



# STAFF REPORT

City Council

**Date:** April 3, 2024  
**To:** Mayor and City Council  
**From:** Michael Chandler, City Manager  
**Prepared By:** Michael P. Cass, Planning Manager  
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**Title:** Revised and Restated Resolution No. 145-23

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## Recommendation

Consider adopting a Revised and Restated Resolution No. 145-23 to clarify the City's previous action taken on December 20, 2023 to adopt the 2023 – 2031 Housing Element and make specific findings that address nonvacant sites and sites zoned to allow nonresidential uses.

## Background

On December 20, 2023, the City Council adopted Resolution No. 145-23. While the adopted 2023 – 2031 Housing Element substantially complies with all statutory requirements, a revised resolution is needed as the California Department of Housing and Community Development (“HCD”) advised that the Resolution was not sufficient to address nonvacant sites. The attached Revised and Restated Resolution incorporates the requested changes from HCD, by referencing existing information in the administrative record (including but not limited to the staff report, presentation, and written and oral testimony) and in the Housing Element as of the date of adoption on December 20, 2023.

## Discussion

On December 20, 2023, the City Council held a public hearing to consider adoption of the 2023 – 2031 Housing Element, an element of the General Plan, and adopted Resolution No. 145-23 directing staff to submit the 2023 – 2031 Housing Element to HCD. The public hearing included the City Council's consideration of 1) adopting the Resolution approving the Revised 2023 – 2031 Housing Element and directing staff to submit it to HCD for certification; 2) adopting the Resolution approving minor amendments to the General Plan 2035, including amending the General Plan land use designation for four parcels on Fig Tree Lane from Residential Low to Residential Medium; 3) waiving the reading and introducing the Ordinances approving Zoning Text and Zoning Map Amendments establishing a) the Community Services Overlay District and b) the Alhambra Avenue Overlay District; 4) waiving the reading and introducing the Ordinance approving a Zoning Map Amendment amending the zoning district for 32 parcels in the downtown for consistency with the General Plan 2035; and 5) adopting the Resolution approving an Addendum to the General Plan 2035 Environmental Impact Report. The City Council adopted

Resolution No. 145-23 to address adoption of the Housing Element and submittal of the Housing Element to HCD.

HCD reviewed the Housing Element and issued a findings letter on February 16, 2024 (Attachment A). HCD's findings included the requirement that the City must make specific findings (as part of its adoption resolution) related to the suitability of nonvacant sites. The findings letter also identified changes needed to bring the 2023 – 2031 Housing Element into compliance with State law; while the City contends the Housing Element adopted in December 2023 substantially complies with all statutory requirements, in order to enhance the analysis within the Housing Element and address HCD's comments, minor changes have been made to clarify and connect the dots for the reader. These are discussed below under Minor Revisions to the Housing Element.

Pursuant to the adopted Resolution No. 145-23, staff is authorized to coordinate with HCD to address these issues prior to submittal of the adopted Housing Element to HCD for review and during HCD's review of the adopted Housing Element. City staff and the consultant team made multiple attempts to follow up with HCD staff to receive clarification on HCD's comments and to discuss the additional analysis and minor edits to the Housing Element. No response was given to the City's emails sent to HCD staff by the Planning Manager on October 11, 2023, October 16, 2023, October 20, 2023, and February 16, 2024, seeking to discuss HCD comments or to receive information related to HCD comments. Additionally, the City's consultant, Beth Thompson, emailed Helen Eldred of HCD on multiple occasions during HCD's review of the adopted Housing Element to discuss revisions – an opportunity afforded to most jurisdictions working with HCD to achieve certification – and was told that HCD's staff did not have capacity to meet and provide feedback before the end of the review period.

#### Revised and Restated Resolution

In its February 16, 2024 letter, HCD made the following finding:

Suitability of Nonvacant Sites: As mentioned on the previous review, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the regional housing needs allocation ("RHNA") for lower-income households. As a result, the City must find (as part of an adoption resolution), based on substantial evidence, existing uses are not an impediment to additional residential development in the planning period and will likely discontinue in the planning period (Government Code Section 65583.2, subd. (g)(2)). HCD has reviewed Resolution Number 145-23, which does not appear to meet this statutory requirement. As a result, the City should re-adopt the housing element with the appropriate findings and submit the resolution, including any pertinent documentation, to HCD.

To address this finding, staff recommends that the City Council adopt to the Revised and Restated Resolution No. 145-23 to include findings that address the substantial evidence

provided in the 2023 – 2031 Housing Element that the existing uses are not an impediment and will likely discontinue in the planning period. As previously presented, the substantial evidence regarding nonvacant sites was provided in the 2023 – 2031 Housing Element considered by the Council on December 20, 2023. The substantial evidence regarding sites that allow nonresidential uses was provided in the 2023 – 2031 Housing Element and has been further analyzed and clarified below in the Minor Revisions to the Housing Element. The minor revisions clarify the specific considerations made by the City Council regarding the suitability of nonvacant sites and sites zoned to allow nonresidential uses.

The Revised and Restated Resolution also clarifies the December 20, 2023, action taken by the City Council to approve the Housing Element. The action to approve the Housing Element was specified in the description of the item in the meeting agenda, in the staff report to the City Council, and in the presentation of the item by City staff and the consultant team to City Council. Accordingly, adoption of the Revised and Restated Resolution is similar to publication of an errata sheet and does not readopt the Housing Element.

#### Minor Revisions to Housing Element

The 2023 – 2031 Housing Element has been clarified with edits which address the HCD letter, dated February 16, 2024. Resolution No. 145-23, adopted by the Council on December 20, 2023, granted discretion to staff to edit the Housing Element as necessary to comply with HCD comments for the purpose of certification. The resulting Housing Element with ~~striketrough~~ and underlined edits is provided to the City Council as an informational document (Attachment B). The clarifications and revisions to address HCD findings are minor edits to the document and can be made at the staff level pursuant to Resolution No. 145-23; these minor edits do not require the City Council to re-adopt the 2023 – 2031 Housing Element.

##### A.1. Inventory of Land

- Realistic Capacity – Likelihood of Residential on Sites with Existing Zoning and Proposed Overlays: Include a complete analysis evaluating the likelihood of residential in zones that allow for 100 percent nonresidential uses including proposed overlay zones where the base zoning allows nonresidential.
  - *Response: The 2023 – 2031 Housing Element is clarified to add an enhanced description of the trends for reuse of commercial, office, and other nonresidential sites with development residential uses, to discuss trends related to reduced demand for commercial and office development, and to address the likelihood of residential uses occurring in zones that allow for 100 percent nonresidential uses, including the proposed overlay zones. Table 62 has been updated to include existing zoning information for projects used in the regional trends analysis. Additional discussion is provided to show how Programs 11 and 13 will remove constraints to residential development on sites zoned to allow nonresidential uses.*

- Availability of Infrastructure: The element must clearly and consistently indicate whether there is adequate water and sewer supply to accommodate the RHNA.
  - *Response: The water supply discussion in Chapter 3, Section C (Public Facilities and Infrastructure) of the Background Report has been edited to provide additional analysis of water supplies, clarify that adequate water supply is anticipated, and to clarify the intent of Program 30. The sewer supply discussion is edited to clearly state that adequate wastewater capacity is anticipated to be available to accommodate the RHNA. These edits clarify the substantive data already included in the 2023 – 2031 Housing Element and its applicable Programs.*
  
- Environmental Constraints: While the element generally describes potential environmental constraints, it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period (e.g., shape, contamination, easements, conditions, compatibility).
  - *Response: Chapter 3, Section D (Environmental Constraints), of the Background Report is updated to clarify analysis regarding environmental and other conditions that could impact development on identified sites in the planning period. No constraints were identified that would result in the removal of sites from the inventory or changes to the realistic capacity calculated for the sites.*
  
- Electronic Sites Inventory. If changes are made to the inventory, any future re-adopted versions of the element must also submit the electronic version of the sites inventory.
  - *Response: No changes are made to the inventory.*
  
- Zoning for a Variety of Housing Types (Emergency Shelters): The element must indicate how the City currently permits emergency shelters e.g., whether it is permitted without discretion. The element must demonstrate the adequacy of the current or proposed zone that allows or will allow emergency shelters without discretion.
  - *Response: Table 48 in Chapter 3, Section A (Governmental Constraints), of the Background Report identifies that homeless shelters are allowed as a permitted use (no discretionary approval) in the SC (Service Commercial) and LI (Light Industrial) zoning districts. The discussion regarding the emergency shelters has been edited to clarify that emergency shelters are permitted without discretion in the SC and LI zoning districts and the analysis of the suitability of the SC zone to accommodate emergency shelters has been updated.*

#### A.2. Governmental Constraints

- Land Use Controls: The element must address heights (and other standards) in zones that permit up to 43 du/ac and address HCD's prior review regarding lot coverage, minimum unit sizes, etc. The element must be revised to analyze the impact of heights, lot coverage, minimum open space, and minimum unit requirements for impacts on

impacts on supply, housing choice, affordability, and ability to achieve maximum densities and include programs to address identified constraints.

- *Response: No changes are made to the inventory. The City and its consultant team have conducted a detailed examination of the effect of the impact of the City's heights, lot coverage, minimum open space, and minimum unit requirements. As discussed in the clarifications and expanded analysis in the Background Report, the City's land use regulations (except for lot coverage and floor area ratio requirements in specified zones) do not constrain housing development and would not limit housing variety, choice, affordability, or ability to develop at maximum densities. The City added Program 11.W to amend the General Plan and Zoning Ordinance by December 31, 2025 to ensure that its land use controls do not constrain development at maximum densities. Additionally, the City amended Program 11.V to clarify that height limitations will also be increased for properties that permit up to 43 du/acre. As noted previously, City staff and the consultant team made an effort to consult with HCD to receive direction on this and other issues related to the Housing Element and HCD was not willing to provide assistance or meet with the City.*

## B. Housing Programs

- **Actions to Make Sites Available During the Planning Period:** As noted in Finding A1, HCD found that the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.
  - *Response: No shortfall in sites was identified. See responses under Finding A.1 above for discussion of revisions to programs to address the additional analysis.*
- **Remove Governmental and Nongovernmental Constraints:** As noted in Finding A2, HCD found that the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.
  - *Response: A complete analysis has been provided and edits and clarification to Program 11, as discussed above, have been made.*
- **Affirmatively Furthering Fair Housing:** The element was revised to include three additional programs/actions to address Affirmatively Furthering Fair Housing ("AFFH"). This includes perusing funding to develop additional units, adopting an inclusionary ordinance, requiring sites to develop near maximum densities, and some commitments on infrastructure improvements in lower resourced areas. However, these actions, including others listed in Table 1 (pg. 27), are not meaningful and significant to address and overcome the fair housing issues and trends identified in the analysis. As noted in HCD's

prior review, the City has clear disparities in access to opportunity between the northern, central, and southern portions of the City. The City also has census tracts that are considered RCAA, lower resourced and high segregation and poverty. This warrants significant actions that promote housing mobility and increasing housing choices and affordability on the southern areas of the City and neighborhoods that are generally higher income and higher resourced. In addition, the analysis demonstrated the need for strong place-based strategies that promote community revitalization in the northern and central areas of the City. Please see HCD's September 6, 2023 review for additional information.

- o *Response: Program 16, Affirmatively Further Fair Housing, has been enhanced to include additional significant measures to increase housing choice and mobility, including accessory dwelling unit (“ADU”) bonuses similar to the City of San Diego program (which was established through the adoption of Ordinance No. 1447 on July 19, 2023), to develop incentives for ADUs and target those incentives in higher opportunity areas and racially concentrated areas of affluence, and to increase the target for ADUs/JADUs in higher opportunity areas and racially concentrated areas of affluence from 20 to 30 percent; increasing housing opportunities in low-density districts through implementing and facilitating SB 9 development and targeting SB 9 units in racially concentrated areas of affluence, higher resource, and higher income areas; to promote Missing Middle housing in racially concentrated areas of affluence, higher resource, and higher income areas; to expand opportunities in low density neighborhoods through home matching and home-sharing; and to improve place-based conditions in lower resource and R/ECAPs through investment in community conditions (streetscaping, landscaping, tree cover, and open space; reduce pollutants; and create more walkability and pedestrian safety) and community assets (schools, recreational facilities and programs, social service programs, parks, streets, active transportation and infrastructure) and through reviewing project proposals to address environmental and health impacts on R/ECAPs and disadvantaged communities. As noted previously, City staff and the consultant team made an effort to consult with HCD to receive direction on this and other issues related to the Housing Element and HCD was not willing to provide assistance or meet with the City.*

### **Environmental Review**

An Addendum to the 2035 General Plan Environmental Impact Report was prepared to address the 2023 – 2031 Housing Element and was approved by the City Council on December 20, 2023. The action to approve the Revised and Restated Resolution No. 145-23 does not result in any significant changes to the 2023 – 2031 Housing Element and would not have the potential to result in a significant impact on the environment or an increase in the significance of an impact on the environment.

**Fiscal Impact**

In November 2021, the City Council approved a consulting services agreement between the City and De Novo to assist staff with preparation of the Housing Element Update. De Novo's contract amount is \$233,019. The cost to prepare the Housing Element Update will partially be offset in part by Senate Bill 2 Planning Grant, Local Early Action Planning ("LEAP") Grant Program, and the Regional Early Action Planning ("REAP") Grant Program. The action requested by the Council, to approve the Revised and Restated Resolution No. 145-23, does not result in any significant changes to the 2023 – 2031 Housing Element Project and would not result in any changes to the fiscal impact of the 2023 – 2031 Housing Element.

**Attachments**

- Revised and Restated Resolution No. 145-23
- Attachment A – HCD Letter, dated February 16, 2024
- Attachment B – Adopted 2023-2031 Housing Element with Revisions