



City of Culver City

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Staff Report

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CC - (1) Consideration of Adoption of Alternate Proposed Resolutions Establishing Guiding Principles for Culver City's 2021-2029 Housing Element Update; and (2) (If Desired) Adoption of the Proposed Resolution of Choice.

Meeting Date: March 22, 2021

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Phone Number: (310) 253-5744

Fiscal Impact: Yes ☒ No ☐

General Fund: Yes ☒ No ☐

Public Hearing: ☐ Action Item: ☒ Attachments: ☒

Commission Action Required: Yes ☐ No ☒ Date: N/A

Public Notification: (E-Mail) Meetings and Agendas - City Council (03/18/2021), Notify Me - General Plan Update (03/18/2021)

Department Approval: Sol Blumenfeld, Community Development Director (03/09/2021)

RECOMMENDATION

Staff recommends the City Council (1) consider adoption of alternate proposed resolutions establishing guiding principles for Culver City's 2021-2029 Housing Element update; and (2) (if desired) adopt the proposed Resolution of choice.

BACKGROUND

The Housing Element is the primary planning guide to identify and prioritize Culver City's housing needs. It outlines goals, policies, and programs to meet these needs while balancing other community objectives and resources. Housing Elements are intended to support various housing types for all income groups, help develop lower and moderate-income housing, remove constraints to housing, conserve and improve existing housing, and promote fair housing.

Every eight years, the State of California requires local agencies to update their Housing Elements following the California Department of Housing and Community Development (HCD) Regional Housing Needs Assessment (RHNA) cycle. The City is currently preparing its 2021-2029 Housing Element for the General Plan Update (GPU) project to meet HCD's mandated adoption deadline. On January 11, 2021, the City Council directed staff to agendize for discussion and consideration a resolution to establish "Guiding Principles" (Principles) for the GPU Housing Element update.

RHNA's main goal is to ensure Housing Elements document the existing and projected housing needs for residents across all income levels in every community. The sixth RHNA cycle (2021-2029) represents a new paradigm in housing production planning across California and includes more substantial penalties for non-compliance. It also allocates more housing units to communities, especially in urban areas, to address California's housing crisis.

Factors that worsened the housing crisis were insufficient administrative and financial resources available for affordable housing and a lack of penalties to compel local agencies to meet their housing production goals in past cycles. Another factor worsening the crisis was the overall lack of housing production to meet RHNA goals. For example, while Culver City exceeded its new housing allocation for above moderate-income levels in the fifth cycle, it only met about 13% of each of its production goals for the moderate-, low-, and very low-income allocations. This outcome is not unique to Culver City. However, in Culver City, the housing shortfall was compounded by significant job growth in the City during that same cycle.

To make up for cities' shortcomings in past cycles, the sixth cycle increased allocations and added stricter penalties. Specific to Culver City, the increased allocations in the sixth cycle are 3,341 units compared to the fifth cycle's 185 units. New penalties include HCD's mandate that if a housing element is adopted after the 120-day grace period ending February 12, 2022, it must be updated in four years instead of eight. Assembly Bill 725 (AB 725) also added a new penalty, mandating that any housing element adopted on or after January 1, 2022, must allocate 25% of its RHNA share for moderate- and above moderate-income housing to sites zoned to accommodate at least four on-site multi-family housing units.

DISCUSSION

Per City Council direction at the January 11th meeting, staff is presenting two alternate proposed Resolutions establishing a set of Principles to inform the preparation, adoption, and implementation of the GPU Housing Element, for City Council's consideration, as more fully discussed below:

Proposed Model Resolution - Option 1 (Attachment 1):

The Principles in the proposed Resolution were drafted by Mayor Fisch and Christopher S. Elmendorf, Professor of Law, UC Davis School of Law and are summarized as follows:

1. **Sites Inventory, Realistic Capacity.** Estimates how much new housing a site can realistically accommodate, with realistic capacity measured by a site's probability of development or redevelopment multiplied by the number of net new units the development or redevelopment project adds.
2. **Probability of Development.** Defines a site's probability of development as the proportion of parcels in the previous housing element's site inventory that were developed during the previous planning period. If that cannot be determined, defining as equal to the portion of the City's aggregate RHNA target for the fifth cycle that the City is projected to meet.
3. **Zoning for Lower-Income Housing.** Zones sites designated to accommodate lower-income housing to allow at least 30 dwelling units per acre.
4. **Distribution of Lower-Income RHNA Sites.** Zones to equitably distribute lower-income housing throughout the city.
5. **Capacity Buffer.** Requires, and defines assumptions for, a capacity buffer during the planning period to comply with Senate Bill 166 (SB 166) (No Net Loss) without further rezoning.
6. **Minimum Additional Density.** Rezones to codify the minimum density each site in the inventory should add if current zoning is inadequate to support the capacity or distribution of developable sites.
7. **Quantified Objectives / Mid-cycle Adjustments.** Identifies quantified objectives for each income category and requiring an adjustment if at least 50% of the objective in each category have not been developed by 2025 mid-cycle. At a minimum, the adjustment would include a density bonus on inventory sites that makes up for the deficit. It also suggests ministerial approvals and development standard waivers under certain conditions.
8. **Constraints Analysis / Objective Standards.** Assesses the City's compliance with state law requirements on development permitting.
9. **Quantitative Data.** Analyzes constraints to housing production using quantitative data comparing Culver City with peer municipalities.
10. **Stratified Random Sample Survey.** Seeks community input on housing priorities through a stratified random sample survey reaching all economic segments of the community, collecting demographic information, and weighting it proportionate to the community's demographics.

The GPU team reviewed the Principles and have the following comments:

Principles 1 and 2 - Sites Inventory, Realistic Capacity, and Probability

The probability of development is likely to be significantly enhanced by the GPU as one of the land use alternatives' objectives is to foster housing growth. Increased density and revised development standards would improve the net yield and profitability of individual parcels.

State law equates density with the ability to achieve lower-income RHNA housing goals. Low- to medium-density sites are considered acceptable in meeting moderate- and above moderate-income RHNA goals. However, the Housing Element is not required to and cannot feasibly identify all properties with development potential. Specifically, a property's development potential is fluid and influenced by many factors that are market-driven and the property owners' investment goals. Typically, the consultants use the following discount factors in estimating development potential.

First, the factors below determine whether a parcel is eligible according to HCD's *Housing Element Site Inventory Guidebook* (HCD Guidebook).¹ These factors acknowledge that, regardless of zoning and allowable density, not every parcel will be recycled within eight years. HCD has historically accepted this method as satisfactory.

- Age of existing structure
- Land to improvement value
- Existing floor area ratio and lot coverage
- Existing uses (vacancy and turnover rates)
- Staff knowledge of owner/developer interest
- Location proximity to recent development activities
- Potential unit yield (at least 3-4 times the existing number of units on site)

Next, according to the HCD Guidebook, the discounts below may be applied to estimate site capacity as not every parcel would be developed at the maximum allowable density.

- **Historical Trend Discount:** This discount is based on the average or minimum development density from entitled, built, and proposed projects from the last 2-3 years. For example, if the recent development average is 70% of the maximum, that would be used to estimate potential. This method is in line with the HCD Guidebook and Housing Element statute which call for demonstrated trends or using the minimum density to estimate capacity.
- **Mixed Use Discount:** This discount is based on specific land use designation policies for mixed use sites. For example, if a land use plan establishes a preferred residential to nonresidential split on mixed use sites, that would be considered. The discount factor would also account for the fact that not all mixed-use sites include residential units.

The GPU team recommends using the existing approach, which complies with the HCD Guidebook. However, if the proposed Principles are approved, the GPU consultants estimate implementing Principles 1 and 2 would add at least 1-2 months to the process, likely putting adoption right up to the end of the grace period in February 2022 and after the January 1, 2022, AB 725 cut off, which would result in the added penalty mandating an allocation of 25% of the City's RHNA share for moderate- and above moderate-income housing to sites zoned to accommodate at least four on-site multi-family housing units.

Principle 3 - Zoning for Lower-Income Housing

The State established a default density to facilitate lower income affordable housing development. For Culver City and other communities in urbanized metropolitan areas, the default density considered to facilitate lower income (very low and low) housing development is 30 units per acre. At this density, State law assumes that the number of subsidies required to produce affordable housing would be reasonable. It does not mean that at 30 units per acre, the market can develop affordable housing without subsidies. The GPU team can consider how to accommodate this Principle when preparing the land use alternatives, including defining General Plan land use designations that allow residential densities greater than 30 units per acre in specific locations and including a new GPU policy and implementing the new density with a zoning code amendment. Implementing this Principle can be achieved within the existing scope and budget of the GPU.

Principle 4 - Distribution of Lower-Income RHNA Sites

In 2017, the State Housing Element law adopted the 2016 Federal Affirmatively Furthering Fair Housing (AFFH) Rule, requiring the Housing Element to address the AFFH Rule's concerns. HCD interprets the AFFH Rule to ensuring that available sites for lower income RHNA are not concentrated in neighborhoods with few resources or high poverty rates.

Spreading lower-income housing equitably throughout the city depends on which land use alternative is selected as the preferred alternative. As the GPU team drafts the alternatives, it will consider and summarize the distribution of housing units across Culver City in keeping with Government Code Section 65583(c)(3). The recently adopted Mixed-Use Ordinance text amendment requires inclusionary housing that, distributes lower income housing in developments across the city in mixed use projects that seek a community benefit density bonus. Implementing this principle can be achieved within the existing scope and budget of the GPU.

Principle 5 - Capacity Buffer

To ensure that sufficient capacity exists in the City's Housing Element to accommodate the RHNA throughout the planning period, the HCD Guidebook recommends that jurisdictions create a buffer in the Housing Element sites inventory of at least 15 to 30% more than required. In particular, HCD recommends this for lower income housing sites. The GPU consultants typically use a buffer of at least 20% for the lower-income and moderate-income RHNA in keeping with the HCD Guidebook.

SB 166 requires the City make findings that it continues to have adequate sites for remaining RHNA when approving projects that go below the capacity assumed in the Housing Element. If a shortfall is identified, the City has six months to identify replacement sites or rezone. As the Housing Element is not intended to enumerate every site with development potential in the City, there is no feasible means to determine if or when a shortfall would occur due to developing at lower than assumed capacity, and that sites not identified in the Housing Element would not become available to replenish the sites inventory.

The GPU team recommends amending the Principle to reflect using a buffer of at least 20% for the lower-income and moderate-income RHNA. If approved, this method would align with the existing scope and budget assumptions of the GPU.

Principle 6 - Minimum Additional Density

The General Plan land use designations can establish both minimum and maximum residential densities. The existing approach can include draft policies and actions to achieve this principle. Another related tool the City Council may consider if a project is below the minimum density is an in-lieu fee. Some agencies offer developers an in-lieu fee if their proposed density is below the target densities in specific neighborhoods (typically set at a density range's midpoint). For example, the Escondido Downtown and East Valley Specific Plans both contain a density transfer program that allow other projects to use excess density from projects building below the targeted density. The cities of Laguna Beach and Ojai have similar in-lieu fee requirements. Implementing this principle can be achieved within the existing scope and budget of the GPU.

Principle 7 - Quantified Objectives / Mid-cycle Adjustments

The Housing Element law requires that the Housing Element set quantified objectives for new construction, rehabilitation, and conservation. However, the law does not require that the quantified objectives equal the need. This recognizes that affordable housing cannot be produced at market rate. The consultants typically estimate quantified objectives based on factors like available funds, pipeline projects, and inclusionary policy.

After adopting the General Plan, the City will need to update its Zoning Code to implement the new General Plan land use designations and related goals and policies. A comprehensive Zoning Code amendment (ZCA) is not a part of the GPU project and will be addressed following GPU adoption. The City Council will need to consider a Comprehensive Zoning Code update in future budget cycles. Staff will request that this item be included in the Community Development Department Current Planning Division work plan for Fiscal Year 2022/23 as the GPU is not expected to be completed until 2023/2024, well past the Housing Element's statutory deadline. Therefore, all sites identified by the General Plan requiring rezoning would be subject to by-right ministerial approval if the project includes a minimum of 20% affordable units for lower income households, pursuant to AB 1397, during the period between GPU and ZCA adoption.

The GPU team recommends following the existing approach, but to augment it with a review of the City's progress in meeting the RHNA's production goals at mid-term mark and examining developer incentives such as expanding administrative project approvals and developing other development incentives to maximize housing production, adjusting incentives and regulations as necessary.

Principles 8 and 9 - Constraints Analysis / Objective Standards and Quantified Data

The existing approach includes a high-level analysis of the City's permit processing procedures and timeframe, but not at

the detailed level called for in Principle 8. The existing approach includes an analysis of Culver City's constraints but does not compare permit constraints between Culver City and other municipalities as called for in Principle 9. However, the Westside Cities Council of Governments Regional Early Action Plan (WSCCOG REAP) project includes the work called for in Principles 8 and 9 in the *Phase I Westside Development Constraints Cost and Land Use Regulation Policy Actions* task (Attachment 2). Veronica Tam and Associates (VTA - Housing Element subconsultant) confirmed they do not have the staffing capacity to take on the added work which would require additional funding.

The associated REAP deliverables and the GPU consultant's analysis will inform the Housing Element. The REAP project is scheduled to run in parallel to the Housing Element. Should the REAP schedule lag for any reason, if needed the Housing Element can be amended to reflect the REAP project results as part of the remaining GPU elements' process and adoption.

Principle 10 - Stratified Random Sample Survey

The GPU team has conducted extensive outreach to date, including community workshops, surveys, GPAC, TAC, Planning Commission, and City Council meetings. The GPU team continuously checks a sampling plan prepared as a part of the Engagement Plan to ensure it reaches target groups, including those tied to different economic segments of the community like renters, persons experiencing homelessness, young professionals, and seniors. Although the project's surveys have not been stratified random sample surveys, each one has gathered demographic data.

The GPU consultants are not scoped to prepare a statistically valid survey with stratified random sampling and do not offer the service. This type of survey would require a professional survey firm and can be costly (estimated at least \$30,000). Designing the survey, getting a sampling pool, and administering the survey would take several months. If the survey does not reach the target populations, the team would need to apply different sampling strategies. There may be overlap with the existing schedule; however, accounting for the solicitation process and waiting on survey results to inform the draft plan, implementing this principle would likely result in missing the adoption deadline. As such, the GPU team found that implementing this principle would not be feasible given the project budget and schedule. The GPU team recommends amending the Principles relying on existing surveys and outreach included in the original scope.

Summary of Cost Impacts to Implement the Proposed Model Resolution

Implementing Principles 1, 2, or 5 would require added effort and cost by VTA and Raimi and Associates (R+A - GPU lead consultant), impacting the GPU Contingency Budget. As of March 2021, \$148,895.25 (88%) remains in the Contingency Budget. However, Council direction is required to determine a cost estimate as these principles call for iterative and subjective processes that must be further defined.

Implementing Principle 8, 9, or 10 would require added effort and cost impacting the General Fund, as the City would need to solicit consultants outside of the GPU contract, and the Contingency Budget is intended only for added work for tasks that are part of the original scope. Added consultants would be required because VTA does not have the staffing capacity to implement Principle 8 or 9, and none of the consultants or subconsultants on the GPU team provide the random sample survey service called for by Principle 10.

Implementing Principle 8 or 9 is estimated to cost slightly lower than \$90,000 based on the WSCCOG REAP project subtracting the work VTA is conducting under the existing approach. Implementing the random sample survey in Principle 10 is estimated to cost at least \$30,000 based on a firm's experience that provides the service the GPU team consulted.

Proposed Modified Resolution - Option 2 (Attachment 3):

The GPU team is committed to meeting and exceeding the minimum requirements established by HCD as noted in its Guidebook and by working towards the GPU's *Vision Statement and Guiding Principles* benchmarks. The *Vision Statement and Guiding Principles*, including the Diversity and Housing Guiding Principle, articulates where Culver City aspires to be in 2045 and provides a north star for the planning process. Based on the GPU team recommendations, staff recommends the City Council also consider whether to adopt the alternate proposed Resolution (Attachment 3), which includes the following modifications to the Principles to address the project budget and existing approach and schedule (Attachment No. 4) as follows:

- Principles 3, 4, 6, and 7: Maintains principles as proposed

- Principles 1, 2, 5, and 10: Modifies principles to apply the existing approach
- Principles 8 and 9: Modifies principles to incorporate the WSCCOG REAP project findings

Guiding Principles Approval and Meeting the Adoption Deadline

Staff requests the City Council provide direction on what body would ensure the principles are met. The GPU team strongly discourages making this determination after HCD's 60-day review in August/September. As the Planning Commission is slated to review the draft Housing Element in July before HCD's review, the GPU team suggests the Commission be the review body and make the determination at the July meeting.

Should the City Council adopt a resolution resulting in added or modified tasks, HCD would have to agree to all changes as HCD grant funds are covering the costs of the Housing Element update, the City's agreements with R+A and HCD would need to be amended (Attachments 5 and 6),² and new agreements would need to be executed should a new consultants be added. Processing amendments and soliciting new consultants and agreements at this point in the process risks missing the adoption deadline for the reasons outlined under each Principle above and as the consultants could not start added or modified work before agreement/amendment execution. Missing the deadline means that:

- The Housing Element is considered out of compliance until it is adopted;
- The Housing Element must allocate 25% of its RHNA share for moderate- and above moderate-income housing to sites zoned to accommodate at least four on-site multi-family housing units;
- The City would be obligated to prepare a four-year update by October 15, 2025 (no 120-day grace period);
- The City's seventh cycle Housing Element update would also be ineligible for a grace period; and
- The City would become ineligible for state or regional grant funds that are contingent upon Housing Element certification.

Staff recommends the City Council consider each of the two proposed Resolutions and, if desired, adopt the Resolution of choice.

FISCAL ANALYSIS

Adopting the proposed Resolution (Option 1/Attachment 1) would impact the GPU Contingency Budget and the General Fund, as the existing GPU budget only covers the work called for in Principles 3, 4, 6, and 7. Other work called for could be covered by the GPU Contingency Budget (further Council direction needed for an estimate) and some would require new General Funds (estimate is around \$120,000). Adopting the modified Resolution (Option 2/Attachment 3) would have no fiscal impact and would not impact the General Fund.

ATTACHMENTS

1. 2021-03-22_ATT_Proposed Model Resolution
2. 2021-03-22_ATT_Draft WSCCOG REAP Development Constraints Scope
3. 2021-03-22_ATT_Proposed Modified Model Resolution
4. 2021-03-22_ATT_Housing Element Existing Approach and Schedule
5. 2021-03-22_ATT_Raimi + Associates Existing Agreement
6. 2021-03-22_ATT_HCD Existing Agreement

MOTION

That the City Council:

1. (Staff Recommendation) Adopt the proposed modified Resolution Establishing Guiding Principles for Culver City's 2021-2029 Housing Element Update (Option 2/Attachment 3); or

2. Adopt the proposed model Resolution Establishing Guiding Principles for Culver City's 2021-2029 Housing Element Update (Option 1/Attachment 1), as presented, thereby authorizing the City Manager to use GPU Contingency Funds for added tasks required by Principles 1, 2, and 5 and start a solicitation process for added services required by Principles 8, 9, and 10; and
3. Direct the Planning Commission to determine whether the Draft Housing Element has sufficiently addressed the Guiding Principles at a July 2021 meeting.

NOTES

1. The HCD Guidebook can be accessed at:
https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf.
2. The GPU agreement amendment reflecting HCD's Local Early Action Planning grant award to study housing production along Sepulveda Boulevard is in progress and not reflected in Attachment 2.