



## City Council Agenda Item Staff Report

CITY OF SAN BRUNO

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**DATE:** January 24, 2023

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Peter Gilli, Community and Economic Development Director

**SUBJECT:** Conduct a Public Hearing, Deliberate, and: 1) Adopt an Initial Study/Mitigated Negative Declaration; 2) Adopt a Resolution making findings and overriding the Airport Land Use Commission's determination of inconsistency with respect to noise policies for San Bruno's draft 2023-2031 Housing Element Update; and 3) Adopt a General Plan Text Amendment to Policy HS-40 to Acknowledge the Local Airport Land Use Commission's (ALUC) Override Process, and Adopt the 2023-2031 Housing Element Update, Replacing the 2015-2023 Housing Element, with Findings that the Housing Element Substantially Complies with Housing Element Law, and Authorize Staff to Submit the Housing Element to the California Department of Housing and Community Development for Certification

### **BACKGROUND:**

The Housing Element is one of seven required Elements of the General Plan. State law (Government Code Section 65580 et seq.) requires all cities to update the Housing Element every eight years. General Plans serve as the local government's "blueprint" for how the city will grow and develop. The purpose of the Housing Element is to adequately plan to meet the housing needs of everyone in the community. Housing Element law, which was first enacted in 1969, mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The California Department of Housing and Community Development (HCD) reviews every local government's housing element for compliance with State law and then submits written findings back to each local government. The deadline to adopt the Housing Element Update is January 31, 2023. A complete project timeline can be found towards the end of this staff report.

This update, referred to as the 6<sup>th</sup> Cycle Housing Element, will address the 2023-2031 planning period. The 5<sup>th</sup> Cycle Housing Element was adopted by City Council in 2015 and covered the 2015-2023 period. State housing laws have changed significantly as it relates to the 6<sup>th</sup> Cycle. The State mandates numerous additional information, analysis and commitments from local governments for housing issues. Due to the new State housing laws, the vast majority of California local governments have been challenged with meeting State expectations and deadlines.

The Planning Commission reviewed the Housing Element at a public hearing held on January 12, 2023, at which time the Commission recommended that the City Council adopt the mitigated negative declaration and Mitigation Monitoring and Reporting Program (MMRP), and adopt the

Housing Element update and related General Plan text amendment related to the allowance of housing in airport noise impacted areas and incorporate the mitigation policies identified in the MND into the Housing Element as City policies applicable to the development of the sites in the inventory. The Planning Commission also recommended incorporation of additional information to bolster the justifications for development/redevelopment potential of developed sites in the inventory to the extent possible prior to submission to HCD, and that the City Council consider adoption of a jobs to housing ratio based housing target for the Tanforan site rather than a flat number of units.

Following adoption by the City Council, staff will submit to HCD for review and certification. If HCD determines additional work is needed before they certify, staff will continue to work with HCD to make the necessary revisions. If those revisions are policy level changes, as opposed to minor administrative changes or elaboration, the Housing Element would eventually be brought back to the Planning Commission and City Council for further consideration.

### **Potential Consequences of Late Adoption**

Failure to adopt a housing element that HCD finds to be in substantial compliance with State housing laws may result in the loss of eligibility for grant funds. Additionally, with the enactment of AB 1398 in 2021, the penalty for failure to adopt a housing element in a timely manner has been revised to require expedited rezoning for non-compliant jurisdictions.

Additionally, under legislation enacted in recent years, if a jurisdiction does not comply with State housing law, it can be sued – by individuals, developers, third parties or the State. In addition to facing significant fines, a court may limit local land use decision-making authority until the jurisdiction brings its Housing Element into compliance.

### **Builder's Remedy for Housing Element Noncompliance**

There have recently been press reports regarding the “builder’s remedy,” which has been in State law since 1990. The Housing Accountability Act (Government Code Section 65589.5) limits local agencies’ ability to deny housing projects that meet certain affordability requirements. One of the reasons a housing project can be denied is if the project does not comply with the City’s General Plan and zoning regulations. But if a city has not adopted a housing element in substantial compliance with state law, then that city cannot deny such a housing project based on noncompliance with the General Plan and zoning regulations. This “builder’s remedy” arguably allows developers of housing projects with affordable housing to apply for housing projects that exceed local regulations and the City would be constrained in its ability to deny the project. City Council adoption of the Housing Element at the January 24<sup>th</sup> meeting allows staff to submit the document to HCD by the January 31, 2023 deadline, and would limiting potential impacts of the “builder’s remedy”.

### **Housing Element Components**

The Housing Element is required by State law to include the following components:

1. Housing Needs Assessment: Examines demographic, employment and housing trends and conditions and identify existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).
2. Evaluation of Past Performance: Review the prior Housing Element to measure progress in implementing policies and programs.
3. Housing Sites Inventory: Identify locations of available sites for housing development or redevelopment to ensure there is enough land zoned for housing to meet the future need at

all income levels. This section often receives the most public attention. Due to recent State laws, the State's allocation to the Bay Area region was significantly increased in this cycle and State requirements for a city to identify a housing site are now more stringent.

4. Community Engagement: Implement a robust community engagement program, reaching out to all economic segments of the community including traditionally underrepresented groups.
5. Constraints Analysis: Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
6. Policies and Programs: Establish policies and programs to be carried out during the 2023-2031 planning period to fulfill the identified housing needs.

A significant new Housing Element requirement is to evaluate and include significant implementation on how goals and policies can affirmatively further fair housing (AFFH) as articulated in AB 686. AB 686, passed in 2018, imposes new requirements for all housing elements. These requirements include an assessment of fair housing practices, an analysis of the relationship between available sites and areas of high or low resources, and concrete actions in the form of programs to affirmatively further fair housing. The goal of this assessment and analysis is to replace segregated living patterns with truly integrated and balanced living patterns and to transform racially and ethnically concentrated areas of poverty into areas of opportunity.

The content of the draft 2023-2031 Housing Element is structured for consistency with the requirements set forth in State law. In addition to responding to the requirements of State law, the Housing Element demonstrates how the strategies to meet the City's locally determined housing needs are addressed through plans, programs, and projects. This report provides an explanation on how the Housing Element Draft complies with State housing element law.

### **Regional Housing Needs Allocation**

The statewide housing mandate for all jurisdictions to accommodate their share of housing needs is known as the Regional Housing Needs Allocation (RHNA). This informs the local planning process to address existing and future housing needs resulting from projected statewide growth in population, employment, and households. The Housing Element Update must address the housing needs identified by the RHNA prepared by the Association of Bay Area Governments (ABAG) for San Bruno. HCD required the Bay Area region to plan for 441,176 additional housing units during the 2023-2031 planning period. ABAG prepared a final RHNA plan that distributes this requirement among the region's nine counties and 101 cities and towns. It is important to note that housing element law does not require a city to build housing units, but rather to demonstrate that the city has the land capacity to address RHNA through a required sites inventory analysis, and that the city has effectively removed governmental constraints for the construction of those units.

In March 2021, ABAG assigned San Mateo County 47,688 units. Of these units, San Bruno was assigned 3,165 new housing units, a significant increase from the 1,155 units allocated to the City in the prior planning period (5<sup>th</sup> Cycle).

A 15 percent buffer has been added to the total because HCD recommends an additional housing unit buffer be included in the RHNA allocation. This buffer is an important component of housing planning in that it allows for case-by-case decision-making on individual projects that may include fewer housing units than anticipated and while still ensuring that an adequate supply of sites is provided throughout the entire planning period (2023-2031), especially for

satisfying lower-income RHNA numbers. The buffer is intended to ensure compliance with the “No Net Loss Law” (Government Code Section 65863) legislation that became effective in 2019 (SB 166). No net loss means that any site designated for housing by the city should be developed as housing or an alternative site should be designated for housing elsewhere at the time a site is developed for an alternative use. Council provided feedback to staff supporting staff’s recommendation on the need for a 15% buffer.

Each city’s allocation is distributed into four (4) income categories based on the County’s Area Median Income. The table below shows San Bruno’s allocation by income category, with and without the 15 percent buffer:

**TABLE 1: SAN BRUNO’S RHNA BY AFFORDABILITY**

Income Category	Very Low (Up to 50% of Area Median Income)	Low (51% to 80% of Area Median Income)	Moderate (81% to 120% of Area Median Income)	Above Moderate Market Rate	Total
Housing Allocation	704	405	573	1,483	3,165
Housing Allocation w/ 15% buffer	810	466	659	1,705	3,640

Source: Association of Bay Area Governments. *Final Regional Housing Needs Allocation (RHNA) Plan: San Francisco Bay Area, 2023-2031*. December 2021.

## DISCUSSION:

As stated above, the element has been comprehensively updated to reflect recent changes in State laws, current housing conditions and other circumstances. The Draft Housing Element includes the following chapters and appendices:

- Chapter 1 – Introduction
- Chapter 2 – Needs Assessment
- Chapter 3 – Constraints
- Chapter 4 – AFFH
- Chapter 5 – Public Outreach
- Chapter 6 – Sites Inventory
- Chapter 7 – Programs
  - Appendix A – Previous Cycle HE Accomplishments
  - Appendix B – Housing Development and Construction
  - Appendix C – Fair Housing Assessment
  - Appendix D – AFFH Map and Data Packet
  - Appendix E – AFFH Segregation Report
  - Appendix F – AFFH Resident Survey Analysis
  - Appendix G – Sites Inventory AFFH Supplement
  - Appendix H – Disparate Access to Educational Opportunity
  - Appendix I – State Fair Housing Laws and Regulations
  - Appendix J – Public Engagement
  - Appendix K – Sites Inventory
  - Appendix L – Housing Trust Fund Memo
  - Appendix M – Policies Applicable to the Development of Sites in the Inventory

### **Needs Assessment**

The needs assessment analysis is based on data from ABAG, and shows that San Bruno residents tend to be older and single-family homeowners. New households buying single-family homes in San Bruno tend to have above moderate-rate incomes and are replacing households with moderate and below moderate-rate incomes. Those who rent tend to live in multi-family buildings and experience higher rates of rent-burden (meaning that a large portion of income is spent on rent). Households that are most rent burdened are more concentrated in the neighborhoods east of El Camino Real which also experience higher rates of overcrowding, and substandard housing. Larger households, households headed by persons with disabilities, and lower income households have difficulty finding and affording proper housing. The city's higher resource neighborhoods are generally located west of Interstate 280, and experience lower social vulnerability scores, concentrations of cost burdened households, overcrowding, and vulnerability to displacement, and experience better educational outcomes.

### **RHNA Obligation**

The purpose of the housing element's site inventory is to identify and analyze specific land (sites) that is available and suitable for residential development to determine the city's capacity to accommodate residential development and reconcile that capacity with the city's RHNA obligation of 3,165 units. Based on the city's RHNA obligation, staff conducted a city-wide site inventory and review of existing land use densities, approved projects, and zoning regulations. The City has the capacity to meet the RHNA through a variety of methods, including: 1) projects in the pipeline; 2) future development of accessory dwelling units (ADUs); 3) capacity on existing, residentially zoned sites; and 4) identification of land to rezone to accommodate remaining RHNA. The table below lists the city's strategy for accommodating its RHNA.

**Table 2: Meeting the RHNA**

<b>Allocation</b>	<b>Units</b>
Required RHNA	3,165
<b>Required RHNA + 15% Recommended Buffer</b>	<b>3,640</b>

<b>Project Type</b>	<b>Units</b>
Pipeline Projects	670
Accessory Dwelling Units (ADU's)	240
Sites Inventory	2,709
Housing Units Constructed since July 1, 2022	43
<b>Draft Housing Element Total</b>	<b>3,662</b>

Source: City of San Bruno 2022

### **Pipeline Projects**

Housing units that have either been approved, issued a building permit, *or* received a certificate of occupancy since the beginning of the RHNA projection period may be credited toward meeting the RHNA allocation based on the affordability and unit count of the development. There are 670 units in the pipeline, which effectively reduces the number of units for which the City must find sites.

### **Accessory Dwelling Units**

The construction of new ADUs in recent years has increased housing opportunities in single - family zones, areas which have traditionally been out of reach for renters. While allowed in multi-family districts as well, the vast majority of new ADUs constructed or under development in

the past 4 years have been in R-1 neighborhoods, providing potential rental housing opportunities in otherwise, high-cost neighborhoods. ADU's also serve as an important land use mechanism for integrating the higher resource neighborhoods in the city located west of Interstate 280. The city estimates 240 new ADUs over the planning period base on annual ADU production since 2018. Emphasis will be placed on new ADUs in the Rollingwood, Crestmoor, Pacific Heights, and Portola Highlands neighborhoods to increase access to higher resourced neighborhoods to affirmatively further fair housing. This further reduces the number of units the City must identify sites for in the Site Inventory.

### **Site Inventory**

The Site Inventory represents properties within the City at which the remaining RHNA obligation could feasibly be located. One of the challenges this cycle was identifying sufficient housing sites to meet San Bruno's RHNA. This is in part due to the higher RHNA, but also because of new requirements for a site to be included on the Site Inventory. New laws require more justification to identify housing sites.

The Site Inventory in the Housing Element demonstrates the City has adequate sites to feasibly accommodate the RHNA obligation with a 15% buffer. A full table and map of the site inventory in Table 6-5 in Exhibit a. of Attachment 3. The majority of the sites are along, or near, the El Camino Real corridor, and are already zoned to allow housing at the densities listed in the Site Inventory.

Development sites which are proposed for future changes in zoning to permit housing would include the Shops at Tanforan ("Tanforan") and the San Bruno Pet Hospital ("Pet Hospital") where 1,000 and 60 housing units are proposed respectively.

The City is not required to have the RHNA obligation constructed, as the City does not have direct control over the business decisions of property owners and builders, or control over the overall economy. The State has concluded that local governments, in general, have "governmental constraints" in place that have reduced the number of housing units built over many decades. These constraints may be related to development regulations, guidelines, hearing processes, actions at hearings, and fees. State law focuses on local government's removing "governmental constraints" to the construction of housing through establishing objective development standards, limiting the number of hearings a project may go to, and effectively requiring local governments to approve housing projects that comply with the allowed density of their General Plan or zoning.

It is also accepted that the actual housing built over the next eight years may occur on properties outside the Site Inventory. If a housing unit is added on a property outside of the Site Inventory, the City will still include that in our annual reports to HCD and that unit will be credited toward the City's RHNA obligation.

### **Housing in Airport Noise Areas**

The Tanforan and Pet Hospital sites are located within Airport Influence Area B and within the 70 to 75 decibel (dB) Community Noise Equivalent Level (CNEL) contour where housing is considered incompatible pursuant to the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (SFO ALUCP) and the City's current General Plan.

*Airport Land Use Commission (ALUC) Override*

On November 10, 2022 the ALUC reviewed the draft Housing Element for land use consistency with the SFO ALUCP and determined it to be inconsistent because allowing housing on these two sites are inconsistent with the SFO ALUCP noise policies. Basically, allowing housing on these sites places residents in conditions with noise impacts. As the indoor noise impacts can be mitigated through construction methods, as a final review authority on legislative acts, the City Council may choose to override the ALUC's determination. The local agency override process involves three mandatory steps:

1. Holding a public hearing by the local agency on the proposed override action;
2. Making of specific findings by the governing body of the local agency that the proposed local action is consistent with the purposes of the airport land use commission statutes;
3. Approval of the override action by a two-thirds vote of the local agency's governing body; the override action must include adoption of the specific findings identified in Step 2, above.

The process for an override is a two-step process, which is established in Public Utilities Code Section 21676. The local agency override process requires two City Council meetings as follows:

**City Council Meeting No. 1 – November 15, 2022:** The City Council has already completed the first step with the public hearing held on November 15, 2022, and adoption of a resolution making draft findings and declaring an intent to override the ALUC's determination of inconsistency with the policies of the SFO ALUCP regarding the Housing Element and to provide notice, in accordance with Sections 21676(b) of the California Public Utilities Code, to the ALUC and the State of California Department of Transportation's Division of Aeronautics. This must occur at least 45 days prior to the decision by the City Council to override the inconsistency determination, as the agencies have a 30-day comment period. On November 15, 2022, Council adopted a resolution with draft findings declaring an intent to override the ALUC decision. On November 16, 2022, staff notified the ALUC and the State of California Department of Transportation's Division of Aeronautics of the City's intent to override. In response, the City received letters from SFO and Caltrans Division of Aeronautics which are exhibits to Attachment 3 of the staff report. The Caltrans letter cites the City's override findings (Council Resolution No. 2022-112) as insufficient to warrant the proposed overrule because they do not provide evidence that the proposed project will meet the requirements of California Public Utilities Code section 21670(a)(1) and (2). The new housing units contemplated at the sites, however, would be subject to construction requirements to ensure that interior noise exposure would not exceed 45 dB, thus minimizing the public's exposure to excessive noise.

**City Council Meeting No. 2 – January 24, 2023:** The second step is part of this agenda item. Not less than 45 days after notification has been sent to the ALUC and Division of Aeronautics, the City Council may decide to adopt a resolution to override the ALUC's determination of inconsistency with the policies of the SFO ALUCP, and make specific findings that the Housing Element is consistent with the purposes of the State Aeronautics Act, as set forth in PUC Section 21670, namely the protection of public health, safety, and welfare in the areas surrounding airports. In the context of the Housing Element, staff is recommending that the City Council override the inconsistency determination at the same meeting at which it will consider adopting the Housing Element and its associated General Plan amendment. If City Council does not override the ALUC determination, then the Housing Element inventory must be amended to remove the Tanforan and Pet Hospital sites and find locations for 1,060 units elsewhere in the community. This would delay adoption and certification of the Housing Element by several

months. The override resolution setting forth the City's findings is Attachment 2 to the staff report.

*General Plan Amendment Related to Airport Noise Areas*

In addition to overriding the ALUC determination, identifying the Tanforan and Pet Hospital sites for housing requires an amendment to the city's General Plan. The City's current General Plan Policy, Health and Safety Policy, HS-40 states: "Prohibit new residential development within the 70+ Airport CNEL areas, as dictated by Airport Land Use Commission infill criteria." The City has prepared an amendment to General Plan HS-40: "Prohibit new residential development within the 70+ Airport CNEL areas, as dictated by Airport land Use Commission infill criteria, unless, on a project-by-project basis, a proposed residential development is approved through the Local Agency Override process consistent with the Public Utilities Code Section 21675.1(d)." This amendment is being processed concurrently with the Housing Element. The amendment has also been reviewed by the ALUC and been determined to be consistent with the Airport Land Use Compatibility Plan for the environs of San Francisco International Airport.

General Plan Policy	Existing Policy Language	Proposed Policy Amendment
HS-40	Prohibit new residential development within the 70+ Airport CNEL areas, as dictated by Airport Land Use Commission infill criteria.	Prohibit new residential development within the 70+ Airport CNEL areas, as dictated by Airport land Use Commission infill criteria, <u>unless, on a project-by-project basis, a proposed residential development is approved through the Local Agency Override process consistent with the Public Utilities Code Section 21675.1(d).</u>

**Goals and Programs**

The goals and programs of the Housing Element Update serve as the City's strategy for addressing its housing needs (Chapter 7). The goals are purpose statements that indicate the City's direction on housing-related needs. Each goal includes programs that are actionable steps taken to implement the policies and further the City's progress towards its goals. HCD requires these programs have quantified objectives, which refer to the number of units that are expected to be constructed, preserved, or rehabilitated through the program during the planning period. These quantified objectives represent measurable outcomes that can be used to benchmark the success of each program.

The revised draft Housing Element includes updates intended to facilitate the number and type of housing for all income levels in San Bruno. In accordance with state law, the City will also evaluate the progress and effectiveness of these programs on an annual basis. Together, these initiatives reflect the City's commitment to increasing the availability of affordable housing and improving existing housing conditions. Some programs represent a continuation of existing programs with some refinements, and there are new policies and programs in response to new state housing legislation.

Implementing these programs is necessary for the Housing Element to remain in compliance with State law. Funding for staffing, consultants and program operations will be necessary in future budgets for these programs.



### **HCD Review**

On July 8, 2022, the City's draft 2023-2031 Housing Element update was submitted to HCD for the 90-day review period. On October 6, 2022, the city received HCD's review comments. While HCD concluded that the Draft 2023 -2031 Housing Element met many of the statutory requirements, they identified revisions that they believe are necessary before the agency would certify the Housing Element (Attachment 1). Some of HCD's comments only require technical or clerical revisions, such as additional data and information to, in HCD's opinion, comply with state law, such as the Affirmatively Furthering Fair Housing analysis. Other comments call for more robust City administrative efforts to encourage and facilitate housing development. Some comments raise substantive policy concerns regarding issues such as the City's development standards and permit procedures. Staff sorted all of HCD's comments into a table and provided a response to each one (Exhibit Attachment 2). The revised Draft 2023-2031 Housing Element update is provided as Attachment 3 and incorporates revisions to address the comments provided by HCD. In the letter, HCD organized the comments into five topic areas as listed below, with a brief description of how staff has responded to HCD comments:

**1. Review and Revision (of the City's 2015-2023 Housing Element)**

Appendix A was revised to provide additional evaluation of whether the programs in the 2015-2023 Housing Element were effective in addressing housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers, and persons experiencing homelessness).

**2. Housing Needs, Resources, and Constraints**

Chapter 4 of the Housing Element is titled Affirmatively Furthering Fair Housing (AFFH), and was revised to include expanded analysis and actions. The revisions include new maps and related analysis to comprehensively describe San Bruno's fair housing conditions and issues broken down by census tract. New mapping and information primarily show the city's housing opportunity sites are located with respect to different fair housing metrics, such as racial demographics and renter overpayment. In response to the additional data and analysis, the programs chapter was significantly revised to reflect programs added to address the new AFFH data and analysis. In general, revised programs require staff to take a more active role in ensuring fair housing compliance within the city. Additionally, the city must develop strategies to facilitate a variety of housing choices within the city for lower income households.

- o Sites Inventory. Because relatively little vacant land suitable for housing development remains in San Bruno, most of the future housing development is expected to occur through redevelopment of previously developed, nonresidential sites, referred to as "underutilized" sites in the Housing Element, that are smaller than a half-acre. Underutilized site development could occur through demolition/redevelopment or through new housing construction on vacant portions of parcels, such as parking lots. More analysis was added to Chapter 6 to justify the redevelopment potential of every site in the inventory. The ADU assumptions were revised downward for consistency with HCD ADU projection guidance and the ADU affordability assumptions were clarified.
- o Housing Needs. State law establishes specific requirements related to City regulation of housing for persons with special needs, including the homeless and persons with disabilities. Chapter 2 of the Housing Element was revised to

include an analysis of City plans and regulations for a variety of housing types. The analysis concluded that while current City regulations are consistent with most laws regarding special needs housing, some recently adopted laws will require amendments to the Zoning Ordinance to ensure consistency with State law.

The analysis in Chapter 2 was revised to include median rents in the city from a second source and include an estimate and analysis of substandard housing units in the city. Regulations for employee (farmworker) housing, consistent with the Employee Housing Act (Health and Safety Code Sections 17000 et seq.) was addressed. Additionally, state regulations regarding emergency shelters were also addressed. Programs were added to assist in the development of housing for extremely low-income households.

- o Constraints. State law requires an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels. Governmental constraints include policies, procedures and regulations that affect housing development. Constraints to housing production in the city are analyzed in Chapter 3 of the 2023-2031 draft Housing Element update. In response to HCD comments, additional analysis has been provided regarding the city's density bonus ordinance, off site improvement requirements for new development, permit processing times, reasonable accommodations ordinance, and design review process.

### **3. Housing Programs**

HCD stated that programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives and definitive timelines. Deliverables should occur early in the planning period to ensure actual housing outcomes. Additionally, the timing of these programs should be benchmarked to a known date (e.g., within one year of the planning period). In response to this comment, the programs in Chapter 7 were revised to provide additional specific objectives and timing. This feedback resulted in changes to several programs. Most notably, proactive outreach was added to the action items associated with many programs and incentives were added to a few programs. Other changes to the programs in Chapter 7 are noted above. A summary of changes has been specifically prepared to explain the changes in Chapter 7. These programs will require funding and resources by the City. This will be further reviewed and the costs quantified as part of the upcoming FY2023-24 budget.

### **4. Quantified Objectives**

Housing Elements must include quantified objectives for the construction, rehabilitation, and preservation of housing. The first draft generally did not address this requirement, so it has been added to the end of Chapter 7.

### **5. Consistency with General Plan**

The Revised Draft includes a discussion of how General Plan internal consistency will be maintained throughout the planning period. Committing the City to amend the General Plan, as necessary to ensure consistency between elements, including the Housing Element, is the primary strategy to address this comment from HCD.

**Planning Commission Review**

The Planning Commission reviewed the Draft 2023-2031 Housing Element update at its meeting on January 12, 2023, at which time the Commission adopted resolution Nos. 2023-01 and 2023-02 recommending that the City Council adopt the IS/MND and MMRP, adopt the 2023-2031 Housing Element Update, replacing the 2015-2023 Housing Element, and instruct staff to forward it to HCD for review, and adopt a related General Plan text amendment related to the allowance of housing in airport noise impacted areas. There were no public speakers for this item.

Additionally, the Planning Commission recommended:

1. **Incorporating the mitigation policies identified in the MND into the Housing Element as City policies applicable to the development of the sites in the inventory.** This was recommended by the City Attorney's Office and has been incorporated into the attachments as Appendix M of the Housing Element;
2. **Incorporation of additional information into the Housing Element to bolster the justifications for development/redevelopment potential of developed sites in the inventory to the extent possible prior to submission to HCD.** Specifically, it was suggested that the City should do more to justify the selection of properties, particularly whether the owners are interested in housing. The property owners listed in the Site Inventory have been informed, and the City has not received any concerns from those owners. Given the upcoming January 31, 2023 submittal deadline, staff does not recommend this item.
3. **Considering a "jobs to housing ratio-based" housing target for the Tanforan site rather than a flat number of units.** The Housing Element identifies 1,000 units for the Tanforan site. This is based on the Reimagining Tanforan Land Use Fact Sheet concept from Alexandria Real Estate Equities adopted by City Council on July 27, 2021. That fact sheet proposed a mixed office, retail, open space and residential project.

The Commission's suggestion is to effectively require a larger proportion of housing units in the project, which because of the ALUC's height limits, likely would reduce the office, retail or open space areas in the project.

Staff does not recommend pursuing this recommendation for multiple reasons:

- o Requiring more housing at Tanforan is inconsistent with the City Council's adopted the Reimagining Tanforan Land Use Fact Sheet;
- o Given ALUCP height constraints, requiring more housing would effectively require less life science or retail uses, which is counter to the property owner's interest. That could reduce the chances the overall project happens within the 6<sup>th</sup> Cycle; and
- o Given ALUC's concerns with even 1,000 units in the area, adding more housing to Tanforan will increase their concerns related to housing added on this site.

### **Project Timeline**

The preparation of this Housing Element update has been a multi-year task that included significant community engagement and input from the Planning Commission and City Council:

- *April 2021* – The city hosted the first public workshop which focused on educating the public on Housing Elements and the RHNA process.
- *Fall 2021* – 21 Elements hosted a four-part webinar series to help educate community members about local housing issues.
- *January 2022* – Launch of a [Housing Element Update website](#) that included links to past event video recordings, meeting materials, outreach and survey summaries, and information about upcoming meetings and ways to get involved.
- *January 2022* – The City Council held a study session to review and discuss the draft Housing Element Update.
- *April – May 10, 2022* – A citywide flyer distributed in resident utility bills in April and May 2022 – inviting community members to participate in community workshops, public meetings, and online surveys. The same flyer was hand distributed to downtown businesses.
- *April – July 2022* – The city opened a survey to get input on housing preferences and preferred strategies for accommodating our RHNA.
- *May 2022* – Staff presented the city's draft programs to the Equity Advisory Group for feedback.
- *May 2022* – The City Council held a study session to review the draft Housing Element and announce the public release of the draft document.
- *May 2022* – The city hosted two community workshops to get input on the community's needs and present draft programs under consideration.
- *May – June 2022* – The draft Housing Element was made available for public review from May 24, 2022, to June 24, 2022.
- *June 2022* – The Planning Commission held a study session on the draft Housing Element.
- *July 2022* – The first draft of the Housing Element was submitted to HCD for a 90-day review period.
- *September 2022* – Staff met with HCD staff to discuss their review comments.
- *October 2022* – HCD's review comments on the draft Housing Element were received.
- *July – December 2022* – The draft Housing Element Update was subsequently revised to address the comments from the community and HCD (§ 65585(b),(2)).
- *December 2022* – The revised draft Housing Element Update was released for public review.
- *January 2023* – The revised draft Housing Element update will be resubmitted to HCD for its second 60-day review (§ 65585(b), (1)) and potential certification.

### **PUBLIC NOTICE**

A notice regarding the Revised Draft Housing Element Update was published in the San Mateo Daily Journal on January 14, 2023. Because the Revised Draft Housing Element applies to the entire city, as required by law, this hearing was advertised by means of a public notice publication. Meeting agendas were posted at City Hall and on the City's website.

### **NEXT STEPS**

If adopted by City Council, the draft 2023-2031 Housing Element Update will be submitted to HCD for review and certification. Government Code § 65585(h) stipulates that HCD will have up

to 90 days to review and certify (or not certify) the adopted housing element. If HCD does concur with the City that the document substantially complies with the requirements of Housing Element Law, they will provide additional comments and staff will continue to work with HCD to address their comments. The resolution for adoption of the Housing Element also authorizes the City Manager to make non-substantive changes to the 2023-2031 Housing Element related to any comments received from the HCD to gain certification and concurrence that the Housing Element substantially complies with State Housing Element Law. If notable policy changes are contemplated, staff will bring the Housing Element back to Planning Commission and City Council for further consideration.

**FISCAL IMPACT:**

Preparation of the Housing Element has been included and approved as part of the 2022-2023 operating budget. To date, \$267,990 in total funding has been allocated to the Housing Element update. This includes staff time, consultant work prepared by 21 Elements (\$55,000), consultant work prepared by Good City company (\$75,000), and consultant work prepared by David J Powers (\$137,990) for environmental analysis. The cost of the preparation of the Housing Element is offset by state grants up to \$192,498 (LEAP and REAP).

**ENVIRONMENTAL IMPACT:**

The draft 2023-2031 Housing Element has been reviewed for compliance with the requirements of the California Environmental Quality Act (CEQA), Public Resources Code § 21000 et seq., the CEQA Guidelines. An Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared by David J. Powers & Associates in accordance with the CEQA Guidelines (Exhibit a. to Attachment 1). The IS/MND includes the analysis of changes and potential impacts related to the adoption of the draft Housing Element as an update to the City's existing Housing Element. The draft Housing Element analyzes governmental constraints to housing maintenance, improvement, and development; addresses conservation and improvement of the condition of existing affordable housing stock; and outlines policies and programs that promote housing opportunities for all persons. To assess options for meeting its RHNA, the City compiled an inventory of candidate housing sites, which includes properties within the commercial and specific plan areas. The revised draft Housing Element intends to reduce potential environmental impacts by situating housing near higher density areas and public transportation, and away from environmentally sensitive resources. The IS/MND includes the analysis of the changes and potential impacts related to the adoption of the revised draft Housing Element. No physical development or land use changes are addressed or evaluated. The City would analyze land use changes as a separate action to demonstrate compliance with the requirements of CEQA. The 30-day public review and comment period on the Initial Study/Mitigated Negative Declaration was from Friday, December 9, 2022, to Monday, January 9, 2023.

During the public comment period, the City received two comment letters on the draft IS/MND from the San Francisco International Airport and the San Mateo County Flood and Sea Level Rise Resiliency District. The two comment letters are exhibits to Attachment 1 of the staff report. Although not required for an MND, the City prepared responses to the comments which are included as an exhibit to Attachment 1. The letters didn't identify new or significant impacts and didn't change the conclusions in the IS/MND. However, in response to the comments, certain clarifications were made to the Final IS/MND document presented for Council's consideration.

The IS/MND (Attachment 3, Exhibit A) identifies the potential environmental impacts associated with the implementation of the proposed project and recommends mitigation measures to reduce potentially significant impacts. All impacts identified would be mitigated to a less-than-significant level with implementation of the recommended mitigation measures, so a Mitigated Negative Declaration was prepared.

Impacts in the following areas would be less than significant:

- Aesthetics
- Agriculture and Forestry Resources
- Energy
- Geology and Soils
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

Impacts in the following areas would be potentially significant but would be reduced to a less-than-significant level by implementation of the recommended mitigation measures.

- **Air Quality** - Construction of future development under the Housing Element could combine with existing TAC sources and expose existing sensitive receptors to substantial pollutant concentrations. Therefore, to determine whether future construction could result in individually or cumulatively significant impacts, health risk assessments would need to be prepared for each individual project completed under the Housing Element Update. Furthermore, implementation of the BAAQMD's Basic Construction Mitigation Measures would minimize NO<sub>x</sub> construction related emissions to less-than-significant. Preparation health risks assessments and compliance with BAAQMD's Basic Construction Mitigation Measures are specified as mitigation measures.
- **Biological Resources** – Construction of future development under the Housing Element could impact nesting birds resulting in the loss of fertile eggs. Therefore, a nesting bird survey is required prior to construction at any housing site during nesting season.
- **Cultural Resources** – Cultural Resources could be encountered during construction, so standard mitigation measures related to preserving and protecting cultural resources is included.
- **Greenhouse Gas Emissions** – Construction of future development under the Housing Element Update would result in the temporary generation of GHG emissions. Compliance with BAAQMD's Basic Construction Mitigation Measures is specified as a mitigation measure to reduce the impact to less than significant.
- **Hazards and Hazardous Materials** – The potential presence of asbestos and lead-based paint in on-site structures may present a hazard to workers during demolition of the structures. In addition, the possibility exists to encounter limited contamination in on-site soil during grading and excavation. These represent potentially significant impacts to

the public, therefore, mitigation measures have been applied to the project to address them.

- **Noise and Vibration** – Construction activities have the potential to result in ground borne vibration that could impact nearby sensitive uses. Therefore, in order to determine whether future construction could result in significant ground borne vibration impacts, ground borne vibration studies would need to be prepared for each individual project completed under the Housing Element Update.
- **Transportation** – Development of the housing sites under the Housing Element Update result in transportation related inconsistencies with General Plan programs, plans, ordinances, and policies regarding the roadway network associated with operation of residential uses. Therefore, prior to approval, the 2023-2031 Housing Element shall include a policy requiring future development at all Housing Opportunity Sites that would generate a sufficient amount of trips (as determined by the City's traffic engineer) to prepare a Transportation Analysis (TA) prior to the issuance of any discretionary permits.

These mitigation measures would apply to the development of the sites in the inventory and have been incorporated into a mitigation monitoring and reporting programs which can be found in Attachment 1 to the staff report. Additionally, the mitigation measures have been incorporated into the Housing Element (Attachment 3) as Appendix M.

#### **RECOMMENDATION:**

Staff recommends that the City Council adopt three resolutions:

1. Adopt an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the 2023 – 2031 Housing Element Update (Attachment 1);
2. Adopt a Resolution making findings and overriding the Airport Land Use Commission's determination of inconsistency with respect to noise policies for San Bruno's draft 2023-2031 Housing Element Update (Attachment 2); and
3. Adopt a General Plan Text Amendment to Policy HS-40 to acknowledge the Local Airport Land Use Commission's (ALUC) Override Process, and adopt the 2023–2031 Housing Element Update, replacing the 2015-2023 Housing Element, with findings that the Housing Element substantially complies with Housing Element Law, and authorize staff to submit the Housing Element to the California Department of Housing and Community Development for certification (Attachment 3).

#### **ATTACHMENTS:**

1. Resolution No. 2023 – XX Adopting an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the 2023 – 2031 Housing Element
  1. Draft IS/MND for the Housing Element update
  2. Mitigation Monitoring and Reporting Program (MMRP)
  3. Response to comments
2. Resolution No. 2023 – XX Overriding San Mateo City / County Association of Governments (C/CAG) Airport Land Use Commission's (ALUC) determination of inconsistency with respect to noise policies for the Draft 2023-2031 Housing Element Update.
  1. Public comment letters on the intent to override
3. Resolution No. 2023 – XX Adopting the 2023 – 2031 Housing Element, with findings that the Housing Element substantially complies with Housing Element Law, and authorizing Staff to

submit the Housing Element to the California Department of Housing and Community Development for certification; and approving an associated text amendment to the General Plan policy HS-40 recognizing the ALUC local override process.

- a. Draft 2023-2031 Housing Element update
  - b. Plan conformity with Housing Element Law
  - c. Staff response to HCD comments
  - d. General Plan Amendment to Policy HS-40
  - e. HCD's review letter
4. Planning Commission Resolutions
- a. Planning Commission Resolution No. 2023-01
  - b. Planning Commission Resolution No. 2023-02