

MINUTES APPROVED AT THE PC MEETING ON FEBRUARY 16, 2023

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**

Teleconference
January 5, 2023
6:30 p.m.

COMMISSION MEMBERS

David Tucker, Chair	Jen Loy	Vacant
Jonathan Harrison, Vice Chair	Masoomah Sharifi Soofiani	
Bruce Brubaker, Secretary	Alpa Agarwal	

The regular meeting was called to order by Vice Chair Harrison at 6:30 p.m.

ROLL CALL

Present: Vice Chair Jonathan Harrison; Commissioner Bruce Brubaker, Jen Loy, Masoomah Sharifi Soofiani and Alpa Agarwal

Absent: Chair Tucker

INTRODUCTIONS

Staff Present: Planning Staff: Andrea Villarroel, Planning Manager Hector Rojas and Attorney Stephanie Vollmer

MINUTES –
November 21, 2022

ACTION: It was M/S/C (Loy, Brubaker) to approve November 21, 2022 draft meeting minutes, which carried by the following vote: 4-0-2 (Ayes: Harrison, Brubaker, Loy, Soofiani; Noes: None; Absent: Tucker, Agarwal).

AGENDA

CONSENT CALENDAR – None

BROWN ACT – Public Forum – None

NEW BUSINESS

1. **PLN22-130: Housing Element Update PUBLIC HEARING** to consider a recommendation to the City Council of a General Plan Amendment (GPA) to adopt the 6th cycle Housing Element. The proposed project also includes consideration of an addendum to the General Plan 2030 Environmental Impact Report. The draft 6th cycle Housing Element and Addendum is available online at <https://www.ci.richmond.ca.us/4231/Housing-Element-Update>. All Zoning designations throughout the city. Various, owner; City of Richmond,

applicant Planner: Andrea Villarroel Tentative Recommendation: Recommend Adoption to City Council

Henry Pontarelli, Lisa Wise Consulting (LWC), remarked this was the third Housing Element LWC had worked on with the City of Richmond.

Commissioner Agarwal joined the meeting.

Jennifer Murillo, LWC, reported the Housing Element is a required section of the City's General Plan. It covered an 8-year period and it must be certified by the State of California. The Housing Element assessed residents' housing needs and conditions, showed how the City planned to meet its "fair share" for housing and it set up Citywide housing-related goals, policies, and programs. A Housing Element must include eight component, as outlined in State Law. One new component required by State Law was the Affirmatively Furthering Fair Housing (AFFH) section. Assembly Bill (AB) 686 required justifications to facilitate deliberate action to explicitly address and relieve disparities resulting from past patterns of segregation and to foster more inclusive communities.

The Housing Element update process began in January 2022. In October 2022 the draft Housing Element was released to the public for comment. Based on comments received, the Housing Element was revised and then a Draft Housing Element was submitted to the State Department of Housing and Community Development (HCD) for review. HCD required Final Housing Elements to be submitted by end of January 2023.

With respect to community engagement, the City held stakeholder interviews, conducted community listening sessions, formed a Resident Advisory Council, held pop-up events and other engagements. The various methods of community input informed the Draft Housing Element. Key topics from comments include promoting housing development, providing a mix of housing types, streamlining development review, addressing substandard housing, informing the community about available resources, and providing support for tenants. The public review period for the Draft Housing Element was open between October 21, 2022, through November 21, 2022, and the City held several community engagement events throughout the period. Based on comments, the Draft Housing Element was revised to reflect additional outreach, increased quantified objectives, expanded and clarified programs, and added programs to eliminate parking minimums.

The Draft Housing Element was organized by seven appendixes that contained the technical analysis and supporting documents that supported the preparation of the housing plan. The Draft Housing Element included seven goals that included corresponding programs and policies within them. The Draft Housing Element included a Sites Inventory List which identified available housing sites to meet the City's Regional Housing Needs Allocation (RHNA) figure as identified by the State. The City of Richmond's RHNA was 3,614 total housing units which included units allocated to all income levels. The Sites Inventory List it included sites where land was available for development or redevelopment, pipeline projects, and potential accessory dwelling unit (ADU) development. Over the 8 years, ADUs were forecasted to provide 310 units in the lower income level, 155 moderate-income level units, and 52 above-moderate level units. Entitled and proposed projects were forecasted to provide 955 units of housing in the lower-income level, 335 units in the moderate-income level, and 3,588 units in the above-moderate-income level. The site inventory was forecasted to provide 416 lower-income units, 216 moderate-income units, and 198 above-moderate-income units. The site inventory was a capacity analysis, not a list of sites where housing must be built. Included in the Draft Housing

Element were the Site Inventory Maps which showed the sites identified in the Sites Inventory List.

The Draft Housing Element identified seven goals for the City. Goal One was to promote new housing construction. Goal Two was to facilitate different housing types and create inclusive neighborhoods. Goal Three was to remove constraints to housing development. Goal Four was to create special needs housing opportunities. Goal Five was to conserve and improve existing housing. Goal Six was to promote fair housing and Goal Seven was to encourage energy conservation and sustainability. The seven goals were supported by over 80 programs that facilitated the implementation of the Housing Element.

Ms. Villarroel announced through the City's work on the Housing Element, two Senate Bills (SB), SB 1241 and SB 1000, were triggered. SB 1241 required communities with very high fire hazard severity zones to update their Public Safety Element. SB 1000 required all cities with disadvantaged communities to add an Environmental Justice Element if they were updating two or more General Plan Elements concurrently. The Commission would review the Draft Public Safety Element and Draft Environmental Justice Element in February 2023. The updates to the two Elements required a General Plan 2030 Environmental Impact Report (EIR) Addendum. The addendum served as the environmental documentation for the updated Elements. The proposed amendments did not result in a substantial increase in the severity of previously identified significant effects. Thus, no supplemental EIR was required in accordance with State Law.

Ms. Murillo reported staff's recommendation was for the Planning Commission to recommend the City Council adopt the 2023-2030 Housing Element. Following Planning Commission's decision, HCD would continue its review process, City Council would hold a public hearing on January 24, 2023, and any revisions based on HCD's review of the Housing Element would be considered in March through May of 2023.

Vice Chair Harrison invited Commissioners to ask clarifying questions of staff.

Commissioner Agarwal expressed her appreciation for the presentation and requested the PowerPoint presentations be included in future Planning Commission Packets. She wanted to understand how the Housing Element plan would be implemented and how it ensured physical housing be built. Ms. Murillo mentioned that annual reporting must be submitted to the State on progress for programs as well as progress towards fulfilling RHNA.

Vice Chair Harrison shared that the Commission had reviewed recently several projects that were identified to have high density but the project's density was significantly less. He asked if any programs encouraged developers to seek higher densities for specific sites. Mr. Rojas restated that the Housing Element proved to the State that the City could fulfill the RHNA target. Vice Chair Harrison agreed but stated the capacity was based on an assumption of multi-family with high densities, not single-family homes. Mr. Rojas explained that the General Plan had minimum and maximum thresholds for density and projects were required to meet the minimum density. If the City wished to encourage more density, those minimum and maximum thresholds would have to be increased. Vice Chair Harrison recalled the development proposed for Point Molate had a substantial decrease in density when compared to what was targeted in the Draft Housing Element. He asked if those changes violated State Law in any way with respect to the Housing Element. Mr. Rojas agreed the City used the information that was available at the time of drafting of the Housing Element. Ms. Villarroel added the site's inventory identified vacant

land that was currently zoned residential and the City could rezone underutilized sites for residential.

Commissioner Soofiani asked how successful had LWC's previous Housing Element been with respect to implementation. She mentioned that the City's previous Housing Elements never met its allocated RHNA targets. Ms. Murillo answered Appendix D included an analysis of the City's current Housing Element programs. Relative to other jurisdictions the City had done very well in successfully building low-income housing. She noted the level of revisions to existing programs was consistent with the level of revisions that were recommended to other jurisdictions. Commissioner Soofiani inquired how equality, surplus land, and other environmental justice criteria were evaluated. She mentioned there was a lot of pushback from developers to build low-income housing. Ms. Murillo restated one of the goals was to have more inclusive neighborhoods and several programs under that goal included the City's inclusionary requirement as well as encouraging more ADU development. Commissioner Soofiani wanted to see the inclusionary programs be included in other Elements of the General Plan. She said many cities in California were eliminating single-family zoning and that may be one way Richmond could encourage more affordable housing.

Commissioner Brubaker mentioned there was a program that encouraged evaluating whether minimum densities should be increased in RM-1 zoning districts. Ms. Murillo concurred that staff believed that evaluation was reasonable to do based on development trends. Commissioner Brubaker believed the Commission would welcome a minimum density increase based on recent projects. He recalled from the presentation that there was an analysis done about the City's current permit fees and how those fees incentivized fewer and larger units. If the City moved to a permit fee that was assessed by square footage then that would remove the incentivization to build bigger units and he welcomed that being a program in the Housing Element. Ms. Murillo remarked she would double-check to see if that program was included. Commissioner Brubaker asked if the elimination of parking minimums identified in the Housing Element would be enacted upon at adoption of the Housing Element or if it was a separate action. Ms. Murillo confirmed that was a program but only to eliminate parking requirements per State Law and was envisioned to be a subsequent program. Commissioner Brubaker remarked there were many great programs identified in the Housing Element and he supported recommending Council adoption. With respect to the addendum to the EIR, he confessed he was having a hard time recommending adoption because it affected three Elements and the Commission was only considering one of the three. Mr. Rojas stated the plan was to have all three elements before the Commission but that was infeasible. He noted the City was not acting on the Environmental Justice Element or the Public Safety Element prior to adopting the compliance checklist. That process allowed the Commission to recommend adoption of the compliance checklist for all three elements. Ms. Murillo remarked that Program 2B discussed the analysis for permit fees but it was not scheduled to be implemented until the year 2027.

Vice Chair Harrison suggested the Commission recommend the timing of the analysis of permit fees be considered sooner.

Commissioner Brubaker inquired if the Commission could recommend to the Council that the timing of that program be moved up. Ms. Villarroel confirmed staff could explore it further.

Commissioner Loy mentioned she was an intern with the City 10 years ago and was involved in reviewing the implementation of the Health Equity Element. The City was the first city to implement a Health Equity Element into a General Plan. She echoed the comment that the Housing Element held many great programs including land trusts and shared equity studies.

She appreciated that many of the programs addressed concerns raised by activities in the community and she found it very inspiring. She appreciated the responsible party, funding source, and timeframe aspects of the programs and the Q&A Development Department. She asked how the City planned to fundraise and hire to implement the programs. Mr. Rojas remarked the City would continue to pursue acknowledgeable staff through grant funding.

Commissioner Agarwal agreed that future development was moving toward multi-family units instead of single-family homes for high-density cities and states. She suggested a program be included that encouraged the growth of not-for-profit, public benefit, multi-family, and common interest projects. Many projects that fell under that category were not well maintained and she suggested a program be included in the Housing Element that encouraged support, not necessarily dollars, for those existing establishments.

Vice Chair Harrison reminded the Commission that the Housing Element was on a tight timeline and that any substantial changes may delay adoption. He said the programs and policies highlighted that condominium uses were unit types encouraged by the City.

Commissioner Agarwal stated there is power in specificity and she volunteered to work with staff on language that could be considered by the Commission at its next January 2023 meeting. She said having a program in the Housing Element would give a voice to folks living in multi-family complexes. Ms. Villarroel answered there was a program that talked about educating the public about a variety of things and that could be added modified to address Commissioner Agarwal's concern.

Commissioner Loy understood the Commission could send along notes but adding a program to the Housing Element may not be allowed because the Element had already been submitted to HCD for review.

Commissioner Agarwal strongly urged the Commission to consider Ms. Villarroel's approach of adding language to an existing program.

Vice Chair Harrison believed as staff continued to refine programs and begin implementation, staff would find a place for Commissioner Agarwal's recommendation.

Commissioner Agarwal restated that voices needed to be heard and now was the time for a change. Mr. Rojas shared that staff had met with Commissioner Agarwal earlier in the week and believed Ms. Villarroel had a great suggestion to accommodate Commissioner Agarwal's recommendation. He mentioned any changes to the language would not be coming back to the Commission for review due to the upcoming deadline.

Vice Chair Harrison agreed with Mr. Rojas that language be included in the Housing Element that raised awareness of Commissioner Agarwal's concern and they type of change would not delaying the adoption of the Housing Element.

Commissioner Agarwal understood the staff and Vice Chair Harrison were saying the document could not be modified but the Commission had another meeting before the January 31, 2023 deadline. Vice Chair Harrison noted the alignment of the Commission's meeting did not align with City Council's agenda. The Council needed time to digest and consider any recommendations made by the Commission. Mr. Rojas confirmed the Housing Element had to be adopted by the end of January 2023 and the next step was to present the Element to the City

Council after Commission consideration. He noted the Commission could suggest modifications to specific programs for the Council to consider.

Commissioner Soofiani believed the senior housing incorporated in the Draft Housing Element may address Commissioner Agarwal's concerns. Commissioner Agarwal answered no, it did not.

Vice Chair Harrison restated that staff would prepare modification language to the programs and present it to Council for consideration.

Public Comment:

KEITH DIGGS, YIMBY Law, mentioned he emailed the City two weeks ago and referenced Government Code Section 65585, Subdivision (b), which stated the City was too late to submit its Housing Element before the deadline. The City submitted its Draft Housing Element on December 9, 2022, and the earliest date the City could legally adopt the Housing Element was March 9, 2023. He stated it was strange to rush the adoption of a Housing Element in fear of one specific consequence, Builder's Remedy. Builder's Remedy only applied to housing development projects with at least 20 percent affordable units. Also, if a developer demolished a deed-restricted unit, the developer must provide a right of return per Government Code.

Public comment was closed.

Ms. Murillo explained the 6th Cycle Housing Element was a new process and there had been many interpretations of the new Code. She explained that Builder's Remedy was a requirement in State Law and had been in State Law since the '80s. It did not allow the City to deny a housing development project that had 20 percent of low-income housing based on noncompliance with the General Plan or zoning. The concern was if a Housing Element was not adopted by the deadline then Builder's Remedy applications would be allowed to be submitted to the City. The City of Santa Monica did experience an influx of Builder's Remedy applications but many other southern cities had not received one application. With respect to the adoption of the Housing Element, she concurred the City was working to adopt its Housing Element by the January 31, 2023 deadline. If HCD recommended revisions, the City would make those revisions in order to have a compliant Housing Element which then would be brought back to the Commission for follow-up hearings.

Commissioner Soofiani noticed on the site inventory table that the above moderate counts exceeded what was required. She wanted to understand how the table could be adjusted to accomplish a balance among all of the categories. Ms. Villarroel answered the figure for the above moderate category came from proposed or already approved projects. Per HCD guidelines, the moderate-income site inventory could not be moved to other income categories because those categories did not meet the thresholds. Commissioner Soofiani wanted to know if those sites could be upzoned in the Land Use Element to have a more balanced approach. Ms. Villarroel explained for above moderate, the parcel size threshold was very small but for low-income, the threshold for parcel size was much larger per HCD guidelines. Commissioner Soofiani suggested staff consider duplexes and triplexes for parcels that were too small for low-income homes. Ms. Villarroel explained HCD guidelines did not consider development type. Commissioner Soofiani inquired if income levels were related to only lot size and not density. Ms. Villarroel confirmed HCD guidelines included lot size and density, but lot size was very different for each income level. Ms. Murillo mentioned if feasible, a developer could build moderate and low-income units on a lot identified as above moderate. Commissioner Soofiani

asked if upzoning the site inventory in the above moderate category would allow for moderate and low-income units to be built. Ms. Villarroel answered it depended on the lot size of those site inventory sites.

Vice Chair Harrison said it was not the purpose of the Housing Element to implement zone changes and that was not a topic the Commission was discussing.

Commissioner Soofiani remarked that many cities in California were upzoning and eliminating single-family zoning. Now was the time to address and/or suggest any changes for the Housing Element and other Elements of the General Plan to encourage more housing development.

Vice Chair Harrison summarized the site's inventory table was based upon a formula established by the State of California. He understood the purpose of the table was to compare and evaluate a city's capacity against other cities and to ensure that every city was providing its "fair share" of housing.

Ms. Villarroel stated changing the zoning would not change the figures outlined on the site's inventory table. It was an issue of available vacant land and the size of those parcels.

Commissioner Brubaker said it was the duty of the Commission to forward a recommendation to the Council and any proposed changes from the Commission. He requested staff to provide clarification on what program would be modified to address Commissioner Agarwal's earlier concern. He believed the programs around code enforcement and an inspection could incorporate language about life safety.

Commissioner Agarwal agreed and restated that many senior citizens live in multi-family dwellings. She explained that condominium Board of Directors could not force residents to pay for assessments and repairs. Another concern was the administration of common interest developments was done by a Board of Directors who may be doing illegal management of the property. She wanted to see more education provided to homeowners and board members to have more ethical and legal steps.

Commissioner Brubaker believed the Housing Element could address code enforcement and education but not the illegal activities of a Board of Directors. He asked if staff had enough information to modify the programs to accommodate more language about code enforcement and education. Mr. Rojas answered yes, staff had enough information but would meet with Commissioner Agarwal before taking the item to Council.

ACTION: It was M/S/C (Brubaker, Loy) that the Planning Commission recommend the adoption of the Housing Element and adoption of the Addendum to the General Plan EIR regarding the Housing Element to City Council with some additional language to be forwarded to Council for consideration that includes moving forward in time and priority the program for increasing minimum density on zoned sites, and also consider the permit fees by square footage and moving that forward in timing and priority, and thirdly, the additional educational language for not only homeowner association but the entire community regarding physical conditions of existing buildings, which carried by the following vote: 5-0-1 (Ayes: Harrison, Brubaker, Loy, Soofiani, Agarwal; Noes: Agarwal; Absent: Tucker).

Commissioner Agarwal appreciated Commissioner Brubaker finding the middle ground and having a problem-solving approach.

COMMISSION BUSINESS

2. Development pipeline projects

Mr. Rojas announced the item would be held over to the next meeting to allow Chair Tucker to participate in the discussion.

3. Reports of Officers, Commissioners and Staff – None

3. Adjournment - The meeting was adjourned at 8:27 p.m. to the next regular meeting on January 19, 2023.