



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: DECEMBER 12, 2017**

**FROM: COMMUNITY & ECONOMIC DEVELOPMENT      WARDS: ALL**  
**DEPARTMENT**

**SUBJECT: HOUSING ELEMENT IMPLEMENTATION PROGRAM, INCLUDING PLANNING  
CASE P17-0096 GENERAL PLAN AMENDMENT, P17-0180 REZONE, P17-0182  
ZONING CODE TEXT AMENDMENT, P17-0521 SPECIFIC PLAN AMENDMENT,  
A FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT, AND AN  
AMENDMENT TO THE MASTER FEES AND CHARGES RESOLUTION**

## **ISSUES:**

Approve the Housing Element Implementation Program, which includes a General Plan Amendment, Zoning Map Amendment - Rezoning, Zoning Code Text Amendment, an Amendment to the University Avenue Specific Plan, certification of a Final Program Environmental Impact Report, and amendment to the Master Fees And Charges Resolution No. 21960.

## **RECOMMENDATIONS:**

That the City Council:

1. Adopt the attached California Environmental Quality Act Resolution, including the attached Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program;
2. Approve Planning Cases P17-0096 General Plan Amendment, P17-0180 Zoning Map Amendment, P17-0182 Zoning Code Text Amendment, and P17-0521 University Avenue Specific Plan Amendment, based on the findings and recommendations contained herein;
3. Adopt a Resolution amending the General Plan 2025;
4. Adopt a Resolution amending the University Avenue Specific Plan;
5. Introduce and subsequently adopt an Ordinance amending the Zoning Map;
6. Introduce and subsequently adopt an Ordinance amending Title 19 of the Riverside Municipal Code - Zoning Code; and
7. Adopt a Resolution amending the Master Fees & Charges Resolution No. 21960 for lot merger/lot consolidation applications for Housing Element Rezoning Program sites.

## **PLANNING COMMISSION RECOMMENDATION:**

On November 2, 2017 the City Planning Commission unanimously recommended approval of the Housing Element Implementation Program, subject to staff's recommendations, by a vote of 8 ayes and 0 noes. The Commission recommended that the City Council approve 59 sites proposed for rezoning and general plan amendments, and adopt the proposed Zoning Code Text Amendment and University Avenue Specific Plan Amendment. The Commission also took action to deny 10 of the 69 sites originally identified by staff for potential rezoning. The Commission's actions are based on the October 19, 2017 and November 2, 2017 Planning Commission staff reports and are reflected in the Revised Planning Commission Recommendations (Attachment 1).

## **BACKGROUND:**

California Government Code section 65300 et. seq requires all local jurisdictions in the State of California to adopt a General Plan, which establishes the long-range vision and policy framework for future development. The Housing Element is one of 12 elements within the City's General Plan 2025. The Housing Element identifies existing and projected housing needs for all income levels.

The Housing Element requires State approval and must be updated every eight years. Because the City did not adopt its 5<sup>th</sup> Cycle Housing Element by October 15, 2013, and was not in compliance with State law, a lawsuit against the City (Edwards et al v. City of Riverside) was filed in October 2016. A settlement agreement with the petitioners was reached in January 2017, requiring the City to take the following actions:

- Adopt the 5<sup>th</sup> Cycle 2014-2021 Housing Element by October 15<sup>th</sup>, 2017;
- Adopt a Rezoning Plan by December 15, 2017; and
- Complete the rezoning of sites associated with the Housing Element Implementation Program by September 1, 2018.

On October 10, 2017, the City Council approved the 5<sup>th</sup> Cycle 2014-2021 Housing Element. The Housing Element identifies site that could be rezoned to meet California housing law rezoning criteria, and bring the City into compliance with State law. Adoption of the Housing Element Implementation Program on December 12, 2017 will initiate the rezoning of these sites, and satisfy the Court-approved Settlement Agreement deadline for completion of a Rezoning Plan. The second reading of the rezoning ordinance in January 2018 will satisfy the September 1, 2018 deadline. Failure to adopt the proposed Housing Element Implementation Program exposes the City to a potential Court-ordered moratorium on the issuance of building permits.

## **Regional Housing Needs Assessment Requirement**

California law establishes the City's obligation to accommodate its fair share of regional growth during each of the Housing Element cycles (i.e., every 8 years). The City's obligation is reflected in the Regional Housing Needs Assessment (RHNA). The RHNA is determined by the Southern California Association of Governments (SCAG), and reflects three social economic categories (lower income, moderate income, and above-moderate income).

For the 5<sup>th</sup> Cycle 2014-2021 Housing Element, the City was allocated a RHNA of 8,283 total units in the following categories:

- 3,338 units affordable to lower-income households
- 1,503 units affordable to moderate income households
- 3,442 units affordable to above-moderate income households

State law obligates the City to provide opportunities for the construction of the lower-income housing units. Specifically, the City must show that it has enough multi-family zoned land that is vacant and available for higher density construction. For the 5<sup>th</sup> Cycle Housing Element, the City is obligated to accommodate 3,338 lower income households. After computing the land available for higher density development, and subtracting the number of affordable dwellings under construction, there remains an unmet need of 2,028 dwelling units. Because the City does not have enough multiple-family zoned land, State law requires that the City rezone properties to accommodate the shortage.

The City also has an unmet rezoning obligation as part of the 4<sup>th</sup> Cycle 2006-2014 Housing Element. State law requires the unmet RHNA obligations for the 4<sup>th</sup> Cycle be added to the 5<sup>th</sup> Cycle. As a result, the City is now required to rezone enough property to accommodate at least 4,767 units for lower income households.

To be in compliance with state law, the City must identify vacant and underutilized sites, and rezone them to allow multi-family residential development. The amount of land that needs to be rezoned must provide an opportunity to construct a minimum of 4,767 dwelling units. Although the 4,767 units is derived from the fair share of lower-income units in the RHNA, the mandated rezoning does not mean that the properties must be developed with low-income housing. The rezoning merely provides the opportunity for the minimum number of low-income units to be built; what is ultimately constructed is dictated by the free market.

Although the construction of low-income housing is not required, the State encourages affordable housing with the following minimum Rezoning Program criteria:

- The zones must provide for a minimum density of at least 24 units per acre;
- The rezoned properties must be able to accommodate at least 16 units; and
- At least 50 percent of the sites must be zoned exclusively for higher density residential (i.e., less than 50 percent can be mixed-use residential zones).

### Public Engagement

The Housing Implementation effort included community outreach and opportunities for public input. On May 18, 2017 staff held a Planning Commission workshop in the morning; and a workshop in the evening for property owners of the potential candidate sites. These workshops were a precursor to the Housing Element effort, and were intended to inform the public about housing law, the City's housing obligations, and the Edwards et al lawsuit. On August 10, 2017 staff held a workshop with the Planning Commission to discuss the specifics of the Rezoning Program, including housing law, the rezoning process, and a list of the candidate sites identified for rezoning. To provide additional opportunities for community participation, a similar Planning Commission workshop was held in the evening on September 14, 2017. Public notices of these meetings were mailed to all property owners within 300 feet of the candidate sites. The Planning Commission reviewed the proposal on October 19, 2017, and continued the meeting to November 2, 2017 to allow staff to refine its recommendation.

## **PROPOSAL:**

The 2014-2021 General Plan Housing Element Implementation Program includes amending the City's Zoning Map, Zoning Code (Title 19), General Plan, and University Avenue Specific Plan (UASP). The Implementation Program also includes a fee waiver for the consolidation of small lots included in the Rezoning Program. A Final Program Environmental Impact Report (FPEIR) has also been prepared for the proposal.

The 2014-2021 Housing Element identifies and analyzes the City's existing and projected housing needs, and articulates the City's official policies for the preservation, conservation, improvement, and production of housing. The following amendments will implement the 2014-2021 General Plan Housing Element by accommodating the City's remaining Regional Housing Needs Assessment (RHNA) allocation and reducing barriers to the construction of housing:

- **Rezoning** – Amendments to accommodate a RHNA of 4,767 DUs for lower-income households. There are a total of 58 sites comprised of 236 individual properties that are proposed for rezoning to Multi-Family Residential or Mixed-Use.
- **General Plan** – Amendments to ensure consistency between land use designations and the proposed Zoning Map amendments. A total of 32 sites comprised of 134 individual properties are proposed to General Plan land use amendments.
- **Zoning Code** – Amendments to promote diversity in housing types, sustainability and affordability, and other land use provisions that support multiple-family residential and other residential uses, including amendments to provisions related to “second units” (accessory dwelling units), tiny homes, supportive and transitional housing, single-room occupancies, non-conformities, and Mixed Use zones.
- **University Avenue Specific Plan (UASP)** – Amendments to Chapter 6, Land Use Regulations (Land Use Table), and other applicable sections of the UASP. These will remove the 15-acre minimum requirement for mixed-use developments, allow stand-alone multiple-family residential by-right for properties zoned MU-V and MU-U, and refer to the mixed-use provisions of the Zoning Code for development standards for mixed-use projects.

## **DISCUSSION:**

The preparation of the 2014-2021 Housing Element Implementation Program required staff to identify rezoning candidate sites that were in compliance with minimum State Housing law criteria. The attached October 19, 2017 Planning Commission Staff report details the challenges of finding adequate candidate sites, and the City's strategy for complying with housing law. Please refer to the attached Planning Commission staff report for further details.

### **Total RHNA Unit Count**

As previously stated, the City's Rezoning Program must yield a minimum of 4,767 dwelling units, and at least half of the units must be zoned exclusively for residential uses. Staff initially identified 69 candidate sites that could meet the minimum rezoning requirements under State Housing Law. On November 2, 2017 the Planning Commission eliminated ten (10) sites, and reduced the size

of other sites by removing certain parcels.

Various factors and constraints led to the elimination of sites and parcels from consideration, as described in the October 19, 2017 Planning Commission staff report. Many of the sites were removed because the properties, which were initially vacant when added to the candidate site list, have subsequently been approved for development, or have applications for development pending. As a result, these sites are no longer available for the construction of housing. Other sites were eliminated because of feedback received from Council, the Planning Commission, and the community.

The sites currently presented to the Council and recommended for rezoning comply with the minimum yield of 4,767 dwelling units. Staff's recommendation leaves a surplus of 734 units for those sites zoned exclusively for residential use (R-3-1500 and R-4), and a surplus of 1,117 units for sites zoned for mixed use (MU-V & MU-U). Table 3 below shows the unit count as recommended:

<b>Unit Count Summary Table Proposed Sites</b>				
Total Number of Units (Initial Count):				9,104
Units deducted for Non-HCD credit parcels:				730
Revised Total:				8,374
	Required Units for RHNA	Credit for 69 Candidate Sites (303 parcels)	Units Lost w/ Elimination of Sites	Remaining Credit/ Surplus
Sites proposed for Multiple-Family Residential (R-3-1500 & R-4 Zones)	2,384	4,513	1,395	3,118/ 734
Sites proposed for Mixed Use (MU-V & MU-U Zones)	2,383	3,861	361	3,500/ 1,117
<b>Total</b>	<b>4,767</b>	<b>8,374</b>	<b>1,756</b>	<b>6,618/ 1,851</b>

### Overlay Zones

Fourteen of the sites proposed for rezoning have overlay zones. The proposed rezoning request includes the removal of some of these overlay zones, including the Neighborhood Commercial Overlay (NC), Stories Overlay (S), Setback Overlay (X), and the Residential Protection Overlay (RP), where applicable. The removal of overlay zones is necessary to accommodate the multiple-family residential uses that would be allowed under the proposed Multiple-Family and Mixed-Use zones. Sites that are located in specific plan areas (e.g., Magnolia Avenue and University Avenue Specific Plans) will continue to retain their existing Specific Plan Overlay (SP) designation.

### Proposed Zoning Code Text Amendment

The Housing Element Implementation Plan also includes Zoning Code text amendments necessary to achieve compliance with state law, protect property investments, and facilitate alternative types of housing. The Zoning Code text amendments are summarized below:

- **Compliance with New State Laws:**
  - *Senate Bill (SB) 2:* To comply with SB2, the Code is amended to allow for and treat supportive and transitional housing the same as any other residential use in zones where residential uses are permitted.

- *Assembly Bill (AB) 2634 - Single Room Occupancies:* The City must allow for Single Room Occupancies (SRO's) in compliance with Assembly Bill (AB 2634). The Zoning Code is amended to allow SRO's subject to approval of a conditional use permit within the Mixed-Use Urban (MU-U) Zone only and establishes standards for SRO's.
- *Assembly Bill (AB) 2299 & Senate Bill (SB) 1069 - Accessory Dwelling Units:* Chapter 19.525 – *Second Dwelling Units* will be amended to comply with AB 2299 and SB 1069, which went into effect January 1, 2017. The new laws limit how local jurisdictions can regulate Accessory Dwelling Units (formerly called Second Dwelling Units). Specific Amendments include:
  - Modifying standards related to lot size, unit size and parking.
  - Allowing ADU's by right in Single-Family Residential Zones.
- *Design Review:* This amendment establishes an administrative design review procedure to allow stand-alone multi-family residential development “by right” in Multiple-Family Residential and Mixed Use Zones. Allowing “by right” multi-family projects is mandated by Government Code Section 65880 for sites rezoned to comply with the City's RHNA obligation.
- **Protecting Property Investment:** The City must change the Zoning Code to comply with State law, and rezone properties to meet the City's housing obligation. However, staff also recognizes that the candidate sites represent investments by property owners. Therefore, there is a need to provide assurance that existing uses will not be unreasonably burdened by the Rezoning Program. In this spirit, staff took a closer look at the City's current Zoning Code and is proposing amendments to provide clarity and eliminate unnecessary burdens. The following proposed Code amendments pertain to the concerns of existing property owner:
  - Amend the Nonconformities provisions to provide greater flexibility in allowing for expansions, re-establishment and restoration of non-conforming uses, parcels, and structures.
  - Amend the Permitted Uses provisions to:
    - Allow a drive-through restaurant in Mixed Use zones, and
    - Allow construction of one single-family dwelling unit on property zoned for multiple-family residential uses, as long as it is a legal lot prior to January 1, 2018, and is no greater than 0.25 acres in size.
  - Amend current development standards to eliminate barriers to the development of housing, including:
    - Reducing the minimum lot size for Multiple-Family Residential Zones from one (1) acre to 30,000 square feet.
    - Reduce Overlay Zone setback requirements for multi-family residential structures over two stories.
    - Reduce the minimum front yard landscape setback area, and minimum required useable open space (common and private open space) for Multiple-Family Residential Zones.
    - Reduce the minimum required number of open space recreational amenities.
    - Establishing a Studio Unit parking standard of one space per unit and provisions to allow for tandem parking for multi-family residential uses.

- **Opportunities for Alternative Types of Housing:**

- *Assemblies of People Non-Entertainment:* The provisions allowing for Assemblies of People Non-Entertainment uses, such as churches and other faith based & community organizations, would be amended to allow dwelling units as an incidental use to the Assemblies of People Non-Entertainment use, subject to approval of a Conditional Use Permit.
- *Tiny Homes:* Establish new provisions and definitions to allow “Tiny Homes” as follows:
  - As an accessory dwelling unit to a primary residence.
  - As part of a Tiny Home Community (e.g., developments of multiple Tiny Homes).
  - As an incidental residential use in conjunction with an *Assemblies of People, Non-Entertainment* land use.

### University Avenue Specific Plan (UASP) Amendment

The Housing Element Implementation Program includes rezoning of properties that are within the University Avenue Specific Plan (UASP). Because the UASP adds an additional layer of regulation, the rezoning of the properties to multiple-family residential and mixed use zones requires correlated edits to the Specific Plan. As proposed, the edits will amend the UASP’s Chapter 6 - *Land Use Regulations* and Land Use Table (see Exhibit 5) to include the following two new land use categories:

- *Mixed Use (5<sup>th</sup> Cycle Housing Element Rezoning Program Sites with Mixed Use Zoning).* This land use would be allowed with a Site Plan permit in all of the Specific Plan Sub-districts.
- *Multiple-Family Residential (5<sup>th</sup> Cycle Housing Element Rezoning Program Sites with Mixed Use Zoning).* This land use would be permitted by right in all of the Specific Plan Sub-districts.

In support of the “Protecting Property Investment” Zoning Code Amendments described above, the following additional UASP amendments are proposed:

- Eliminate the 15-acre site requirement for Planned Mixed-Use Commercial/Residential Development.
- Update outdated references to reflect the current zones of the Zoning Code
- Replace outdated and overly restrictive mixed use project development standards of the Specific Plan with language that refers to the Mixed Use Development of the Zoning Code, including allowing restaurant drive-thru lanes subject to a Conditional Use Permit.

### Proposed General Plan Amendment

A General Plan Amendment is proposed in conjunction with the rezoning of sites described above. The General Plan Amendment will reclassify 32 of the candidate sites to High Density Residential (HDR), Very High Density Residential (VHDR), Mixed Use – Urban (MU-U) or Mixed Use – Village (MU-V). The specific designation for each property will be based on the zone proposed for that property, which ensures General Plan and Zoning consistency. Attachment 4 includes maps and text depicting the amendments proposed for each of site.

### Fee Waiver of Lot Merger/Consolidation Fees

The recently adopted 5<sup>th</sup> Cycle 2014 – 2021 Housing Element Implementation Plan includes implementation Tool H-52, which states the following:

*“In an effort to create additional opportunities for affordable housing, the City will facilitate lot consolidation to combine small residential lots into larger developable lots. Eligible lots must meet the following criteria:*

- *Eligible lots must be contiguous with other lots that create the opportunity for development of at least 16 units (all parcels combined).*
- *The small lots must have the same owner as one or more of the other parcels it is aggregated with. Combined together, the parcels must create the opportunity for 16 units.*

*The City will allow lot consolidation without discretionary review on the eligible sites and will waive fees for lot consolidation.*

*Table D-2 in Appendix D shows small sites eligible for application of these regulations bolded and in italics.”*

This implementation policy was included in the 5<sup>th</sup> Cycle 2014 - 2021 Housing Element to encourage the development of quality affordable housing stock. Additionally, the commitment to establish a fee waiver program for sites that meet the 16 unit minimum yield, and are commonly owned, will allow these sites to count towards our RHNA obligation.

Staff proposes a fee waiver for lot consolidations as part of this Rezoning Program to satisfy the State’s RHNA requirement and to implement the City’s General Plan.

The proposed lot line consolidation fee waiver program is subject to California State laws, including Proposition 218 and 26. These laws state that government agencies may recover the estimated reasonable cost of providing services. However, fees collected cannot exceed the cost of the services provided, and they need to be applied equally to all parties. When fees are waived or discounted for a specific purpose, the fees are no longer applied equally to all parties. In order for the City to accommodate a fee waiver, it needs to ensure that the “fee structure” is not compromised. This means an alternative revenue source needs to be identified to cover the subsidy, such as the General Fund Reserve or grant funding.

The current fee for a lot line adjustment, merger, consolidation, and waiver of parcel map is \$3,260.40. Based on the Housing Element Implementation Program Tool H-52, the fee waiver would only apply to small parcels on Housing Element Rezoning Program sites (i.e., a density yield of less than 16 dwelling units). There are approximately 75 of these small parcels. To estimate the cost of the fee waiver subsidy, staff has assumed one small lot per consolidation application; although this is extremely conservative since most of the mergers will include more than one small parcel. Using this conservative approach, the cost of the fee waiver program would not exceed \$244,530 dollars (\$3,260.40 x 75). Also, the number of merger applications taking advantage of the fee waiver in the near future will be very low, since the waiver would only be granted when a proposal for lot consolidation is submitted.

### Final Environmental Impact Report

In conjunction with this project, a Final Program Environmental Impact Report (FPEIR) has been completed in accordance with the California Environmental Quality Act (CEQA). Staff received a total of 7 comment letters on the Draft Program Environmental Impact Report (DPEIR), two of which were received after the close of the DPEIR comment period, which ended October 23, 2017. Staff has reviewed all of the submitted comments, and appropriate responses are provided in the Final EIR (Attachment 9). Responses to comments received from public agencies were provided in writing to the commenting agency ten days prior to this meeting. Furthermore, the City's response to clarifications requested by those who commented on the project did not result in significant new information, nor result in additional environmental impacts.

In addition to the comment letters referenced above, Attachment 1, City Planning Commission Report includes all public comments received by the City that were not related to the DEIR. For additional background, please refer to the attached November 2, 2017 and October 19, 2017 City Planning Commission staff reports, and minutes. At the time this staff report was prepared, the City had not received any additional public comments.

### **FUTURE CONSIDERATIONS:**

#### *New Laws*

In September 2017, the State adopted 15 new housing bills. SB 166 requires that, if any of the sites required to meet the City's RHNA obligations are developed with something other than affordable housing, the City has 180 days make available other sites that will be sufficient to accommodate the deficit in RHNA units. As a result, should the unit "buffer" currently part of the proposed rezoning be eliminated due to development or other reasons, the City would need to rezone additional sites to ensure "no net loss" of sites.

#### *Regional Housing Needs Assessment*

Adoption of the Housing Element Implementation Program will bring the City into compliance with our RHNA obligations. The City is not obligated to accommodate new RHNA dwelling units until the 6<sup>th</sup> Cycle Housing Element starts in October, 2021. In the meantime, the City's regulatory framework, including the General Plan, Specific Plans and Zoning Code will be updated. It is anticipated that additional housing opportunities will be created as part of this effort to accommodate anticipated 6<sup>th</sup> Cycle rezoning requirements.

### **FISCAL IMPACT:**

The fiscal impact associated with the proposed fee waiver could be as high as approximately \$245,000. It is anticipated that the fiscal impact could be significantly lower than that estimated, and would be spread out over multiple decades. Approval of the fee waiver will require staff to either identify alternative funding sources (e.g. grant funding) or utilize Reserves in the General Fund and other funds, where applicable, when the fee waiver request is submitted.

Failure to approve the Housing Element Implementation Program exposes the City to a potential Court-ordered moratorium on the issuance of building permits other than for multi-family residential projects. A moratorium would have significant negative effects on the building industry and the local economy, and result in a significant, but unknown, reduction in general fund revenue.

Prepared by: Rafael Guzman, Community & Economic Development Director  
Certified as to  
availability of funds: Adam Raymond, Chief Financial Officer/City Treasurer  
Approved by: Al Zelinka, FAICP, Assistant City Manager  
Approved as to form: Gary G. Geuss, City Attorney

Attachments:

1. City Planning Commission Report – November 2, 2017
2. City Planning Commission Minutes – November 2, 2017
3. Resolution certifying the Final Program Environmental Impact Report prepared for the Housing Element Implementation Program
4. Resolution approving Planning Case No. P17-0096, General Plan Amendments for Rezone Site Consistency
5. Resolution approving Planning Case No. P17-0521, Specific Plan Amendment (University Avenue Specific Plan)
6. Ordinance approving Planning Case No. P17-0180, Rezoning of Housing Element Rezoning Program sites
7. Ordinance approving Planning Case No. P17-0182, Zoning Code Text Amendments
8. Fee Resolution for Waiver of Lot Merger Fees for Housing Element Rezone Sites
9. Final Environmental Impact Report (including DEIR) – Distributed to the City Council and available electronically at <http://riversideca.gov/planning/housing-element.asp>
10. Presentation
11. Site Maps