

DATE: February 14, 2024

TO: Orange County Planning Commission

FROM: OC Development Services/Planning

SUBJECT: Initiation of General Plan Amendment LU 24-01 (Land Use Element), Zoning Code Amendment CA 24-01 (Multifamily development standards), and Zone Change ZC 24-01 (Specific Commercial and Residential Sites)

PROPOSAL: To ensure compliance with existing State housing law, recent State mandates related to housing, and the County's Housing Element, staff is requesting authorization to initiate a General Plan Amendment to the Land Use Element and Zoning Code Amendment to revise existing multifamily residential development standards, and Zone Change on specific commercial and residential parcels.

ZONING/GENERAL PLAN: N/A

LOCATION: Unincorporated Areas of Orange County

APPLICANT: OC Development Services/Planning

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RECOMMENDED ACTION:

OC Development Services/Planning recommends the Planning Commission:

- a. Receive staff report and public testimony;
- b. Authorize staff to initiate General Plan Amendment LU 24-01 (Land Use Element) to revise sections regarding housing to ensure compliance with existing State housing law, recent State mandates related to housing, and the County's Housing Element;
- c. Authorize staff to initiate Zoning Code Amendment CA 24-01 (Multifamily development standards);
- d. Authorize staff to initiate Zone Change ZC 24-01 (Specific Commercial and Residential Parcels).

BACKGROUND:

The County of Orange (“County”) is in the process of completing its Housing Element (HE) Update for the 6th Housing Element Update Cycle, as mandated by State law. Each Update provides goals, policies, and objectives the County will pursue to meet its existing and projected housing needs for the next eight-year planning period, including its allocation of the Regional Housing Needs Assessment (RHNA) assigned by Southern California Association of Governments (SCAG). The County’s RHNA allocation for this 6th Cycle Housing Element is 10,406 units - a significant increase from the 5,272 units in the County’s 5th Cycle Housing Element. Though the County is required to identify areas with adequate zoning to accommodate this future growth, it is not required to develop these housing units.

The following is a summary of the HE Update timeline:

- On May 27, 2020, the Planning Commission authorized staff to initiate General Plan Amendment H 20-01.
- The initial draft HE Update was presented to the Planning Commission at a Study Session held on October 27, 2021, and was submitted to California Department of Housing and Community Development (HCD) for a 60-day review on October 28, 2021.
- As required by State law, the HE Update was submitted to the Airport Land Use Commission (ALUC) on November 18, 2021. To address comments received by ALUC, staff submitted a modified proposal at the December 16, 2021, ALUC meeting. A determination of consistency from ALUC was received on January 11, 2022.
- On December 27, 2021, OC Development Services received HCD’s comment letter on the initial draft HE Update.
- On September 27, 2022, the Board of Supervisors approved a zoning code amendment that increased the allowable density for the County’s Housing Opportunities Overlay to accommodate the County’s RHNA allocation of 10,406 units.
- The Second Draft of the HE Update was submitted to HCD on December 9, 2022.
- On February 7, 2023, OC Development Services and County Counsel received the second round of comments on a revised HE Update from HCD. Following this second round of comments from HCD, OC Development Services, County Counsel, and OC Community Resources (OCCR) revised the entire HE Update to address HCD comments and to account for new and updated legal requirements.
- On May 19, 2023, the County Executive Office (CEO) received a letter from HCD inquiring about the status of the draft HE, requesting immediate submission of the further revised draft, and citing the State’s remedies for non-compliance with housing element law.
- On June 12, 2023, the County responded to HCD indicating that the County had been diligently working on addressing HCD’s February 7, 2023, Comment Letter and that a revised draft HE Update would be submitted no later than July 31, 2023.
- The Third Draft of the HE Update (dated July 2023) was circulated for public comment beginning on July 12, 2023, and ending July 20, 2023. Six comments were received from the public during the comment period. OC Development Services and County Counsel made edits to the Third Draft HE Update prior to submission to HCD in response to the comments received.
- The Third Draft of the HE Update (dated July 2023) was submitted to HCD on July 31, 2023 (Attachment 1).
- On September 20, 2023, OC Development Services and County Counsel had a telephone conference call with HCD staff to determine whether any of their concerns could be addressed in advance and learned that HCD would be requiring further revisions to the HE Update.
- On September 28, 2023, OC Development Services and County Counsel received the third round of comments on the further revised HE Update from HCD (Attachment 2).
- On September 28, 2023, OC Development Services and HCD received a letter from Shute, Mihaly, and Weinberger, LLP on behalf of Hills for Everyone requesting removal of 1,857 units identified

in draft HE Update Land Inventory within Unincorporated Brea Area: City of Brea (Aera Parcels) (Attachment 3).

OC Development Services and County Counsel have been revising the HE Update to address HCD comments from their September 2023 letter and to account for new and updated legal requirements.

DISCUSSION:

OC Development Services and County Counsel have reviewed HCD's most recent comment letter (dated September 28, 2023) regarding the County's HE Update. HCD indicated while the Third Draft HE Update addressed many statutory requirements, HCD does not believe the HE Update complies with State Housing Element Law, specifically portions of Government Code Section 65583.

HCD has requested that the County further revise the HE to include, among other things: (1) local and regional data related to integration and segregation based on disability, familial status, and income; (2) further analysis of disproportionate housing needs; (3) additional local data related to historical land use and investment practices; (4) analysis of proposed sites for development in relation to disability and familial status, disproportionate housing needs, and access to opportunities; (5) revisions to the site inventory (where the County details the sites available to meet the 10,406 unit RHNA assigned to the County) to reflect "realistic" capacity as opposed to maximum theoretical capacity by adding evidence supporting the use of nonvacant, large and small sites to meet the RHNA; (6) additional analysis of local processing and permit procedures and timelines for processing which HCD considers to be constraints on housing development; (7) elimination of barriers to housing for persons with disabilities, including amendment of the County's ordinances to remove the use permit requirements for Group Homes and Sober Living Homes, which HCD considers to pose an impermissible barrier to housing; (8) further revision of housing programs to address constraints and opportunities to affirmatively further fair housing.

The changes required by law and therefore, by HCD, include a program to rezone properties identified as having the potential to utilize the Housing Opportunity Overlay ("HOO") density of 70 dwelling units per acre to also require a minimum density of 30 units per acre for any nonvacant properties and properties that are intended to meet the County's requirements for low, very-low and extremely-low income housing, which were included in the County's prior land inventories for earlier HE cycles and that have not been developed with housing and which are proposed for inclusion in the County's HE Update land inventory.

Despite the Board of Supervisors adopting a Zoning Code amendment to increase the base density in the Housing Opportunities Overlay Zone from 43.5 to 70 du/ac in September 27, 2022 and removing the following sites from the land inventory 1) Banning Ranch - 1,475 units (removed October 2021 draft), 2) Brea Canyon Parcels - 1,100 units (removed December 2022 draft), and 3) Santa Ana Golf Course Parking Lot (Costa Mesa Island) - 805 units (removed July 2023 draft), HCD did not find the Third Draft HE substantially compliant. Following the County's submittal of the Third Draft HE to HCD for review, Hills for Everyone (by letter dated September 28, 2023) requested removal of 1,857 units identified in HE Land Inventory within *Unincorporated Brea Area: City of Brea (Aera Parcels)* due to alleged fire risk, lack of access, biological value, the downzoning of the Los Angeles County portion of the Aera Energy land, and withdrawal of the Los Angeles County development application intended to kick off the development of the Aera parcels into housing.

Analysis of HCD's comments on the Third Draft HE has led staff to conclude that revising existing development standards in multifamily residential zoning districts and rezoning of specific commercial parcels would be necessary in order to meet the County's RHNA of 10,406 units and to achieve compliance with State Housing Element Law.

At this time, staff is requesting authorization to initiate General Plan Amendment LU 24-01 (Land Use Element), Zoning Code Amendment CA 24-01, and Zone Change ZC 24-01 to ensure compliance with existing State housing law, recent State mandates related to housing, and to conform the County's HE Update with Housing Element law. Since HCD did not find the County's HE to be compliant by February 17, 2022, the County is required to complete all required subsequent Zoning Code and General Plan amendments, and Zone Changes before HCD will certify the County's HE Update.

Prior to Board adoption, the proposed General Plan Amendment, Zoning Code Amendment, and Zone Change and will be submitted for Planning Commission review and consideration of recommendation for adoption by the Board of Supervisors.

COMPLIANCE WITH CEQA:

This action to initiate the General Plan and Zoning Code amendments is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this item does not commit the County to a definite course of action in regard to a project since the action being authorized involves the initiation of a General Plan Amendment and Zoning Code Amendment and Zone Change to ensure compliance with existing State housing law, recent State mandates related to housing, and the County's Housing Element, which is administrative. This proposed activity is therefore not subject to CEQA. Any future action, including actual adoption of the amendments, which are connected to this approval that constitutes a project will be reviewed in compliance with CEQA.

Submitted by:

Concurred by:



box SIGN 1R2PW3L1-4WL3JQYP

Cindy Salazar, Land Use Manager
OC Development Services/Planning



box SIGN 47MBV771-6WL3JQYP

Justin Kirk, Deputy Director
OC Public Works/Development Services

ATTACHMENTS:

1. Draft 6th Cycle Housing Element (July 2023)
2. State HCD comment letter received on September 28, 2023
3. Shute, Mihaly, and Weinberger, LLP on behalf of Hills for Everyone letter received on September 28, 2023