



CITY OF MENIFEE

SUBJECT: Development Code Amendment to Implement Housing Element Program Action 5 and Comply with State Law

MEETING DATE: March 8, 2023

TO: Planning Commission

PREPARED BY: Doug Darnell, Principal Planner

REVIEWED BY: Orlando Hernandez, Planning Manager

APPROVED BY: Cheryl Kitzerow, Community Development Director

APPLICANT: City of Menifee

RECOMMENDED ACTION

1. Recommend that the City Council find that the proposed Code Amendment, Planning Case No. LR23-0017, is Exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b) (3) "Common Sense Exemption" and based on the City's previously certified 6th cycle, 2021-2029 Housing Element Project Final Program Environmental Impact Report; and
2. Adopt a resolution recommending that the City Council adopt an Ordinance approving Planning Case No. LR23-0017, a City initiated Code Amendment to amend the Development Code (Title 9 of the Menifee Municipal Code) to add provisions to Chapter 9.130.030 for by-right review of residential projects with a minimum of 20% of the units affordable to lower income households and located on candidate sites identified in the current Housing Element and used in a prior housing element as required to implement Housing Element Program Action 5 and comply with State law.

PROJECT DESCRIPTION

This proposed City initiated Development Code amendment adds provisions to the Development Code to implement Program Action 5 of the City's 2021-2029 Housing Element as required to comply with State law and achieve full compliance for the Housing Element. Specifically, language is added to Chapter 9.130.030 for residential projects with a minimum of 20% of the units affordable to lower income households. This applies to non-vacant sites identified in the Housing Element to accommodate the City's lower income portion of the City's Regional Housing Needs Allocation (RHNA), and which were also used in the City's prior 5th cycle Housing Element. The proposed amendment references Figure B-1 and Table B-12 in Appendix B of the Housing Element for a

list of these sites, which are generally located in the northeasterly portion of the City, north of Watson Road between Sherman and Antelope Roads, east side of Antelope Road south of Watson Road, and one site located on the west side of Menifee Road and northerly of Rouse Road. All these sites/parcels are zoned as High Density Residential (HDR) allowing for a density deemed sufficient to accommodate the lower income portion of the RHNA (i.e., units required to be accommodated by the City). Per State law, a 20% affordable housing project on these non-vacant sites shall be by-right and shall not require discretionary review that would constitute a “project” under the California Environmental Quality Act (CEQA). However, the law allows the City to require such project to be subject to objective design/development standards (i.e., the City’s Multifamily Objective Design Standards) and such project would need to comply with all applicable City requirements, development standards and codes, provided they are objective and do not involve discretionary review.

In addition to the above-described provisions for non-vacant sites, provisions are added for 20% lower income projects on vacant sites that may be identified as part of a future housing element to accommodate the lower income portion of the RHNA and which were used in two prior housing elements.

DISCUSSION

The City Council initially adopted the City’s 2021-2029 Housing Element on December 15, 2021; however, after adoption, subsequent review and revisions to the Housing Element were required by the Department of Housing and Community Development (HCD) to comply with State Housing Element law. Once all HCD required revisions were completed to HCD’s satisfaction, the City Council re-adopted the Housing Element on November 16, 2022.

On November 22, 2022, the City submitted the re-adopted Housing Element to HCD for their review with the goal of receiving HCD’s final approval and certification. On January 19, 2023, the City received a letter from HCD determining that the City’s Housing Element could not be found in full compliance until Housing Element Program 5 is completed.

The proposed Code Amendment supports the State’s housing goals to facilitate and remove barriers to housing, particularly affordable housing, and has been prepared in response to HCD’s determination letter as necessary to comply with State law. The City must adopt the amendment to obtain a determination by HCD that the City’s Housing Element complies with State Housing Element law (i.e., a “full compliance” determination letter). HCD staff has reviewed the City’s draft amendment and has indicated that, when adopted, the amendment will satisfy completion of Program Action 5.

ENVIRONMENTAL DETERMINATION

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. Finally, 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.

FINDINGS

Findings for approval of the Code Amendment are included in the draft resolution.

PUBLIC NOTICE

The proposed Project was noticed on February 24, 2023, for the March 8, 2023, Planning Commission hearing. The public notice was published in *The Press Enterprise*, *SB Sun and Dailey Bulletin*, Notices were also mailed to anyone requesting a notice.

ATTACHMENTS

1. Resolution
2. Exhibit A - Proposed Development Code Amendment