


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION

(1) ADOPTING THE 2023-2031 HOUSING ELEMENT AS A GENERAL PLAN AMENDMENT TO THE OAKLAND GENERAL PLAN AND

(2) DETERMINING THAT THE ADOPTION OF THE 2023-2031 HOUSING ELEMENT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) PURSUANT TO EACH AS AN INDEPENDENT BASIS: (A) CEQA GUIDELINES SECTION 15061(b)(3), (B) CEQA GUIDELINES SECTION 15283 AND CALIFORNIA GOVERNMENT CODE SECTION 65584(g), (C) CEQA GUIDELINES SECTION 15262 AND CALIFORNIA PUBLIC RESOURCES CODE SECTIONS 21102 AND 21150, AND (D) CEQA GUIDELINES SECTION 15308.

WHEREAS, the City of Oakland is currently undertaking a comprehensive update to its General Plan through a community driven process, which started in 2021 and will continue through 2025, and the Housing Element is one of the eight mandatory elements of the General Plan; and

WHEREAS, on November 20, 2014, the City Council adopted the previous Housing Element for the 2015-2023 planning period; and

WHEREAS, an updated Housing Element is required of each city and county in the Association of Bay Area Governments region to address the housing needs of all residents, in all income levels, over the 2023-2031 planning period; and

WHEREAS, the City of Oakland seeks to adopt its Housing Element for the 2023-2031 planning period as a General Plan Amendment to the City’s General Plan; and

WHEREAS, the City of Oakland has prepared the 2023-2031 Housing Element that substantively addresses all of the requirements provided under California Government Code Title 7, Division 1, Chapter 3, Article 10.6, including Section 65583, in accordance with State law; and

WHEREAS, the Association of Bay Area Governments adopted the Regional Housing Needs Allocation (RHNA) for the 2023-2031 planning period, which requires the City of Oakland to plan to accommodate 26,251 new housing units between 2023 and 2031 to meet its “fair share” of the State’s housing need; and

WHEREAS, of the 26,251 new housing units, 6,511 should be affordable to very low-income households, 3,750 to low-income households, 4,457 to moderate-income households, and 11,533 to above moderate-income households; and

WHEREAS, the 2023-2031 Housing Element demonstrates that based on the City’s current General Plan and zoning regulations, the City has sufficient capacity to accommodate the new housing units required by the RHNA with an additional buffer through designated opportunity sites, and with projects either built, under construction, approved or in predevelopment; and

WHEREAS, the 2023-2031 Housing Element includes a program, referred to as the Housing Action Plan, that sets forth a schedule of action during the 2023-2031 planning period that the City is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element, which addresses each requirement provided under California Government Code Section 65583, subsection (c); and

WHEREAS, to affirmatively further fair housing, with the intention of replacing segregated living patterns with truly integrated and balanced living patterns, the 2023-2031 Housing Element additionally includes proposed actions to rezone select areas, including areas identified by State Housing Community Development (State HCD) Department as “high resource areas,” to accommodate additional density, including parcels around BART stations, along transit corridors, and in existing residential neighborhoods to allow for “missing middle” housing; and

WHEREAS, to close the gap between affordable and market-rate housing production, the 2023-2031 Housing Element includes actions aimed at expanding affordable housing opportunities, including but not limited to a broadly applicable affordable housing overlay; and

WHEREAS, Planning staff conducted a wide range of community engagement focused on the 2023-2031 Housing Element update process, including outreach to communities that have disproportionately been impacted by historic and continued patterns of housing discrimination, through pop-ups, cultural events, townhalls, focused discussions, neighborhood workshops and meetings, online engagement, presentations to community groups and Neighborhood Councils, a dedicated Housing Element website with access to announcements, and project reports, a dedicated General Plan Update email and an e-mail distribution system to send updates to interested parties; and

WHEREAS, Planning staff convened a Technical Advisory Committee comprised of internal City department representatives as well as other Oakland-based, neighboring, and regional governmental agency representatives to solicit feedback on strategies and actions for housing production, preservation, and protections; and

WHEREAS, Planning staff conducted study sessions, encouraged public participation and solicited feedback as part of the Housing Element update process at various public meetings and hearings before the Planning Commission (February 02, 2022), the Community and Economic Development (CED) Committee of the City Council (February 22, 2022), Landmarks Preservation Advisory Board (March 7, 2022, and April 04, 2022); and

WHEREAS, pursuant to AB 215, a draft of the 2023-2031 Housing Element was made available for a 30-day public review between May 12, 2022, and June 13, 2022, and Planning staff solicited feedback on the 2023-2031 draft Housing Element from the CED Committee of the City Council (May 24, 2022), and from the Planning Commission (May 18, 2022, and June 1, 2022); and

WHEREAS, pursuant to AB 215, planning staff took 12 business days to consider and incorporate public comments received during the 30-day comment period and submitted the first draft 2023-2031 Housing Element to State HCD for the 90-day review on June 30, 2022; and

WHEREAS, in response to community feedback, the public review period for the draft 2023-2031 Housing Element was extended to September 30, 2022, to coincide with the 90-day State HCD review period; and

WHEREAS, the City received a total of 54 comments, comment letters, and emails during the comment period, including housing policy recommendations from the Equity Working Group; and

WHEREAS, on September 28, 2022, State HCD, in its findings letter to the City, noted that the City made extensive efforts to engage the community and while the draft 2023-2031 Housing Element addresses many statutory requirements, identified revisions that were necessary to comply with State Housing Element Law, including revisions to the City's sites inventory to affirmatively further fair housing in higher opportunity areas, amendments to the Housing Action Plan to overcome patterns of segregation, address housing mobility, foster inclusive communities, encourage new housing choices in higher resource areas, improve place-based strategies toward community revitalization and protect existing residents from displacement, providing additional analysis and documentation on specific topic areas, and responding to and incorporating public comments in the Housing Element; and

WHEREAS, Planning staff presented the State HCD findings letter and sought direction on State HCD recommendations from the City Council (October 18, 2022) and the Planning Commission (October 19, 2022); and

WHEREAS, Planning staff addressed the changes requested by State HCD, considered and incorporated community feedback where appropriate, and published the Public Hearing Draft 2023-2031 Housing Element on November 29, 2022, with appendices identifying responses to the September 28, 2022 State HCD letter and responses to public comment, and sent an email notice to all individuals and organizations that have requested project updates; and

WHEREAS, pursuant to AB 215, the Public Hearing Draft 2023-2031 Housing Element was formally submitted to the State HCD on December 7, 2022, after the seven-day public review period between November 30, 2022, to December 6, 2022; and

WHEREAS, according to data from the Alameda County Transportation Commission, the City of Oakland, along with the Cities of Berkeley and Emeryville, has the lowest per capita rate of vehicle miles traveled (VMT) in the county (13.2, 11.4, and 10.3 respectively in 2020, compared to a county average of 19.4 and nine-county regional average of 19.8), meaning that individuals who live in Oakland on average drive substantially less than individuals living in other cities in the county and region, and therefore have a significantly reduced carbon footprint; and

WHEREAS, according to research led by Chris Jones at the University of California, Berkeley (coolclimate.berkeley.edu), the single most impactful method available to the City of Oakland to reduce greenhouse gas emissions from local policies is through urban infill development, findings which have been affirmed in other studies, including as summarized in an October 2020 report prepared by Smart Grown America and Transportation for America entitled, “Driving Down Emissions: Transportation, Land Use, and Climate Change”; and

WHEREAS, the City of Oakland 2030 Equitable Climate Action Plan, the City’s roadmap to reducing Oakland’s local climate emissions a minimum of fifty-six percent (56%) from 2005 levels by 2030, includes Action TLU-1 to align the Oakland General Plan with infill development and transit-oriented development priorities as a critical and necessary action for Oakland to meet its greenhouse gas reduction targets; and

WHEREAS, Plan Bay Area 2050 – the Bay Area region’s long-range strategic plan for transportation, housing, the economy, and the environment – identifies substantial portions of Oakland as areas in which the region must focus housing development (“Priority Development Areas”), acknowledges that building housing within cities with low per capita rates of vehicle miles traveled is critical to reducing the region’s transportation related greenhouse gas emissions, and includes housing strategies to allow for a greater mix of housing densities within Priority Development Areas, select Transit-Rich Areas, and select High-Resource Areas (Action H3), and to construct additional housing to ensure homes for all (Action H4); and

WHEREAS, the 2022 California Air Resources Board Scoping Plan for Achieving Carbon Neutrality, Appendix D (Local Actions) and Appendix E (Sustainable and Equitable Communities) explains that reducing VMT, including by encouraging future housing production and multi-use development in infill locations and other areas in ways that make future trip origins and destinations closer together and create more viable environments for transit, walking, and biking, is necessary and must be accelerated for the State of California to achieve long-term carbon neutrality goals; and

WHEREAS, on January 11, 2023, the Planning Commission held a duly noticed public hearing to consider the 2023-2031 Housing Element, and recommended that the City Council (1) adopt the 2023-2031 Housing Element as a General Plan Amendment to the Oakland General Plan as currently drafted with revisions limited to any comments received from the State HCD; (2) determine that the adoption of the Housing Element is exempt from the California Environmental Quality Act pursuant to the environmental determination included in the Planning Commission staff report; and (3) direct the City Administrator to return to Planning Commission after Housing Element Adoption with an analysis of any additional recommended Housing Element text changes proposed by the City Council; and

WHEREAS, on January 24, 2023, at a duly noticed public meeting, the CED Committee of the City Council approved the recommendation of staff and Planning Commission to adopt the 2023-2031 Housing Element; and

WHEREAS, on _____, the City received a letter from State HCD stating that the draft Housing Element is in substantial compliance with State Housing Element Law, and will comply with State Housing Element Law when it is adopted, submitted to and approved by HCD in accordance with Government Code Section 65585; and

WHEREAS, the City Council held a duly noticed public hearing on January 31, 2023, to review and consider the 2023-2031 Housing Element; and

WHEREAS, City staff has determined, and the Planning Commission has recommended, that the adoption of the Housing Element is exempt from the California Environmental Quality Act (CEQA) pursuant to each as an independent basis: (a) CEQA Guidelines Section 15061(b)(3) [the common sense exemption], (B) CEQA Guidelines Section 15283 and California Government Code Section 65584(g) [housing need allocation], (C) CEQA Guidelines Section 15262 and California Public Resources Code Sections 21102 and 21150 [planning studies], and (D) CEQA Guidelines Section 15308 [actions for the protection of the environment]; now, therefore, be it

RESOLVED: That the recitals contained above in this resolution are true and correct, are an integral part of the City Council’s decision, and are hereby incorporated as findings in support of adoption of the 2023-2031 Housing Element; and be it

FURTHER RESOLVED: That the City hereby finds and determines that the adoption of the 2023-2031 Housing Element is exempt from CEQA for the following reasons, each as a separate and independent basis: (1) it can be seen with certainty that there is no possibility that adoption of the 2023-2031 Housing Element may have a significant effect on the environment (the “common sense” exemption, CEQA Guidelines Section 15061(b)(3)), because the Housing Element involves policies, programs, and actions to meet the City’s regional housing needs allocation that either would not cause a significant effect on the environment or incorporates ongoing, existing actions being taken by the City; (2) the 2023-2031 Housing Element is a planning document that serves to implement the City of Oakland’s regional housing needs determination by identifying sites available for construction of housing under existing zoning (CEQA Guidelines Section 15283 and California Government Code Section 65584(g)); (3) the 2023-2031 Housing Element is a planning study containing actions that will require independent review, environmental determination, and adoption by the Oakland City Council prior to its implementation (CEQA Guidelines Section 15262 and California Public Resources Code Sections 21102 and 21150); and (4) the 2023-2031 Housing Element seeks to assure the protection of the environment by reducing greenhouse gas emissions per capita in the City through infill development, which is consistent with research, local and regional planning on the most impactful measures local governments can take in response to climate change (CEQA Guidelines Section 15308); and be it

FURTHER RESOLVED: That the City has previously prepared and certified a set of applicable CEQA documents including (a) 1998 Land Use and Transportation Element EIR (Resolution No. 74129 C.M.S.); (b) 1998 and 2006 Estuary Policy Plan EIRs (Resolution Nos. 75037 C.M.S. and 79982 C.M.S.) and 2013 Central Estuary Area Plan Supplemental EIR (Resolution No. 84442 C.M.S.); (c) 2014 West Oakland Specific Plan (Resolution No. 85108 C.M.S.); (d) 2014 Broadway Valdez District Specific Plan (Resolution No. 85065 C.M.S.); (e) 2014 Lake Merritt Station Area Plan (Resolution No. 85276 C.M.S.); and (f) 2015 Coliseum Area Specific Plan (Resolution No. 85491 C.M.S.) (collectively “Previous CEQA Documents”); and be it

FURTHER RESOLVED: That the City finds and determines that the Site Inventory included in the 2023-2031 Housing Element to demonstrate the City’s ability to accommodate Oakland’s RHNA is consistent with the development standards in the Previous CEQA Documents, and as such adoption of the 2023-2031 Housing Element does not require further or additional review; specifically, none of the circumstances necessitating preparation of additional CEQA review is

present, as specified in Public Resources Code Section 21166 and CEQA Guidelines section 15162 and 15163, in that: (1) there are no substantial changes to the project that would result in new significant impacts or a substantial increase in the severity of significant impacts already identified in the Previous CEQA Documents; (2) there are no substantial changes in circumstances that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the Previous CEQA Documents; and (3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Previous CEQA Documents were certified/adopted, which is expected to result in (a) new significant environmental effects or a substantial increase in the severity of significant environmental effects already identified in the Previous CEQA Documents; or (b) mitigation measures which were previously determined not to be feasible would in fact be feasible, or which are considerably different from those recommended in the Previous CEQA Documents, and which would substantially reduce significant effects of the project, but the City declines to adopt them; and be it;

FURTHER RESOLVED: That the City hereby finds that the 2023-2031 Housing Element substantially complies with all requirements of California Government Code Title 7, Division 1, Chapter 3, Article 10.6, and further finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the adoption of the 2023-2031 Housing Element; and be it

FURTHER RESOLVED: That the City hereby adopts the 2023-2031 Housing Element, attached hereto as *Exhibit A* as a General Plan Amendment; and be it

FURTHER RESOLVED: That the City hereby directs the City Administrator or his or her designee to submit the 2023-2031 Housing Element to State HCD for certification promptly following its adoption; and be it

FURTHER RESOLVED: That the City Council does hereby authorize staff to make non-substantive changes to the 2023-2031 Housing Element to respond to any comments received from State HCD to achieve certification; and be it

FURTHER RESOLVED: That the City Council hereby directs the City Administrator or his or her designee to return to Planning Commission within 60 days of Housing Element certification with an analysis of recommendations for supplemental text amendments to the Housing Element provided by the Community and Economic Development Committee at the January 24, 2023 Community and Economic Development Committee meeting, and by the City Council at this January 31, 2023 City Council meeting; and be it

FURTHER RESOLVED: That the City hereby directs the Environmental Review Officer or designee to cause to be filed a Notice of Exemption with the appropriate agencies; and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City's decision is based are respectively: (a) Oakland Planning and Building Department, Strategic Planning Bureau, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, One Frank H. Ogawa Plaza, 1st Floor, Oakland, California; and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council’s decision.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California