

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission

For the Meeting of 8/28/14

**FROM:** Ken Johnson, Senior Planner, and Tim Tune, Special Assistant, via John Swiecki, Community Development Director

**SUBJECT:** **Draft 2015-2022 Housing Element;** General Plan Amendment GPA-1-14; City of Brisbane, applicant; citywide

**REQUEST:** The draft 2015-2022 Housing Element (one of the mandatory elements of the City's General Plan) has been prepared to address, among various housing issues as required by State law, the City's share of the Regional Housing Need Allocation (RHNA) set by the Association of Bay Area Governments (ABAG) for the January 31, 2015-January 31, 2023 planning period. The draft Housing Element is subject to review by the California Department of Housing and Community Development (HCD) prior to adoption by the City Council before the State deadline of January 31, 2015.

**RECOMMENDATION:** Recommend that the City Council forward the draft 2015-2022 Housing Element to the California Department of Housing and Community Development (HCD) for review, via adoption of Resolution GPA-1-14-A.

**ENVIRONMENTAL DETERMINATION:** An Environmental Initial Study (attached) has been preliminarily drafted, which finds that the draft 2015-2022 Housing Element would not have a significant effect on the environment and that a Negative Declaration should be prepared. As detailed in Table F.2 of Appendix F in the draft Housing Element (attached), a number of programs integral to the Housing Element act to pre-mitigate potential impacts. Because the draft Housing Element may be subject to changes in response to comments from HCD and others, formal public hearings on approval of the Negative Declaration will be scheduled in conjunction with the Planning Commission's and City Council's public hearings on adoption of the 2015-2022 Housing Element later this year.

**APPLICABLE CODE SECTIONS:** State law contains a number of requirements applicable to Housing Elements (see attached California Government Code Sections). These have been summarized and arranged in an order roughly corresponding to the chapters of the City's Housing Element for this agenda report (see attached Housing Element Components Required by State Law). To assist jurisdictions in updating their Housing Elements, HCD has prepared "Building Blocks for Effective Housing Elements," which staff has reassembled in similar order, to detail HCD's expectations for Housing Elements (see attached, noting that HCD does not

address Chapter V). Staff's analysis of the draft Housing Element's compliance with the Government Code requirements is included in the Housing Element as Appendix D.

**ANALYSIS:** The draft 2015-2022 Housing Element is attached. It represents an update to the 2007-2014 Housing Element, which was adopted in January 2011, following the same format and including background information that remained current. Updates are proposed in the 2015-2022 Draft Element to comply with the latest RHNA requirement as well as the previous one, to improve upon the previous policies and programs, to respond to changes in State law, and to incorporate new data, such as 2010 Census data.

**RHNA Requirements**--Each Housing Element update cycle begins with HCD assigning shares of the state housing needs, based upon its population projections, to the various regional government planning organizations, including ABAG. For the current and most recent cycles, C/CAG (the County and Cities in San Mateo County) has processed the "fair-share" allocation of the regional housing needs to jurisdictions within the County. Through this process, Brisbane's RHNA shares by household income category were determined for the 2015-2022 planning period. The rezoning necessary to provide adequate sites to accommodate this need must be completed no later than May 31, 2018, per Government Code Section 65583(c)(1)(A).

While attempting to implement the 2007-2014 Housing Element, the City determined that the rezoning in the Southwest Bayshore subarea it had committed to in order to meet some of its Regional Housing Need Allocation was impractical due to a number of reasons (see Section I.3). Since the City will not have adopted the necessary rezoning before the end of 2014, that unmet portion of the RHNA is to be carried forward to the 2015-2022 Housing Element period (see Section III.1.1 & Appendix C). Per state law, the rezoning necessary to meet the shortfall must be adopted by January 31, 2016.

In calculating the shortfall in Appendix C, credit was given for the above moderate income housing capacity under current zoning (including the SCRO-1 District in Southwest Bayshore), as well as lower income housing capacity of Brisbane Housing Authority owned sites, secondary dwelling unit projections, and that portion of the already approved 30 unit condominium complex at 3750-3780 Bayshore Boulevard which was required to include affordable units, consistent with the City's affordable housing ordinance.

The following is a summary of the rezoning shortfall, or carry-over, and the currently required RHNA for the 2015-2022 planning period:

	RHNA Carry-Over 2007-14	RHNA 2015-22	<b>Total Combined RHNA for the 2015-22 Housing Element</b>
Very low income	89	25	<b>114</b>
Low Income	54	13	<b>67</b>
Moderate Income	67	15	<b>82</b>
Above Moderate Income	-	30	<b>30</b>
<b>Total</b>	<b>210</b>	<b>83</b>	<b>293</b>

In planning to meet these allocations, some key requirements to keep in mind in accommodating the lower (low and very low) income portion of the RHNA include the following:

- A minimum unit density of 20 units per acre is assumed by State law [Government Code Section 65583.2(c)(3)(B)(iii)] to be necessary to accommodate housing affordable for lower income households.
- A minimum site area sufficient to permit at least 16 units per site is also required per Government Code Section 65583.2(h) [note that at a minimum density of 20 units per acre, the smallest site that could accommodate 16 units would be 0.8 acre (34,848 sq. ft.)].
- At least 50 percent of the lower income housing need must be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted, per Government Code Section 65583.2(h).
- The sites must be zoned to permit owner-occupied and rental multifamily residential use *by right*, not subject to use permit, planned unit development permit, or other discretionary local government review or approval (excluding subdivision approval and non-discretionary design review requiring compliance with objective, quantifiable, written development standards consistent with meeting the City's RHNA) per Government Code Section 65583.2(i).

After considering a number of alternatives (Tables 36 & 39), the draft Housing Element proposes to utilize the Urban Land Institute's Technical Assistance Panel (TAP) recommendation for an overlay zone allowing mixed-use and residential uses in Crocker Park in the vicinity of the Brisbane Village Shopping Center (see Section I.3). In the draft Housing Element, the proposed "affordable housing overlays" (AHO) would offer incentives to provide dwelling units at densities high enough to accommodate affordable housing either in residential or mixed use developments in the TC-1 Crocker Park Trade Commercial District (see Sections V.2.3 & V.3.3). Specifically, a residential affordable housing overlay would be adopted for 3 properties on the south side of Park Lane, and a mixed use affordable housing overlay would be adopted for 2 properties on the east side of Park Place.

		Acres	Units at Minimum Density	Units at Maximum Density
<b>Park Lane Residential AHO</b> (Minimum 26 Units/Acre and a Maximum 30 Units/Acre)				
	91-99 Park Lane	1.855	49	55
	105-115 Park Lane	2.142	56	64
	145 Park Lane	2.876	75	86
<b>Subtotal</b>			<b>180</b>	<b>205</b>
<b>Park Place Mixed Use AHO</b> (Minimum 20 Units/Acre and a Maximum 30 Units/Acre)				
	25 Park Place	1.249	25	37
	41-43 Park Place	1.118	23	33
<b>Subtotal</b>			<b>48</b>	<b>70</b>
<b>GRAND TOTAL</b>			<b>228</b>	<b>275</b>



The basic assumptions behind the locations of these proposed affordable housing overlays (in addition to the key requirements listed above) are:

- Properties in the vicinity of the R-2 District should be under a residential overlay.
- Properties in the vicinity of the NCRO-1 District should be under a mixed use overlay.
- Each overlay should consist of contiguous parcels to avoid the appearance of “spot zoning.”
- Graduated density zoning (Section V.2.12) is not suitable for the residential AOH, since all 3 parcels are already in common ownership, so their sizes could easily be shifted through lot line adjustments.

The minimum density of 26 units per acre for the Park Lane Residential AHO is necessary to meet the RHNA numbers, given that only 50% of the lower income units may be provided in the Park Place Mixed Use AHO (which has the minimum 20 units per acre density required to be considered affordable under the Government Code). Note that the maximum density proposed under both overlays would be 30 units per acre (see Table 38). This upper limit is the highest density currently specified in the Zoning Ordinance (the R-3 District); although, higher densities have been approved in the NCRO-2 District.

The incentives proposed to be provided in the affordable housing overlays would be based upon existing comparable district regulations and actual developments previously approved by the Planning Commission (see Section III.1.5). They would be similar to the incentives currently available under the Inclusionary Housing and Density Bonus Ordinance (BMC Chapter 17.31). For example, the height limit under the AHO would be three stories (comparable to the 35 ft. height limit in the NCRO-1 District) with a height exception as an incentive to provide higher density (Table 38).

As shown on Table 35, the proposed AHO sites, combined with presently zoned sites, would meet the above outlined RHNA requirements and state law provisions regarding density, lot size and type of use ratio (mixed use vs. residential only). Note that the proposed capacity that would exceed the RHNA in the very low and low income categories would also be affordable to moderate income households. This surplus of 53 units can be carried forward to meet the deficit in the moderate income category, to provide an overall surplus of 3 units in the very low, low and moderate income categories. Overall, including market-rate (above moderate income) dwelling units, the zoning would result in 391 units, which would accommodate 98 units over the current and carry-over RHNA of 293 units for the upcoming Housing Element.

	Combined RHNA 2007-14 Carry-Over + 2015-22	Current and Proposed Zoning	Surplus
Very low income	114	234	53
Low Income	67	combined	combined
Moderate Income	82	32	[-50]
Above Moderate Income	30	125	95
<b>Total</b>	<b>293</b>	<b>391</b>	<b>98</b>

The proposed affordable housing overlays would be implemented through housing programs



listed in Chapter VI. To address the Regional Housing Needs Allocation shortfall from the 2007-2014 planning period, a new Program H.B.1.a is proposed with a January 31, 2016 deadline for implementation per State law. Program H.B.1.b is then proposed to meet the 2015-2022 allocation, with a May 31, 2018 deadline.

Updated Housing Policies and Programs—Based upon a comprehensive review of the 2007-2014 Housing Element's goals, policies and programs to determine their past effectiveness and future appropriateness (see Section I.3, Table 2 & Appendix B of the draft 2014-2022 Housing Element), a number of changes are proposed in Section VI.1.3 (also see Table 47), that were preliminarily discussed during the Planning Commission's study sessions on May 22<sup>nd</sup>, June 12<sup>th</sup> and July 10<sup>th</sup>, 2014. A comparison of each of the policies and programs from the draft 2015-2022 Housing Element versus those of the previous Housing Element is attached.

Following the revisions to Programs H.B.1.a & H.B.1.b described above, Program H.D.1.d would be revised (and renumbered as H.D.1.c) to take a broader approach to comply with the streamlined design review required in affordable housing overlays per Government Code Section 65583.2(i) (also see Section IV.1.1.5), so as to provide the City more flexibility in meeting the zoning deadline for Program H.B.1.a, while allowing at least three-story development as previously recommended by HCD (also see Table 38). In addition, the program would include a new requirement for shared public access easements (such as walkways and fire lanes) to encourage connectivity between sites and neighboring districts.

With the new affordable housing overlays proposed in the vicinity of commercial/warehouse uses in Crocker Park and the Brisbane Village Shopping Center, a new Policy H.D.2 is proposed to use zoning as a means of providing a transition or buffer between potentially incompatible uses. Two new programs would be used to implement this policy. Proposed Program H.D.2.a would consider zoning map/text amendments for nonresidential sites in the immediate vicinity (such as the post office site or 125 Valley Drive) to encourage compatible uses and development. Per proposed Program H.D.2.b, the TC-1, NCRO-1 and NCRO-2 District regulations would be reviewed to determine if amendments are necessary to minimize impacts from non-residential uses upon residential uses in the vicinity. For example, new regulations for truck distribution centers (freight forwarders, etc.) within 1,000 ft. of the proposed affordable housing overlays could be considered (see Section III.d of the draft Environmental Initial Study). Current regulations on night operations and wireless telecommunications facilities might need clarification regarding residential uses allowed under the zoning overlays.

A new Program H.B.1.e would encourage development of secondary dwelling units by reducing administrative Secondary Dwelling Permit fees for units created within the building envelope of existing single-family residences (Section IV.1.1.4), explore the potential to implement a loan program for secondary dwelling unit construction (Section V.3.8), work with Landmark at the Ridge property owners to consider amending the Northeast Ridge PD Permit to permit conversion of existing floor area within building envelopes to accommodate secondary dwelling units, provide technical assistance to streamline the process for owners and encourage well-designed secondary units that meet the City's standards (Section V.2.5), and publicize these programs as they are implemented. In addition, Program H.B.1.d is proposed to be revised to include the option of reducing or eliminating the administrative Secondary Dwelling Permit fee for secondary dwelling unit projects which agree to rent restrictions, in compliance with the



Palmer decision and the California Civil Code's restrictions on rent control. With Program H.I.1.c reducing the parking requirements for smaller secondary dwelling units, these programs should encourage property owners to take advantage of the unmet potential for construction of secondary dwelling units (see Sections I.3 & II.2.8 and Tables 35 & 39).

Policy H.B.4 is proposed to be expanded so as to better cover Program H.B.4.b regarding the inclusionary housing ordinance. As explained in Section V.3.1, the revision of the inclusionary housing ordinance to eliminate its applicability to rental projects has been delayed so that the City could explore the possibility of adopting a housing impact fee and/or commercial linkage fee to help provide affordable rental housing per revised Program H.H.1.a. Such fees could be collected from developers of market-rate housing and commercial projects to compensate for the demand for affordable housing such development can be documented to secondarily generate. Also see Sections IV.1.1.4, V.3.1 & V.3.21.

The 2015-2022 Housing Element continues to propose a new zoning district to protect the mobilehome park (Programs H.B.1.i & H.E.1.c; also see Tables 38 & 39 and Sections V.2.10 & V.3.10), but the other programs regarding the SCRO-1 Southwest Bayshore Commercial District from the 2007-2014 Housing Element (H.B.1.g, H.B.1.h, H.B.3.e, H.B.3.i, H.B.9.b, H.D.1.b & H.D.1.c) are proposed to be revised or deleted, now that the district is no longer considered an appropriate subject for rezoning to accommodate high-density housing (Section I.3).

As suggested by the Housing Leadership Council of San Mateo County in the attached comments submitted to the City, Policy H.B.9 is proposed to be revised to consider funding affordable housing programs with all or a portion of the ongoing year-over-year bump to property taxes that should "boomerang" back to the City from the County, now that the Redevelopment Agency has been dissolved (also see Section V.3.22). Other programs from the 2007-2014 Housing Element referencing the Redevelopment Agency would be revised or deleted (Programs H.B.9.a, H.B.9.b, H.B.9.d, H.B.9.e, H.B.9.f, H.B.9.h, H.B.9.i, H.B.9.j & H.B.9.m) (also see Sections V.2.1, V.3.4, V.3.6 & V.4.1).

Changes in State Law--Since the 2007-2014 Housing Element was adopted, Senate Bill 812 (Ashburn), effective January 2011, amended Government Code Section 65583(a)(7) to include persons with developmental disabilities among those whose special housing needs must be analyzed in the Housing Element. Developmental disability, as defined in Welfare and Institutions Code Section 4512, includes mental retardation, cerebral palsy, epilepsy and autism. The special housing needs of persons with developmental disabilities are discussed in Section II.1.9 of the draft Housing Element. Constraints to providing housing for persons with developmental disabilities are addressed in Section IV.1.1.6.

New Data—More current information from a variety of sources has been incorporated into the updated Housing Element. In particular, Chapter II contains data on the latest population trends. Although average household size has remained steady, both single-parent households and large households have increased in number. The median age has continued to increase, but the changing age distribution indicates a new wave of "millennials" (ages 20-34) rising, which may influence future housing needs and preferences as significantly as the growing population of seniors, which make up the largest percentage of the population with special needs.

According to recent data regarding Brisbane's housing stock, the vacancy rate exceeds 5% as of 2013. Almost half of current homeowners are paying more than 30% of their income on housing ("overpaying"). While Brisbane's median monthly rents may be affordable to some existing tenants, over half are overpaying, with the highest proportion being among those making the least income. Average advertised rents for smaller vacant units may be affordable to low and moderate income households, but larger households will have difficulty in finding suitably-sized affordable units to rent.

Attachments:

- A. Draft Resolution
- B. Housing Element Components Required by State Law
- C. Comparison of Policies and Programs for 2015-2022 Housing Element Vs. 2007-2014 Housing Element
- D. Draft 2015-2022 Housing Element – See draft provided on 8/11/14 or view on-line
- E. California Government Code Sections
- F. California Department of Housing & Community Development's "Building Blocks for Effective Housing Elements"
- G. HCD Memorandum Re: Persons with Developmental Disabilities
- H. Preliminary Draft Environmental Initial Study/Negative Declaration
- I. Comments from Housing Leadership Council, San Francisco Organizing Project/Peninsula Interface Action & Greenbelt Alliance
- J. Comments from HIP Housing
- K. Comments from Dana Dillworth