

RESOLUTION NO. PC 23-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MENIFEE, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL FIND THAT PROPOSED CODE AMENDMENT LR23-0017 IS EXEMPT FROM ENVIRONMENTAL REVIEW AND THAT THE CITY COUNCIL ADOPT PROPOSED DEVELOPMENT CODE AMENDMENT LR 23-0017 TO AMEND THE MENIFEE MUNICIPAL CODE TO INCLUDE PROVISIONS REQUIRED TO IMPLEMENT HOUSING ELEMENT PROGRAM ACTION 5 AND COMPLY WITH STATE LAW

WHEREAS, on December 15, 2021, the City Council initially adopted the City's 6th cycle, 2021-2029 Housing Element, which had been previously reviewed by the State Department of Housing and Community Development (HCD) and revised to address HCD comments;

WHEREAS, after the initial adoption of the Housing Element, subsequent review and revisions to the Housing Element were required by HCD to comply with State Housing Element law;

WHEREAS, on November 16, 2022, the City Council Adopted Resolution No. 2022-1265, re-adopting and approving HCD required revisions to the City's 6th cycle, 2021-2029 Housing Element to comply with State Housing Element law;

WHEREAS, on November 22, 2022, the City submitted the re-adopted 6TH cycle, 2021-2029 Housing Element to HCD for their review as required to comply with the State Housing law;

WHEREAS, on January 19, 2023, the City received a letter from HCD determining that the Housing Element cannot be found in full compliance until Program 5 (Candidate Sites Used in Previous Housing Element) to allow by-right processing of sites identified in previous housing elements pursuant to Government Code section 65583.2, subdivision (c) is completed;

WHEREAS, in January of 2023, the City of Menifee initiated an application for Code Amendment LR 23-0017 to amend the Development Code (Title 9 of the Menifee Municipal Code) to implement and complete Housing Element Program Action 5 and comply with State law (Government Code section 65583.2, subdivision (c));

WHEREAS, this proposed Code Amendment LR23-0017 consists of amending Section 9.130.030 "Allowed Uses and Approval Requirements" of the Development Code for by-right review of residential projects with a minimum of 20 percent of units affordable to lower-income households on non-vacant sites identified to accommodate the lower-income Regional Housing Needs Allocation (RHNA) in the current adopted Housing Element and used in a prior housing element;

WHEREAS, Code Amendment LR23-0017 provides that such projects shall be by-right and shall not require discretionary review that would constitute a "project" under the California Environmental Quality Act (CEQA);

WHEREAS, Code Amendment LR23-0017 consists of amending Section 9.130.030 “Allowed Uses and Approval Requirements” of the Development Code for by-right review of residential projects with a minimum of 20 percent of units affordable to lower-income households on vacant sites identified to accommodate the lower-income RHNA in the current adopted Housing Element and used in two prior housing elements;

WHEREAS, Code Amendment LR23-0017 provides that such projects shall be by-right and shall not require discretionary review that would constitute a “project” under the California Environmental Quality Act (CEQA);

WHEREAS, upon adoption of the proposed Code Amendment to implement Housing Element Program Action 5, a copy of the Ordinance will be submitted to HCD as required to obtain a determination by HCD that the City’s 2014-2021 Housing Element complies with State law;

WHEREAS, on February 16, 2023, the Riverside County Airport Land Use Commission (ALUC) Director found Code Amendment No. LR 23-0017 to be consistent with the 2014 March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan and the 2010/2011 Perris Valley Airport Land Use Compatibility Plan;

WHEREAS, on March 8, 2023, the City of Menifee Planning Commission, held a duly noticed public hearing on the proposed Code Amendment LR23-0017, amending the Development Code (Title 9 of the City of Menifee Municipal Code), for which a hearing was publicly noticed by a publication in *The Press Enterprise* (a newspaper of general circulation), an agenda posting, and to persons requesting public notice;

WHEREAS, on March 8, 2023, the City of Menifee Planning Commission considered all public testimony, written and oral, presented at the public hearing, and considered the written information and recommendation of the staff report for Code Amendment No. LR 23-0017; and

WHEREAS, the Planning Commission considered the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et. seq.) regarding the potential impacts that the proposed Development Code Amendment LR 23-0017 may have upon the environment;

WHEREAS, the Planning Commission considered the proposal’s consistency with the Goals and Policies of the City’s adopted General Plan; and

NOW, THEREFORE, the Planning Commission of the City of Menifee makes the following findings:

Section 1: *The proposed amendment to Title 9 of the Menifee Municipal Code (Zoning and Development Code) is consistent with the intent of the goals and policies of the General Plan.*

The proposed amendment is consistent with the intent of the goals and policies of the General Plan the proposed amendment provisions only affect the review process (i.e., by-right review), for 20 percent lower

income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)). Additionally, the amendment is consistent the following goals and policies of the General Plan:

- **Goal HE-1:** A diverse housing stock that offers a full range of housing opportunities for Menifee residents and supports the local economy.
 - **Policy HE 1.1: Adequate Sites.** *Provide adequate sites to accommodate project housing unit growth needs identified by the 2021-2029 RHNA.*
 - **Policy HE 1.5: Entitlement Process.** *Provide flexible entitlement processes that facilitate innovative housing solutions yet balance the need for developer certainty in the approval process.*
 - **Policy HE 1.6: Permit Process.** *Permit higher density housing in the 20.1-24 R General Plan designation per City policy.*
- **Goal HE-4:** Effective and responsive housing program and policies.
 - **Policy HE 4.1: Annual Housing Reporting.** *Evaluate the development of parcels for the 6th Cycle RHNA and report on the status of all housing programs in accordance with state and federal laws.*
 - **Policy HE 4.2: Fair Housing Programs.** *Support and implement housing programs that overcome patterns of segregation and housing discrimination.*
 - **Policy HE 4.3: Housing Opportunities.** *Encourage development of opportunity sites and encourage affordable housing through density bonuses and related incentives.*

Section 2: *The proposed amendments to Title 9 of the Menifee Municipal Code (Zoning and Development Code) prescribes reasonable controls and standards to ensure compatibility with other established uses.*

The proposed amendments to the Zoning and Development Code prescribe reasonable controls and standards to ensure compatibility with other established uses as the proposed amendment provisions only affect the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. Language is included to require such projects to comply with the City's Multifamily Objective Development standards. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)).

Section 3: *The proposed zone or amendments to this Title provides reasonable property development rights while protecting environmentally sensitive land uses and species.*

The proposed amendment to the Zoning and Development Code will provide reasonable property development rights while protecting environmentally sensitive land uses and species as the proposed amendment provisions only affect the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)).

Section 4: *The proposed amendments to Title 9 of the MMC ensures protection of the general health, safety, and welfare of the community.*

The proposed amendment ensures protection of the general health, safety, or general welfare of the community as the proposed amendment provisions only affect the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the most recently adopted Housing Element and used in a prior housing element. The proposed amendment is necessary to comply with State law (Government Code section 65583.2, subdivision (c)).

Section 5: *Compliance with California Environmental Quality Act (CEQA). The proposed amendments to Title 9 of the Menifee Municipal Code (Zoning and Development Code) are in compliance with the requirements of CEQA.*

Staff has reviewed the proposed Code Amendment in accordance with the CEQA Guidelines and has determined that the Code Amendment is exempt pursuant to Section 15061 (b) (3) "Common Sense Exemption" of the CEQA Guidelines, as the proposed Code Amendment is required to implement Program Action 5 of the City's adopted 6th cycle, 2021-2029 Housing Element and to comply with State law. The Code Amendment involves provisions that only affect the review process (i.e., by-right review), for 20 percent lower income residential projects on certain candidate sites identified in the Housing Element and used in a prior housing element, and as required by Government Code section 65583.2(j), such use shall be by-right and shall not require discretionary review that would constitute a "project" as defined in Section 211000 of the Public Resources Code (California Environmental Quality Act "CEQA"). Therefore, it can be seen with certainty that there is no possibility that the proposed amendments will have a significant impact on the environment.

Additionally, the proposed Code Amendment implements Program Action 5 of the City's adopted 6th cycle, 2021-2029 Housing Element of the General Plan. On December 15, 2021, the City Council adopted

Resolution No. 21-1110 adopting the Final Programmatic Environmental Impact Report ("FPEIR") for the Housing Element Update Project (State Clearinghouse No. 2022010031) ("Project"). Based on data and analysis and findings of the FPEIR, the Project would not directly result in significant adverse environmental impacts. All potential impacts were determined to be less than significant without mitigation or can be reduced to a less than significant level with implementation of the mitigation measures identified in the FPEIR. Additionally, no cumulative significant impacts were identified in the FPEIR based on findings that the Project's contributions to such impacts are considered not to be cumulatively considerable.

Section 6: Notice of Adoption. The City Clerk of the City of Menifee shall certify to the adoption of this Resolution.

Section 7: Effective Date. This Resolution shall become effective upon its adoption.

Section 8: Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Resolution are declared to be severable.

NOW, THEREFORE, The Planning Commission of the City of Menifee recommends to the City Council the following:

1. That the City Council determine that the "Findings" set out above are true and correct.
2. That the City Council finds that the facts presented within the public record and within the Planning Commission Resolution (and Exhibit "A") provide a basis to approve Development Code Amendment LR 23-0017.
3. Resolution Regarding Custodian of Record: The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Community Development Department – Planning Division, 29844 Haun Road, Menifee, CA 92586. This information is provided in compliance with Public Resources Code section 21081.6.

PASSED, APPROVED AND ADOPTED this 8th day of March, 2023.

Jeff LaDue, Chairman

Attest:

Resolution No PC 23-____
LR 23-0017
March 8, 2023

Rachel Valencia, Acting Deputy City Clerk

Approved as to form:

Thai Phan, Assistant City Attorney