter 4, particularly in light of existing vacancies in the Planning, Building, and Code Enforcement Department (PBCE).
  - e) Include analysis of inter-departmental communication as a constraint in Chapter 4 (e.g., the division in responsibility between PBCE and the Parks, Recreation, and Neighborhood Services Department in determining the standards and acceptability of parks to be dedicated to the City incident to the construction of a new development).
  - f) Provide a more detailed explanation of the Tolemi methodology in Chapter 5, and how it supports the likelihood that individual sites will see their current use discontinued in favor of housing production during the planning period as per AB 1397 and relevant HCD guidance.
- 4) Direct the City Manager to prepare a robust public engagement strategy and take the following actions:
- a) Translate each Housing Element chapter with tracked changes into Spanish and Vietnamese;
  - b) Prepare a matrix with all HCD and public comments received, along with subsequent actions taken to respond to each comment. If no changes were made to the Housing Element, indicate so and include an explanation as to why;
  - c) Send an email to all stakeholder groups and individuals that have either signed up to receive updates regarding the Housing Element or have provided input during the process. The email should include information about changes made to the Housing Element along with opportunities to provide additional input.

## ANALYSIS

Updating a Housing Element is a herculean effort, and the legal demands of the 6th RHNA Cycle sailed well beyond historical requirements. The Housing Element is no longer a predominantly aspirational planning exercise on paper—it is, in HCD’s parlance “a contract with the State.” Now, robust evidence must substantiate the Site Inventory.<sup>1</sup> The Constraints Analysis must be comprehensive. The Programs must contain clear metrics and milestones, and they must meaningfully reduce or eliminate the constraints identified, including impediments to housing production or fair housing access. Affirmatively furthering fair housing principles must inform the entire process. The opinions and input of often underrepresented segments of the community is now required.

I am extremely grateful to the staff who have prepared this document. It provides a strong foundation for a community-driven work plan to address our housing needs over the next eight years. It is plain that San Jose has taken this process seriously.

As a Council, we must be mindful that:

1. The suggestions provided by HCD during the informal review period over the past 6 months are intended to be preliminary feedback, and should not be interpreted as a final determination on what the next comment letter from HCD may require us to address or modify; and
2. Both the City and HCD have an obligation to respond to and address public comments, especially when specific constraints or housing needs and challenges are identified, and—in particular—when those comments touch on affirmatively furthering fair housing principles.

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<sup>1</sup> Gov’t Code § 65583.2(g)(2)

We should be prepared for the possibility that HCD does not certify the Housing Element that we submit. In the event that we do receive another comment letter, staff should return to the City Council in a study session for direction. This is the first time that the City Council has had an opportunity to provide substantive input into the Housing Element after HCD's last round of comments. Staff presentations, both in individual briefings and at the Housing and Community Development Commission, underscore the difficult balancing act staff have had to perform in order to avoid tying the hands of Council with overly prescriptive policies and programs, while also supplying HCD with sufficiently defined programs that it can analyze for certification. We also note the frustrations of various members of the Planning Commission and Housing and Community Development Commission in timely analyzing and offering meaningful input during the last six months of this process.

We, as policymakers, are legally positioned to resolve that balancing act where specific programs and overall direction are concerned. Prior to submitting our adopted Housing Element to HCD, I would like to see a clearly enunciated effort to respond to the public input that we have received. HCD has a statutory obligation to consider third-party input, and we can reasonably anticipate, based on observed experience from other jurisdictions, that HCD will ask City staff about how they have incorporated the input we have received thus far. In a good faith attempt to respond to public input, I recommend the revisions proposed under Recommendation #3 above.

#### Notes

If P-11, Explore Allowing "SB 9" Type Housing on Additional Properties, is an AFFH program, then P-35, Small multifamily housing, must be as well. They achieve the same goals.

HCD guidance regarding the implementation of AB 686 explicitly includes "Shelter standards that unduly restrict the siting of emergency shelters" as a local policy that "that should be analyzed as potential impediments to fair housing choice."

([https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/ab686\\_summaryhousingelementfinal\\_04222020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/ab686_summaryhousingelementfinal_04222020.pdf), page 11)