



**DATE:** March 5, 2009  
**TO:** Planning Commission  
**FROM:** Erik J. Pearson, AICP, Senior Planner  
**SUBJECT:** Draft Housing Element Update

### **RECOMMENDATION**

That the Planning Commission reads and comments on this report.

### **SUMMARY**

The work session will provide the Commission with an opportunity to review and comment on the draft Housing Element. This report details suggested changes to the Zoning Ordinance that are recommended in the draft Housing Element to address construction of emergency homeless shelters, transitional housing, and single room occupancy units; a reasonable accommodation procedure; and potentially a universal design ordinance.

### **BACKGROUND**

State law requires every California city to adopt a General Plan, which must contain seven elements, including Housing. Unlike other mandatory general plan elements, the housing element is required to be updated every five years, and is subject to detailed statutory requirements, and mandatory review by the State Department of Housing and Community Development (HCD). These requirements reflect the State's recognition that the availability of housing is a matter of statewide importance. The current Housing Element was adopted by the Council on October 21, 2003, and certified by the State on January 22, 2004.

On December 9, 2008, the City Council and the Planning Commission held a joint work session to discuss the preparation of the housing element update. Consultant Veronica Tam gave a presentation describing the State law pertaining to Housing Elements, demographic and housing cost data, and an overview of the Regional Housing Needs Allocation (RHNA). Members of the Council and the Commission discussed the RHNA, housing costs, universal design, homelessness, the 238 Land Use Study, senior housing, management of affordable housing projects, ownership versus rental housing, renovation of older rental properties, and household sizes.

## DISCUSSION

The draft Housing Element establishes City housing policies and programs for the period from July 1, 2009 through June 30, 2014. It is to serve as a guide to City officials in decision making and sets forth an action plan to implement the housing goals. The Housing Element is intended to direct residential development and preservation in a manner consistent with the General Plan and overall requirements of the State Housing Element law. For the purposes of the RHNA, housing units permitted since January 1, 2007 will count toward the current allocation. Hayward's allocation for the 2007 – 2014 period is a total of 3,393 housing units. The units are designated for the following affordability levels:

Very Low (31 – 50 % AMI)	768
Low (51 – 80 % AMI)	483
Moderate (81 – 120 % AMI)	569
Above Moderate	1,573
AMI = Area Median Income	

The Housing Element is required to demonstrate that the City has identified and zoned land to sufficiently and appropriately accommodate the development of the housing units identified in Hayward's allocation, which is considered the City's fair share of regional housing needs. The RHNA is not a production quota, but the City must show that the housing units can be *accommodated*. There is no mechanism at the State, regional or City level that requires the units identified in the RHNA to be constructed.

### Local Housing Issues –

The draft Housing Element identifies the several housing issues that are unique to Hayward. First, Hayward has a large portion (approximately 38%) of its housing units that are more than 50 years old. Hayward's racial diversity changed considerably between 1990 and 2000. In 1990, 51% of Hayward's population was white and 24% was Hispanic/Latino. In 2000, the Hispanic/Latino population became the majority with 34% while the white population fell to 29%. In addition, average household size increased from 2.75 in 1990 to 3.08 in 2000. Finally, according to the 2000 Census, Hayward has a lower median household income (\$51,177) when compared with the County average (\$55,946).

### Constraints Analysis –

As required by State law, the draft Housing Element includes a discussion of market, governmental, environmental, and historic preservation constraints to the development of housing. Market constraints include land costs, construction costs, and availability of financing. Governmental constraints include zoning regulations, the General Plan and Area Plans, parking requirements, green building requirements, the development review process, development review fees, and building codes and enforcement. Environmental constraints include flooding, hazardous materials, and geologic and seismic hazards. None of the above constraints are determined to be significant or warrant corrective action.

Governmental constraints that do require corrective action are the potential barriers to constructing emergency homeless shelters, transitional housing, and single room occupancy units. These types of housing are addressed below under “Recent Changes to State Law”. The remaining constraint that requires action by the City is that of providing housing for persons with disabilities. Both the Federal Fair Housing Act and the California Fair Employment and Housing Act require cities to provide for “reasonable accommodation” in local land use regulations for people who want to modify a housing unit to afford a disabled person an equal opportunity to use and enjoy a dwelling. Furthermore, SB 520 requires the Housing Element to address constraints to housing for persons with disabilities. The City is required to amend the Zoning Ordinance to implement a reasonable accommodation procedure to address reasonable accommodation requests.

### **Housing Resources –**

The housing resources section of the Housing Element contains discussion of the resources available for the development, rehabilitation, and preservation of housing in Hayward. It includes the RHNA and units constructed or approved that will count toward the RHNA. It also includes a review of the major area plans, such as those for the Mt. Eden Neighborhood (Mt. Eden Annexation Phase I), Cannery Area, South Hayward BART/Mission Boulevard Concept Design Plan, and the 238 Bypass Land Use Study Area. A complete “Sites Inventory” is attached to the Housing Element as Appendix D. Other resources for the development of housing include the City’s Inclusionary Housing Ordinance, financial resources such as Community Development Block Grant Funds and redevelopment housing set-aside housing funds, and administrative resources such as the Development Services Department, the Economic Development and Redevelopment Divisions, the Department of Library and Neighborhood Services, the Alameda County Housing Authority, and non-profit housing developers.

Hayward’s RHNA is 3,393 housing units. As indicated in Table 5-38 in the draft Housing Element, 414 units have been constructed in 2007 and 2008. Assuming that the 575 units entitled for the Cannery Area are built by 2014, 2,404 additional units will need to be identified to meet the RHNA. According to the Sites Inventory, in the areas studied, Hayward has the potential for at least 3,878 housing units. This potential may change depending upon the land use alternative selected for the 238 Bypass Land Use Study Area. For the purposes of determining housing potential, the current General Plan land use designations were used to calculate likely housing densities.

### **Proposed Policies and Programs –**

The draft Housing Element contains 20 proposed programs that address 18 policies. Several programs are repeated from the current housing element and some are new. Below are a few policies/programs for which staff would like input from Commission during the work session:

- Program 20 - Universal Design. One new program is for staff to evaluate the feasibility of adopting a universal design ordinance to make new residential units more accessible to people with disabilities. Consideration of universal design was requested by several attendees of the stakeholder and community meetings. While giving consideration to the potential concerns of the development community, the Commission may want to direct staff to revise this Program language to indicate that an ordinance *will* be prepared.

- Policy 2.1 – Encourage home ownership. This policy, which has been carried forward from the current housing element, is for the City to continue to strive to achieve a 70% home ownership goal.
- Policy 3.2 – Encourage Transit-Oriented-Development. A new policy included in the draft Housing Element reads, “Encourage transit-oriented developments that take advantage of the City’s convenient access to the BART stations.”. The Commission may want to recommend that this policy include language that encourages more park and recreational facilities to support existing and planned residential development around the BART stations.

Other proposed programs address housing rehabilitation loans and grants, rental inspection, graffiti abatement, preservation of at-risk housing (units with affordability restrictions that are scheduled to expire in the near future), foreclosures, first-time home buyers, density bonus, green building, and other housing issues.

### **Recent Changes to State Law –**

The following statutory requirements are the result of recent changes to State Law:

- *Housing for Extremely Low Income Households*: Assembly Bill 2634 became law on September 30, 2006 and requires quantification and analysis of existing and projected housing needs of extremely low-income households (e.g., for 2008, a four-person household making no more than \$25,850 annually). As indicated in Table 5-8, out of 44,858 households in Hayward, 5,393 (approximately 12 percent) are in the Extremely Low Income category. Programs 13 (*Section 8 Housing Choice Voucher Program*) and 16 (*Extremely Low Income and Special Needs Housing*) are both designed to address this population.
- *Provisions for transitional housing, supportive housing, and SRO housing for the Homeless*: Senate Bill 2, enacted in October 2007, requires local jurisdictions to strengthen provisions for addressing the housing needs of the homeless, including the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit, and allowing transitional and supportive housing types as residential uses.

Staff is seeking the direction of the Commission on this requirement. To minimize impacts to established neighborhoods, staff recommends that emergency shelters be permitted in the General Commercial (CG) zoning district. The CG District includes sites on Jackson Street and Mission Boulevard that are either downtown and/or near a BART station where there is access to public transportation and services that are needed by the homeless. These services include the Alameda County Housing Authority located on Atherton Street, Salvation Army on A Street, Community Resources for Independent Living (CRIL) on A Street, Eden I & R on B Street, as well as various churches providing assistance to homeless. As required by the law, the next draft of the Housing Element will identify potential sites for homeless housing that are either vacant or under-utilized. Further, the State will require documentation of the services that are in proximity to the identified sites.

Currently, the Hayward Zoning Ordinance does not explicitly address transitional or supportive housing facilities. Supportive housing is defined by state law as, “housing with

no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.” Transitional housing is defined by state law as, “buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.” Both transitional and supportive housing can take several forms, including group quarters with beds, single-family homes, and multi-family apartments.

As indicated in the draft Housing Element, it is recommended that the City amend the Zoning Ordinance to differentiate transitional and supportive housing in the form of group quarters versus multiple-family rental housing developments. For transitional/supportive housing facilities that operate as multi-family rental housing developments, such uses will be permitted by right where multi-family housing is permitted. For transitional/supportive housing facilities that operate as group quarters, such facilities will be conditionally permitted uses as group homes/residential care facilities. Potential conditions for approval of large group homes (for more than six persons) as transitional/supportive housing may include hours of operation, security, loading requirements, noise regulations, and restrictions on loitering. Conditions would be similar to those for other similar uses and would not serve to constrain the development of such facilities.

AB 2634 and SB 2 also require housing elements to identify zoning to encourage and facilitate supportive housing and single room occupancy (SRO) units. Single Room Occupancy (SRO) units are one-room units intended for occupancy by a single individual. They are distinct from a studio or efficiency unit, in that a studio is a one-room unit that must contain a kitchen and bathroom. Although SRO units are not required to have a kitchen or bathroom, many SROs have one or the other. The Zoning Ordinance does not contain specific provisions for SRO units. As indicated in the draft Housing Element, it is recommended that the City amend the Zoning Ordinance to permit SROs by right in the CG (General Commercial) zoning district.

### **Other Components of the Draft Housing Element –**

In addition to the above, the Housing Element contains the following discussions:

- Population and employment trends
- Household characteristics
- Special housing needs
- Governmental and non-governmental constraints
- Opportunities for energy conservation
- Existing assisted housing developments
- Goals, policies, and quantified housing objectives
- Five-year housing programs (Government Code Section 65583)

- Review of past accomplishments -- whether the City has been successful in implementing programs in the current Housing Element
- Housing Plan, including:
  - Preservation of existing housing
  - Provision of assistance to lower and moderate income households and households with special needs
  - Development of housing for all income groups
  - Quantified objectives with respect to financial resources available

## **PUBLIC CONTACT**

Section 65583 (c)(6)(B) of the Government Code states that “The local government shall make a diligent effort to achieve public participation of all the economic segments of the community in the development of the housing element and the program shall describe this effort.” Public participation has and will continue to play an important role in the formulation of Hayward’s housing goals and policies.

To facilitate timely dissemination of information on the Housing Element update, staff has created a Housing Element webpage on the City’s website. The webpage will be updated frequently with agendas, public notices, minutes, draft and final documents, and other pertinent information. The webpage included an on-line version of a survey in both English and Spanish. The survey was made available from November 26, 2008 through January 7, 2009. Paper copies were distributed throughout City Hall, the libraries, and facilities operated by the Hayward Area Recreation and Park District. Availability of the survey was also promoted through the Citizens Advisory Commission, the Library Commission, the Economic Development Commission and through local developers and housing service non-profit organizations. In addition, an advertisement regarding the survey was included in *The Daily Review* and *Visión Hispana* newspapers.

Eighty-six surveys were completed, including 64 electronic surveys and 22 paper responses. In general, residents were satisfied with housing situations in Hayward. However, neighborhood safety issues, rehabilitation of multi-family structures, new construction of mixed use housing in downtown and transportation corridors, and housing programs for the elderly and disabled have surfaced as key housing needs expressed by survey respondents. A complete summary of survey responses is attached as Appendix A of the draft Housing Element.

In addition, staff conducted two stakeholder meetings during daytime hours and a community meeting in the evening on December 15, 2008. The stakeholder meetings provided local housing professionals and related service providers to convey their perspectives on local housing issues directly to consultant Veronica Tam. Also, on December 17, 2008, staff made a presentation to the Citizens Advisory Commission describing the update process. Comments received at the public meetings included a desire to see an evaluation of the City’s inclusionary housing ordinance, a need to make development fees more transparent with more information provided at the beginning of the development process, more mixed use and live/work units for the working poor, more transitional housing, a housing scholarship program (for people still working on a degree or vocational training), the City address foreclosures, incorporation of transit oriented development and climate change into the Housing Element, housing for extremely low income households, universal design,

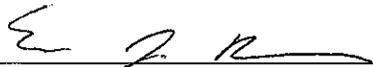
child care, and housing opportunities for disabled people. A more complete summary of the comments from these meetings is included in Appendices B and C of the attached draft Housing Element.

## **SCHEDULE**

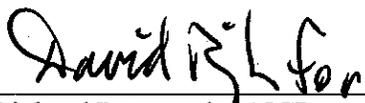
A work session with the City Council was held on March 3, 2009, regarding the draft Housing Element. As indicated in the attached timeline (Attachment A), a community meeting will be held on March 9, 2009, to present and receive comments on the draft Housing Element. Comments received will be incorporated into a revised draft, which will be forwarded to the State Housing and Community Development Department (HCD) for review and comment. The next draft will be presented to the Planning Commission and City Council in June for consideration of adoption, or in September, depending on whether HCD requires a second review.

As indicated in the attached timeline, an Initial Study will be completed per the requirements of the California Environmental Quality Act (CEQA) after comments are received from HCD. The adopted Housing Element is required to be submitted to the State by June 30, 2009.

Prepared by:

  
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Recommended by:

  
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Attachments: A. Project Timeline  
B. Draft Housing Element (distributed under separate cover)

2/26/2009

## Schedule for City of Hayward Housing Element Update

<b>City Council Hearing (present first draft)</b>	<b>March 3</b>
<b>Planning Commission Work Session (present first draft)</b>	<b>March 5</b>
<b>Second Community Meeting</b>	<b>March 9</b>
<b>Citizens Advisory Commission</b>	<b>March 18</b>
First Draft submitted to State Department of Housing and Community Development (HCD) by:	Late March
Release of draft Initial Study/Mitigated Negative Declaration (IS/(MND))	May
Receive comments on First Draft of HEU from HCD	May
<b>Final Draft of HEU and CEQA Document to Planning Commission</b>	<b>May 28</b>
<b>Final Draft of HEU and CEQA Document to City Council for adoption</b>	<b>June 23</b>
<b>ADOPTED HOUSING ELEMENT DUE TO STATE HCD BY:</b>	<b>June 30</b>

**If the comments received from HCD in May are substantial, then the following schedule will apply:**

<b>Final Draft of HEU and CEQA Document to Planning Commission</b>	<b>July</b>
<b>Final Draft of HEU and CEQA Document to City Council for adoption</b>	<b>September</b>
Send Final Draft Adopted by Council to HCD by:	September 30

Revised February 26, 2009

**DUE TO THE LENGTH AND COLOR OF EXHIBIT B,  
IT HAS BEEN ATTACHED AS A SEPARATE LINK**