RESOLUTION NO. PC2021-034


THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. Section 65580 of the California Government Code (“Government Code”) finds and declares that the availability of housing is of vital statewide importance and that early attainment of decent housing and a suitable living environment for every California family is a priority of the highest order.

2. Sections 65580 to 65589 of the Government Code require each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing (“Housing Element”).

3. The Housing Element is one of the mandatory elements of the General Plan that must be periodically updated in accordance with state law.

4. The 6th Cycle Draft Housing Element for the 2021-2029 period (“Draft”) presents a framework for meeting the housing needs of existing and future resident populations within the City of Newport Beach (“City”) based on the Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new housing units.

5. Pursuant to Government Code Section 65583(c)(7), a robust public participation effort concerning housing has been ongoing. Since October 2019, the City held thirteen community workshops, worked with the Housing Element Update Advisory Committee (“HEUAC”) at fourteen Brown Act meetings, and brought iterations of the draft to one (1) duly noticed Planning Commission study session and six (6) duly noticed City Council study sessions.

6. On August 13, 2021, the City submitted the Draft to the State Department of Housing and Community Development (“HCD”) for a 60-day statutory review.

7. On October 12, 2021, HCD issued preliminary comments to the City necessitating revisions to the Draft for compliance with the statutory requirements.

8. On November 16, 2021, staff presented a revised draft that incorporated and addressed all revisions required by HCD to the City Council for authorization to resubmit to HCD.
9. On November 17, 2021, the Draft was submitted to HCD for a second 60-day review with comments due back to the City no later than January 14, 2022. While there may be further changes to the Draft required depending on the comments received from HCD, it is not anticipated these comments will significantly change the Draft. Moreover, the penalties set forth in Assembly Bill 1398 dictate strict compliance with the statutory deadlines for completion of the Draft.

10. On December 9, 2021, a public hearing was held in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with California Sections 54950 et seq. ("Ralph M. Brown Act") and 65353 of the Government Code and consistent with City Council Policy K-1 (General Plan and Local Coastal Program). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The Draft is not a project under the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the California Code of Regulations, Title 14, Division 6, Chapter 3 ("CEQA Guidelines"), the common-sense exemption because it involves policies, programs, and actions to meet the City’s RHNA allocation that would not cause a significant effect on the environment. Moreover, the Draft is statutorily exempt under Section 15262 of the California CEQA Guidelines, which exempts projects involving feasibility or planning studies for future actions which the City has not approved or funded. Section 423 of the Charter and Council Policy A-18 require any amendment to the General Plan be reviewed to determine if a vote of the electorate would be required. If a project includes a general plan amendment, and, separately or cumulatively with other projects over a 10-year span, exceeds more than 100 additional peak hour trips (a.m. or p.m.), adds 40,000 square feet or more of non-residential floor area or adds more than 100 dwelling units in a statistical area, a vote of the electorate is required. The Draft adds at least 100 dwelling units in several statistical areas; therefore, voter approval of amendments to the Land Use Element of the General Plan and the Zoning Code is likely to be required in order to implement the Draft.

2. As a result, the Draft is a policy document and does not provide development entitlements to any specific land use projects, nor does it make any changes to the General Plan land use map or modify land use designations, densities, or land use intensities. Other similarly situated cities with voter-adopted growth initiatives have not been alleviated, either through State Legislation or judicial determination, of their obligations to comply with the voter initiative process. Given the nature and scope, the Draft programs and policies would not result in physical environmental impacts. Future housing development pursuant to the Housing Element Update would be subject to compliance with the established regulatory framework, including federal, state, regional, and local regulations.
SECTION 3. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds this action is covered by the general rule that the CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3)) and is statutory exempt pursuant to Section 15262 in accordance with the recitals under Section 2 of this Resolution.

2. The Planning Commission of the City of Newport Beach hereby finds that the Draft complies with the statutory requirements set forth in Sections 65580 to 65589 of the Government Code.

3. In conformance with City Council Policy K-1, the Planning Commission reviewed and recommended the City Council approve General Plan Amendment No. GP2021-005 by adoption of Resolution No. PC2021-034.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF DECEMBER, 2021.

AYES:        Ellmore, Klaustermeier, Kleiman, Koetting, and Weigand

NOES:        

RECUSED:     Rosene

ABSENT:      Lowrey

BY:          
Lauren Kleiman, Vice Chair

BY:          
Curtis Ellmore, Secretary