

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: March 3, 2014
Reviewed by: PL

SUBJECT: Resolution No. 2014-18 adopting the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the 2007-2014 Housing Element and Resolution No. 2014-19 amending the Albany General Plan by adopting the 2007-2014 Housing Element

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SUMMARY

The action before the City Council is to consider two resolutions which would update the housing element of the Albany General Plan. The first resolution adopts the environmental documents for the project, which include an Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program. The second resolution would replace the 1992 Housing Element with the 2007-2014 Housing Element. Adoption of the 2007-2014 Housing Element is necessary to address current housing issues and opportunities, comply with the State Government Code, and demonstrate the City's ability to accommodate its fair share of the region's housing need.

PLANNING & ZONING COMMISSION RECOMMENDATION

That the Council adopt Resolution 2014-18 adopting the Initial Study/ Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the 2007-2014 Housing Element, and Resolution 2014-19 amending the Albany General Plan by adopting the 2007-2014 Housing Element.

STAFF RECOMMENDATION

That the City Council:

1. Conduct a public hearing on the Mitigated Negative Declaration and on the adoption of the 2007-2014 Housing Element
2. Adopt Resolution 2014-18 adopting the Initial Study/ Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the 2007-2014 Housing Element.

3. Adopt Resolution 2014-19 amending the Albany General Plan to incorporate the 2007-2014 Housing Element.
4. Authorize staff to submit the 2007-2014 Housing Element to the State Department of Housing and Community Development for review.

BACKGROUND

The housing element is one of the seven mandated elements of the Albany General Plan. It includes goals, policies, and action programs to promote conservation of existing housing, production of new housing, provision of housing for persons with special needs, and equal access to housing by all residents. The contents of the Element are set by State law, and include a Needs Assessment, a Sites Inventory, an evaluation of Housing Constraints, an Evaluation of Progress on implementing the previous Element, and Housing Goals, Policies, and Actions. Before and after adoption of a housing element, cities and counties must submit their Elements to the State Department of Housing and Community Development (HCD) for a determination of whether the adopted element substantially conforms to State law.

The 2007-2014 Housing Element updates the 1992 Albany Housing Element. In accordance with State law, the planning period for the current Element is 2007-2014. The Element focuses on specific actions to be initiated or completed in the next year, along with longer-range policies that may be carried forward to the next housing element. A housing element for the 2015-2022 planning period will be prepared later this year. Additional policies and programs may be added through that process.

The process of updating the Albany Housing Element was initiated in 2007. Reports on the Regional Housing Needs Allocation (RHNA) were made to the Planning and Zoning Commission and the City Council in January 2007, July 2007, and September 2007. Study sessions with the Planning and Zoning Commission were held in November 2007, January 2008, April 2008, November 2008, March 2009, April 2009, May 2009, and June 2009. Study sessions with the City Council were held in January 2008 and July 2009. A community workshop was held on March 31, 2009.

A partial draft of the document—not including policies and actions—was completed and submitted to HCD in August 2009. HCD provided technical assistance comments to the City in October 2009. The Planning and Zoning Commission met in January 2010 and then again in September 2010 to discuss responses to the HCD technical assistance comments.

Initiation of the Albany General Plan Update in September 2012 provided the resources necessary to complete the 2007-2014 Housing Element. The City retained a consultant to complete the 2007-2014 Housing Element in February 2013. Edits to the 2009 Draft were made to reflect the State's earlier comments. Planning and Zoning Commission study sessions were held on April 24, May 22, September 25, October 9, and October 15, 2013 to review various chapters and to provide an opportunity for public comment. In addition, city staff organized a Town Hall Q&A style meeting, which was held on October 1, 2013. On October 15, 2013 the Commission forwarded the document to the City Council, which subsequently authorized its resubmittal to State HCD on October 21, 2013.

On December 26, 2013 the City received comments from the State on the October Draft. The Planning Commission considered these comments and staff's proposed revisions at its January 22, 2014 meeting. A series of redlined/strikeout edits were presented to the Commission; these edits were submitted to State HCD on January 23. On January 31, 2013 the City released a revised complete 2007-2014 Housing Element which incorporated the edits.

During early February 2014, Staff had subsequent communication with the HCD reviewer indicating that the Element generally met the requirements of the Government Code. Two minor revisions were requested. The first was to identify a date certain during the 2007-2014 planning period when minimum densities for future development would be adopted. The second was to include a stronger commitment to allowing multi-family uses on the ground floor in the San Pablo Commercial (SPC) zone for affordable housing development. The City has prepared an Addendum which includes these changes as well as updating factual information contained in the 2007-2014 Housing Element. The Addendum would be adopted by reference as part of the Council resolution adopting the 2007-2014 Housing Element and would be incorporated in the document submitted to the State.

Because adoption of the 2007-2014 Housing Element is an amendment to the Albany General Plan, it is considered a "project" under the California Environmental Quality Act. An Initial Study and Draft Mitigated Negative Declaration (IS/MND) were prepared and filed on January 31, 2014. The IS/MND review period closed on February 21, 2014. No written comments have been submitted on the IS/MND.

On February 12, 2014, the Planning and Zoning Commission's held a public hearing on the 2007-2014 Housing Element and the IS/MND. The Commission approved two resolutions, one forwarding the IS/MND to the City Council for approval and the other forwarding the 2007-2014 Housing Element to the Council with a recommendation to adopt.

Once the Council adopts the 2007-2014 Housing Element, the document will immediately become an adopted City policy. Staff will submit the document to HCD. HCD has 90 days to determine whether the Element substantially conforms with State law and will notify the City of its determination in writing at that time. Staff intends to request expedited review of the document, which could accelerate receipt of the compliance letter.

DISCUSSION

Overview of Document

The 2007-2014 Housing Element is organized into six chapters, summarized below.

- The first chapter (Introduction and Framework) describes the requirements for the 2007-2014 Housing Element and the process used to develop the document.
- The second chapter (Review of Previous Housing Element) corresponds to a state requirement to evaluate the effectiveness of the previous Housing Element and identify the

steps needed to address any deficiencies. This chapter includes a series of tables that describe the progress that has been made in carrying out the 1992 Element.

- The third chapter (Assessment of Housing Needs) includes an analysis of demographics, income, affordability, employment, special housing needs, housing stock characteristics, and energy conservation. This information is used to assess current and anticipated housing needs in the City.
- The fourth chapter (Site Inventory and Analysis) describes the inventory of sites in Albany that could potentially support new housing during the planning period. It also includes an assessment of the potential for second units in the city. This chapter demonstrates the City's ability to accommodate Albany's "fair share" of the region's housing needs for 2007-2014, which has been determined by ABAG to equal 276 units.
- The fifth chapter (Analysis of Constraints to Housing Production) identifies possible governmental and non-governmental constraints to housing development in the city. Among the governmental constraints analyzed are the zoning ordinance, standards for special housing types, design review requirements, building code and permit processing requirements, local fees, and site improvement requirements. The non-governmental constraints that are analyzed include infrastructure, environmental hazards, land and construction costs, financing, and public opinion.
- The sixth chapter (Housing Goals, Policies, and Actions) presents the City's official housing policies along with a series of measurable targets for 2007-2014. Policies and actions are organized under five broad goals which generally address: (a) conservation of existing housing; (b) production of new housing; (c) special needs housing; (d) reducing housing constraints; and (e) equal access and enforcement of fair housing laws.

Housing Sites and RHNA

As noted earlier, one of the critical components of the 2007-2014 Housing Element is for the City to demonstrate its ability to accommodate its Regional Housing Needs Allocation (RHNA). Cities are not required to actually fund or build housing units, but must demonstrate that they have land zoned (and policies in place) to allow the construction of housing at various income levels by the private and non-profit sectors. Albany's assignment for the 2007-2014 planning period is to have zoning in place that can accommodate 276 units, including 64 units on sites suitable for very low income households, 43 units on sites suitable for low income households, 52 units on sites suitable for moderate income households, and 117 other units.

The City may receive "credit" for housing constructed since January 1, 2007. The City's full allocation of moderate and above moderate income units has already been constructed, largely due to the reconstruction of UC Village; and the City has made sites available for additional above moderate income units through its approval of additional senior housing. It has also developed an estimated six low income units through second unit construction and through its inclusionary zoning requirements. Its remaining obligation is to demonstrate capacity for 37 low and 64 very low income units (101 units total).

The City has identified sites in the 2007-2014 Housing Element that are suitable to accommodate 170 very low and low income units, or an excess of 69 units. This includes capacity for 36 units on underutilized sites in the R-3 zoning district and over 130 units on vacant or underutilized sites in the Solano Commercial and San Pablo Commercial (SC and SPC) zoning districts. Zoning in these districts allows up to 63 units per acre, well in excess of the 20 units per acre assumed by State law to be suitable for lower income housing. The 2007-2014 Housing Element focuses on sites with older structures that are currently developed well below the densities allowed by zoning. Ten of the sites are on San Pablo Avenue and two are on Solano.

The designation of a property as a housing site does not affect the zoning or the allowable uses; it is merely an acknowledgment of the site's potential for future residential development. Additional residences may be built on sites where housing is permitted but which are not specifically listed in the 2007-2014 Housing Element; the sites listed in the 2007-2014 Housing Element are those where housing development seems most likely.

Priority Actions

The 2007-2014 Housing Element includes an implementation program with specific measurable objectives and action steps to be taken after adoption. Because the planning period ends on January 31, 2015, many of the actions are scheduled to be implemented during the next 10 months. Priority actions include:

- Revisions to the Zoning Ordinance, including:
 - A 20 unit per acre minimum density requirement for future residential or mixed use development in the SC and SPC zones
 - Clarification of the parking requirements for second units
 - Eliminating the use permit requirement for multi-family units in the R-4 (Residential Towers) zone
 - Allowing second units in the R-2 (Medium Density) zone
 - Allowing residential uses on the ground floor in the SPC zone outside the Solano Avenue commercial node for projects in which 49% or more of the units are affordable, subject to a use permit.
- Public information and outreach to residents, commercial property owners, and non-profit developers. This consists primarily of improvements to the City's website relating to housing opportunities, communication with potential developers, and a community meeting on housing
- Adoption of a fee reduction policy for affordable housing development
- Conducting a survey of second units in Albany, including rents
- Creating a dedicated affordable housing fund
- Formalizing lot consolidation procedures
- Continuing to evaluate the City's parking standards, including follow-up actions after the Residential Parking Requirements Working Group reports to the Council in May.

2015-2022 Housing Element

The 2007-2014 Housing Element now under consideration will provide policy and program guidance through January 31, 2015. The City is required to adopt a new housing element covering 2015-2022 by January 31, 2015.¹ To achieve this milestone, the City should plan on submitting a Draft of the 2015-2022 Element by October 31, 2015. This will allow for the statutory 60-day HCD review, plus 30 days for edits to the document to respond to HCD comments before January 31, 2015.

To submit a Draft to HCD by October 31, the City will need to have a draft document available for public vetting by September 30, which is less than six months away. Thus, the City anticipates beginning work on its new Element almost immediately after the current Element is adopted. The longer planning horizon for the next period (e.g., extending to January 31, 2023) provides the opportunity for additional programs which encourage affordable housing in the city.

ANALYSIS

Preparation of the 2007-2014 Housing Element has generated extensive public discussion of housing needs, opportunities, sites, and constraints in Albany. Several points are highlighted below.

Additional Planning and Zoning Commission Recommendations

Between 2007 and 2014, the Planning and Zoning Commission held 18 meetings at which the 2007-2014 Housing Element was addressed in some capacity. Five of these meetings took place between May 2013 and October 2013, and a sixth took place in January 2014. Many of the Commission's recommendations have been incorporated into the 2007-2014 Housing Element, and much of the public testimony received at Commission meetings has shaped housing policies and actions.

Other ideas and issues raised by the Commission require further discussion and environmental review and may be considered as part of the 2015-2022 Housing Element Update. These include:

- Consideration of adding emergency shelters as a conditionally permitted use in the R-3 and SPC zones
- Consideration of changes to lot coverage and setback standards
- Allowing smaller lots in the R-1 district
- Expanding the list of potential housing sites
- An assessment of the potential for residential uses in the CMX district
- Further changes to the second unit standards to incentivize second unit construction
- Possible increases in allowable building heights along San Pablo Avenue
- Possible changes to daylight plane requirements and setbacks in the SPC zone

¹ There is a 120-day grace period following this date for communities still in negotiation with HCD, making the effective deadline May, 2015. However, it is still recommended that an Administrative Draft be submitted for HCD Review by October 31, 2014, allowing receipt of comments by January 1, 2015.

- Further clarification and refinement of ground floor retail requirements to ensure that such spaces are marketable

In addition, the Commission reviewed the IS/MND for the 2007-2014 Housing Element. There were only minor comments on the document made by Commissioners, and no comments from the public were received at the hearing. However, one Commissioner believed the mitigation measure calling for dust control on new construction projects was premature, since the Element itself would not directly result in housing construction. The measure has been included to ensure compliance with Bay Area Air Quality Management District directives and represents a conservative approach to interpretation of the BAAQMD requirement.

Finally, public comment on the 2007-2014 Housing Element was received at the February 12 meeting. A speaker urged the City to proceed cautiously with respect to allowing the ground floor commercial requirement to be waived with a use permit for affordable housing development on San Pablo Avenue. It was suggested that the Element identify this as a measure to be “considered” rather than implemented right away.

Public Comments on 2007-2014 Housing Element

The City received a number of comments from the public on its 2007-2014 Housing Element, both before and after the document was submitted to HCD for review. Copies of correspondence are included as an attachment to this staff report.

Principal objections to the current draft are that it does not add the unbuilt portion of the RHNA from the prior (1999-2006) planning period to the current RHNA, that the listed sites are consequently not adequate to meet the City’s affordable housing obligations, and that the 2007-2014 Housing Element programs are not proactive enough.

The City does not have an obligation to carry forward the unbuilt RHNA from 1999-2006, since it has demonstrated in the 2007-2014 Housing Element that adequate zoning was in place to accommodate the RHNA during that entire period. Moreover, the 1992 Housing Element (which is in effect today) identified additional housing opportunity sites which remained underutilized and were zoned for high density mixed use development throughout the 1999-2006 period, as shown in Attachment 9. As noted earlier, the City has identified sites that can accommodate 170 lower income units, while it is required to accommodate 101 units. The action programs included in the 2007-2014 Housing Element represent a substantial commitment of the City to remove constraints on housing development.

Fiscal Constraints to Producing Affordable Housing

Some of the public comments at 2007-2014 Housing Element study sessions have called for an expanded City role in housing production and financing. Albany’s capacity in this regard is extremely limited. The loss of Redevelopment Agency funds, Albany’s small size and limited budget, staffing constraints, and the high cost of land and construction in the Central Bay Area make it almost impossible for Albany to subsidize or provide gap financing for housing development in an efficient way. In addition, all sources of state and federal funding have been

reduced due to the State's use of existing authorized housing bond authority and federal 'sequestration.' Of 3.1 million lower income renter households in California in 2011, only 466,000 were federally assisted; nationally funds were available to subsidize only one quarter of eligible households.² In California, the demand for federal housing tax credits – the most important source of housing subsidies – has exceed the supply by approximately 3:1 so that many worthwhile projects cannot be funded.³ State funding from HCD assisted only 3,048 new units in the entire state in 2012-2013.⁴

A 2011 Study by EPS (a Berkeley based economic consulting firm) for the City of Mountain View indicated that the cost per unit of subsidizing housing construction in the Bay Area is \$190,000 for a low-income for-sale unit. For affordable rental housing, the EPS Study indicated a subsidy requirement of \$114,000 per unit for low income housing, \$271,000 per unit for very low income housing, and \$375,000 per unit for extremely low income housing.⁵ Similarly, a 2010 study by Keyser Marston Associates for the City of Fremont showed a subsidy requirement of \$208,000 per unit for low income housing and \$245,000 per unit for very low income housing.⁶ By comparison, the total amount available for affordable housing purposes in Albany prior to the sweep of redevelopment funds in 2012 was about \$680,000. If used for gap financing, this would most likely have resulted in only two or three units of very low income housing. It may be most productive for the City to use its limited resources on providing staff support and zoning incentives for affordable housing as proposed in the 2007-2014 Housing Element.

SUSTAINABILITY IMPACT

The 2007-2014 Housing Element supports and advances many sustainability principles, including:

- Increasing social equity, by creating more housing opportunities for lower income households and persons with special needs
- Engaging persons of all economic means in the planning process
- Increasing the housing supply in the center of the region, thereby reducing vehicle miles traveled and commute lengths for persons working in the Central Bay Area
- Supporting higher densities, as an alternative to sprawl on the perimeter of the region
- Encouraging the maintenance of the existing housing stock, thereby conserving resources and reducing the need to replace existing units
- Encouraging energy conservation and efficiency, reducing non-renewable resource consumption

² California Department of Housing and Community Development, *The State of Housing in California: 2012 Update*, available at: http://www.hcd.ca.gov/hcd_state_of_housing_ca2012update0812.pdf.

³ California Tax Credit Allocation Committee, *Description of California Tax Credit Allocation Committee Programs*, available at <http://www.treasurer.ca.gov/ctcac/program.pdf>.

⁴ California Department of Housing and Community Development, *Financial Assistance Programs, Annual Report, Fiscal Year 2012-13*, available at http://www.hcd.ca.gov/fa/Annual_Report_FY_2012-13.pdf.

⁵ *Nexus Based Affordable Housing Fee Analysis*. EPS, For City of Mountain View, April 12, 2011.

⁶ Keyser Marston Associates, *Residential Nexus Analysis, Inclusionary Housing Ordinance, City of Fremont, April 2010*, available at <http://www.fremont.gov/DocumentCenter/Home/View/3639>.

The Element is consistent with the City's Climate Action Plan and Climate Action measures which aim to reduce greenhouse gas emissions associated with building and construction, and land use and transportation choices.

FINANCIAL IMPACT

The 2007-2014 Housing Element actions have both direct and indirect financial implications. The Element includes an action program to use a portion of the former redevelopment agency's tax increment funds which will be returned to the City in the future for housing programs benefiting lower income households. It further includes a policy to create an Affordable Housing Fund which would become a repository for such "boomerang" funds in the future, as well as in-lieu fees collected through Albany's inclusionary housing ordinance. The Element also states that the City will apply for, or assist applicants in applying for, available grants and other funding sources which could benefit low and very low income households.

The Element's indirect financial impact is primarily associated with the commitment of staff resources to implement programs which facilitate housing production in Albany. This includes staff time to conduct zoning ordinance amendments, community outreach, website improvements, a survey of second units, and similar work tasks during the remainder of the planning period (e.g., through January 31, 2015).

Attachments

1. Resolution 2014-18 adopting the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the 2007-2014 Housing Element.
2. Resolution 2014-19 Amending the Albany General Plan by Adopting the 2007-2014 Housing Element (with attached Exhibit A, 'Changes Made in Draft Housing Element in Response to Comments from the California Department of Housing and Community Development')
3. January 31, 2014 Draft Housing Element
4. Planning Commission Resolutions Recommending Council Adoption of Mitigated Negative Declaration and 2007-2014 Housing Element
5. Letter from HCD (dated Dec 26, 2013)
6. Edits in Response to HCD Letter (incorporated into Attachment 3)
7. Letters from the Public on 2007-2014 Housing Element
8. Supplemental Changes to 2007-2014 Housing Element Since January 31, 2014
9. Sites Identified in 1992 Housing Element
10. Initial Study/Negative Declaration/Mitigation Monitoring and Reporting Program