

**TOWN OF FAIRFAX
SUPPLEMENTAL STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission

DATE: November 29, 2023

FROM: Jeffrey Beiswenger, AICP, Planning & Building Director

ACTION: Replace Exhibit A to Resolution No. 2023-33 to reflect redline changes to 2023-2031 Housing Element and adopt resolution.

CEQA STATUS: An Environmental Impact Report (EIR) has been prepared to analyze the 2023 to 2031 Housing Element.

RECOMMENDATION

Replace Exhibit A to Resolution No. 2023-33 to reflect redline changes to 2023-2031 Housing Element and adopt resolution to forward a recommendation of approval to the Town Council.

ANALYSIS

On March 31, 2023, the Town released the Public Review Draft for the legally required 30-day local review period. The draft was amended based on comments received from the public during this period, and the Town Council and sent to the California Department of Housing and Community Development (HCD) on Friday, May 12, 2023. This initiated the legally required 90-day HCD review period.

At the completion of HCD review of the May 12 draft of the Housing Element, the Town received a review letter on August 11, 2023. This letter included a list of questions and concerns about the adequacy of the draft Housing Element. Based upon that letter, additional consultations with HCD staff, public comments, and input from decision-makers, Town staff has been working to revise the draft Housing Element in preparation of Town Council adoption. A version of the Housing Element that includes redline and strikeouts to reflect the responses to the HCD letter has been prepared and is attached to this supplemental staff report.

The following is a summary of the key changes between the May draft of the Housing Element and the public hearing draft attached to this staff report and can be found on the web site (<https://www.townoffairfax.org/housing-element-documents>):

- Chapter 1 (Introduction). Added a section on General Plan Consistency (p.1-7)
- Chapter 2 (Community Profile). No changes.
- Chapter 3 (Housing Resources). This chapter was updated to more thoroughly explain resources that are available to help produce housing, including the following changes:
 - A description of the proposed low impact hillside development standards (aka cluster zoning) has been added (p.3-7).
 - More information on environmental constraints to vacant properties has been added (p.3-12 to 3-13).

- A description of the adequacy of sites to accommodate new housing and how the development potential can be improved, including with the the proposed Workforce Housing Overlay has been included (p. 3-15 to 3-19).
- Table 3-7 (Sites Inventory) has been amended to reflect a more detailed analysis of vacant sites and development capacity (p.3-20).
- Chapter 4 (Action Plan).
 - Incorporated less permissive and more action-oriented language overall (e.g. “promote” instead of “encourage”).
 - Updated some of the language in the “timeframe” description since many of the required code updates have already been completed (November of 2023).
 - New Policy 3-5 on anti-displacement to reflect on-going coordination with Marin County (p.4-16).
 - New Program 3-6 to require replacement units for any affordable units lost (p.4-16).
 - New Program 3-H to provide housing for special needs populations (p.4-17).
 - New Program 3-I to give sewer and water hook-up priority to low-income housing developments (p.4-17).
 - New Program 4-G to include language so that any racially restrictive covenants that may still exist in deeds, covenants and other legal documents, is disavowed (p.4-21).
 - Updates to Table 4-1 Town of Fairfax Quantified Objectives (page 4-24) to reflect tenant protection measures and how those relate to preservation of existing affordable units (p.4-24).
- Appendix A. HCD Sites Inventory Form was updated to remove certain non-viable sites based on potential open space preservation.
- Appendix B. Housing Needs Assessment. No changes
- Appendix C. Housing Constraints. This appendix was updated to primarily explain how the Housing Action Plan will be implemented, including:
 - The connection between the General Plan Land Use Element and development standards is explained (p. C-1).
 - An explanation of how the zoning ordinance was update (or will be update) to implement the Housing Action Plan was added (p. C-3).
 - An explanation of how the zoning ordinance has constrained housing production in the past, continues to constrain housing production and what steps are to be taken to eliminate obstacles to implementing the Housing Action Plan have been added (p.C-7).
 - An analysis related to how Emergency Shelters can be provided under the current zoning ordinance, in compliance with State law, has been added (p.C-11).
 - A new section describing how Low Barrier Navigation Centers can be built in accordance with State law due to November 2023 changes to the zoning ordinance (p.C-13).
 - New text has been added to explain how employee housing is allowed by the November 2023 updates to the zoning ordinance (p.C-14).
 - A description of new housing built during the last Housing Element cycle has been added, including new ADUs and JADUs, and Victory Village (a 54 unit, low income senior housing complex) (p.C-19).
 - New information has been added regarding other ordinances that the Town has adopted related to housing including the inclusionary housing requirement, affordable housing linkage fee, the rent stabilization ordinance and the short-term

- rental program (p.C-23)
 - A more comprehensive discussion of fees and exactions has been added (p.C-25).
 - Table C-7 has been amended to include comparison of Fairfax fee to other comparable jurisdictions (p.C-27).
 - A comprehensive list of all Town fees related to housing development has been included (p.C-28)
 - New information on the full cost of construction has been included (p.C-31)
 - New information on the cost of financing and strategies to reduce the cost as much as possible for affordable housing projects has been included (p.C-32 to 37).
 - A description of infrastructure constraints related to the production of new housing has been enhanced (p. C-40 to 41)
- Appendix D. Review of Past Accomplishments. Updated and replaced the entire appendix to more accurately captures the accomplishments of the Town during the last Housing Element cycle.
- Appendix E. Assessment of Fair Housing. This appendix has been updated to more clearly explain how the Housing Element will affirmatively further fair housing (AFFH) a key requirement of State housing laws, including:
 - Added a Section E.6 (Site Inventory) to describe how available housing sites will create opportunities for new housing (p.E-57).
 - Updated Table E-13 to add columns for “Meaningful Action”, “Geographic Targeting”, and “2023-31 Metrics and Timeline”, all to demonstrate how proposed actions with further fair housing objectives.
- Appendix F. Public Outreach. No changes.
- Appendix G. Reference Multi-family Project in Marin County. This appendix includes other projects in Marin County for comparison purposes to Fairfax and to help demonstrate that development is viable as proposed in the Housing Element.

The redline / strike-out version of the Housing Element attached to this staff report represents the Public Hearing Draft that staff intends to advance to the Town Council for consideration and possible adoption.

ATTACHMENT

1. Resolution 2023-33 (replacement)

Exhibit A. 2023-31 Housing Element, Town of Fairfax, Hearing Draft
[\(https://www.townoffairfax.org/housing-element-documents/\)](https://www.townoffairfax.org/housing-element-documents/)

PLANNING COMMISSION RESOLUTION NO. 2023-33

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX RECOMMENDING THE TOWN COUNCIL ADOPT A GENERAL PLAN AMENDMENT TO UPDATE THE HOUSING ELEMENT FOR THE PERIOD OF 2023-2031 AND AFFIRMATIVELY FURTHER FAIR HOUSING, AND COMPLY WITH STATE HOUSING ELEMENT LAW

WHEREAS, the California Government Code Section 65302 mandates that each jurisdiction shall include a Housing Element in its General Plan, and that the Housing Element be updated periodically to reflect current conditions and legal requirements and set forth goals, policies and programs for the preservation, improvement and development of housing for all economic segments of the community and housing for persons with special needs; and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the Town Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the Town of Fairfax regional housing needs allocation (“RHNA”) of 490 housing units, comprised of 149 very-low income units, 86 low-income units, 71 moderate-income units, and 184 above moderate-income units; and

WHEREAS, the Town of Fairfax has prepared Housing Element Update 2023-2031 (“Housing Element”) in compliance with State Housing Element Law, which is attached as Exhibit A to this Resolution by reference; and

WHEREAS, as provided in Government Code Section 65350 et. seq., the Housing Element constitutes a General Plan Amendment; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) an Environmental Impact Report (EIR) has been completed in support of Housing Element Update project and the Planning Commission is recommending that the Town Council certify the EIR (Resolution 2023-32); and

WHEREAS, as provided in Government Code Sections 65352 – 65352.5, the Town of Fairfax referred the Housing Element to all California Native American tribes on the contact list provided by the Native American Heritage Commission and to other entities; and

WHEREAS, the Housing Element must be adopted to comply with State law, accommodate the RHNA, affirmatively further fair housing, and facilitate and encourage a variety of housing types for all income levels, including multifamily housing (Gov. Code Sections 65583.2 and 65583(c)); and

WHEREAS, in accordance with Government Code Section 65585 (b), on May 12, 2023, the Town submitted the draft Housing Element to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on August 11, 2023, HCD contacted the Town with a list of questions and concerns about the adequacy of the draft Housing Element (Exhibit A), and based upon that letter, Town staff revised the Housing Element; and

WHEREAS, on November 29, 2023, the Planning Commission conducted a duly and properly noticed public hearing, reviewed the Housing Element and all pertinent maps, documents and exhibits, including HCD’s findings, the Town’s response to HCD’s findings, the staff report and all attachments, and oral and written public comments; recommended adoption of the Environmental Impact Report and determined the Housing Element to be consistent with State law and the General Plan of the Fairfax.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX DOES RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the above recitations are true and correct and are incorporated by reference into this action.

Section 2. Environmental Clearance: The 2023-31 Housing Element has been analyzed according to the California Environmental Quality Act and an Environmental Impact Report has been prepared for certification by the City.

Section 3. Findings. The Planning Commission hereby finds and recommends the Town Council make the following findings:

- a. The Housing Element Update is internally consistent with the Fairfax General Plan.
- b. As required by Government Code Section 65585(e), the Planning Commission has considered the findings made by the Department of Housing and Community Development included in the Department’s letter to the Town of Fairfax dated August 11, 2023, consistent with Government Code Section 65585(f), and as described in Exhibit A to this Resolution, incorporated herein by this reference, the Housing Element has been amended in response to the findings of the Department to substantially comply with the requirements of State Housing Element Law as interpreted by HCD.
- c. The Housing Element substantially complies with State Housing Element Law, as provided in Government Code 65580 et seq. and contains all provisions required by State Housing Element Law.
- d. Pursuant to Gov. Code, § 65583.2 (g)(2), based on the substantial evidence contained in the Housing Element, existing uses will not impede additional residential development.
- e. Based on substantial evidence in the record, the existing uses on the non-vacant sites identified in the site inventory to accommodate the RHNA are likely to be discontinued during the planning period and therefore do not constitute an impediment to planned residential development on the site during the planning period.

Section 4. The Planning Commission hereby recommends that the Town Council of the Town of Fairfax adopt the proposed Housing Element General Plan Amendment.

DULY AND REGULARLY ADOPTED on this 29th day of November, 2023 by the Town of Fairfax Planning Commission by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Chair Cindy Swift

Attest:

Jeffrey Beiswenger, Planning & Building Services Director

Attachments:
Exhibit A – 2023-2031 Housing Element