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## JOINT WORKSHOP AGENDA ITEM NO. 2

**Meeting Date:** April 14, 2022

**Subject Title:** Introduction of the 2023-2031 Housing Element Update and 6th Cycle Regional Housing Needs Allocation process, including review of the draft Community Engagement Plan and report on the status of the current (5th Cycle) Housing Element, as well as overview of recent changes to Housing Element law

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### PURPOSE AND RECOMMENDATION

This introductory workshop serves as an official launch for the Housing Element Update and includes an introduction to Kimley-Horn, who will be assisting staff with this effort. The workshop will provide for public comments, staff presentation, and the City Council and Planning Commission discussion on an overview of the Housing Element Update process, including an update on the 6th Cycle Regional Housing Needs Allocation (RHNA) process, a report on status of the current (5th Cycle) Housing Element, and changes to Housing Element law since the last update.

### PREVIOUS ACTION

The City Council authorized execution of an agreement for consulting services with Kimley-Horn to assist with the 2023-2031 (6th RHNA Cycle) Housing Element Update on October 12, 2021.

### BACKGROUND

#### What is a Housing Element?

The Housing Element is one of seven mandated elements of the City's General Plan and is a comprehensive statement by the community of its current and future housing needs and proposed actions to facilitate the provision of housing to meet those needs at all income levels. Rising housing costs are not just a statewide or regional issue, but directly impact Brentwood residents and those faced with rising housing prices and increased incidence of homelessness.

Periodic updating of the Housing Element is required by State law; and thus, the Element reflects the State's housing goal of "attaining decent housing and a suitable living environment for every California family," as well as incorporating the unique concerns of the community. The current Housing Element, which was adopted by the City Council and certified by the State in 2015, covers the planning period from 2015 to 2022 (the 5<sup>th</sup> Cycle). The next Housing Element Update (the 6<sup>th</sup> Cycle) must be adopted by January 2023, to address the period from 2023-2031.

State law establishes a series of very specific requirements as to the scope, content, and process by which a Housing Element is updated and adopted, including review and approval

(known as certification) by the California Department of Housing and Community Development (HCD).

Unlike the majority of the other required General Plan elements, the Housing Element must include very specific information to pass legal muster. In accordance with State law, Brentwood's Housing Element must look at housing trends, zoning and market constraints, and evaluate various approaches to meeting housing needs across income levels. The inventory of available sites, or "Sites Inventory," will be a key component of a Housing Element in which the City must identify land zoned for housing to meet the RHNA. Local governments must involve the public from all economic segments of the community in developing the Housing Element; a robust public outreach plan is discussed in this memo and is anticipated to be a key component of the project.

#### What Are the Components of a Housing Element?

State law defines the required content of the Housing Element, with key components including:

1. **Housing Needs Assessment:** Examine demographic, employment and housing trends and conditions that affect the housing needs of the community.
2. **Evaluation of Past Performance:** Review the prior Housing Element to measure progress in implementing policies and programs.
3. **Affirmatively Furthering Fair Housing (AFFH):** Review to ensure that City regulations, programs and activities affirmatively further fair housing, and create meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.
4. **Housing Sites Inventory:** Identify locations of available sites for housing development or redevelopment to ensure that there is adequate capacity to address the RHNA.
5. **Community Outreach and Engagement:** Implement a robust community outreach and engagement program, with a particular focus on outreach to traditionally underrepresented groups.
6. **Constraints Analysis:** Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to the maintenance, improvement, and development of housing for all income levels. The analysis must specifically determine whether local regulatory standards impose an actual constraint on housing development and show local efforts to remove constraints that may hinder the City from meeting its housing needs.
7. **Policies and Programs:** Establish policies and programs to fulfill the identified housing needs.

During the Housing Element Update, the City Council, Planning Commission, and the public will have the ability to provide input on each key project milestone.

The timely development and implementation of a Housing Element Update is essential to avoid the serious ramifications that come from failing to do so. Among these consequences could be the inability of the City to qualify for certain state or federal funding programs for transportation, infrastructure, and housing; shortened deadlines for completing any necessary rezones associated with Housing Element Law compliance; and findings that the City is not in substantial compliance with the Housing Element Law pending any required rezoning.

#### Annual Progress Report and Progress Towards RHNA

Each year, the City is required to provide an Annual Progress Report (APR) to the State, which reports housing unit production compared to RHNA targets, as well as describes the status of the various policies and programs included in the Housing Element. The report was presented

to the City Council at its March 22<sup>nd</sup> meeting. Table 1 summarizes the RHNA and the overall production of housing for the current cycle. In the current (5<sup>th</sup>) cycle, 74 affordable (very low-, low- and moderate-income) units have been produced thus far, which is about 15 percent of the total affordable allocation of 481 units.

**Table 1: Current Cycle (2015-2023) RHNA Progress**

Income Level		RHNA Allocation	2015	2016	2017	2018	2019	2020	2021	Total Units	Total Remaining
Very Low	DR	234	-	-	2	-	-	-	2	4	230
	NDR		-	-	-	-	-	-	-		
Low	DR	124	5	3	-	-	-	-	-	11	113
	NDR		-	-	-	-	3	-	-		
Moderate	DR	123	-	-	-	-	-	-	-	59	64
	NDR		-	-	1	22	-	20	16		
Above-Moderate		279	449	540	503	323	321	268	724	3,128	-
<b>Total RHNA</b>		<b>760</b>									
<b>Total Units</b>			<b>454</b>	<b>543</b>	<b>506</b>	<b>345</b>	<b>324</b>	<b>288</b>	<b>742</b>	<b>3,202</b>	<b>407</b>
<i>DR = Deed Restricted</i> <i>NDR = Not Deed Restricted</i>											

Key Changes in Housing Element Law

In recent years, the State has adopted significant new housing-related legislation, which will influence and shape the upcoming Housing Element Update. These include but are not limited to:

- **Housing Crisis Act (SB 330)** - Makes changes to land use and zoning law to encourage housing production, by limiting the scope of local review of housing projects to objective standards only for qualifying projects; limiting the ability of cities to change the general plan land use designation, specific plan land use designation, or zoning to a less intensive use or reduce the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below that which was in effect on January 1, 2018; limiting the number of public hearings for projects; and shortening review timeframes.
- **Streamlined Ministerial Approval Process (SB 35)** - Requires a streamlined ministerial approval process for development in cities that have not yet made sufficient progress towards their allocation of their RHNA. Eligible developments must include a specified level of affordability, be on an infill site, comply with existing residential and mixed-use general plan or zoning provisions, and comply with other requirements.
- **Adequate Housing Element Sites (AB 1397)** - Strengthens local governments' obligation to identify a supply of adequate sites available to meet their share of regional housing needs at all income levels.
- **Accessory Dwelling Units (Multiple bills)** – In recent years, the State has facilitated the development of accessory dwelling units (ADUs) by adopting and updating laws limiting local regulation of this housing type. These may be counted toward a local agency's RHNA through the processes established by HCD.
- **No Net Loss (SB 166)** - Requires jurisdictions to maintain adequate sites to always accommodate its remaining regional housing needs allocation throughout the housing element planning period, rather than only at adoption.

- **Affirmatively Furthering Fair Housing - AFFH (AB 686)** - Requires Housing Elements to demonstrate the local jurisdiction is affirmatively furthering fair housing. Specifically, AFFH requires taking meaningful actions that, taken together:
  - Address significant disparities in housing needs and in access to opportunity
  - Replace segregated living patterns with truly integrated and balanced living patterns
  - Transform racially and ethnically concentrated areas of poverty into areas of opportunity, and
  - Foster and maintain compliance with civil rights and fair housing laws.
- **Housing Element Enforcement (AB 72)** - Allows HCD to review any action or lack of action by a jurisdiction that is allegedly inconsistent with its housing element. HCD can revoke housing element compliance and notify the Attorney General.

The new legislation has reinforced local governments' obligation to identify a supply of adequate sites available to meet their RHNA share at all income levels. Further, under the rubric of No Net Loss, it requires jurisdictions to maintain adequate sites to continuously accommodate their remaining RHNA throughout the Housing Element planning period, instead of only at adoption. Therefore, a site that is zoned for a certain number of units must provide that number of units at the allocated affordability level; if a development project is approved for a fewer number of units the remaining number of units must be allocated to a different site, resulting in "no net loss" of units.

In addition, the State laws require additional analysis of AFFH and fair housing and segregation, placing a greater obligation on the City to demonstrate that the City is affirmatively furthering fair housing. This will require a large amount of staff and consultant time and effort to demonstrate that our outreach efforts are going beyond simply giving the public an opportunity to provide input and will be proactive and broadly conducted through a variety of methods to assure access and participation. In a growing effort by the state to increase accountability and enforcement of these new state laws and to better address the housing needs of Californians, as part of the 2021-2022 state budget, HCD increased its accountability efforts and formed the Housing Accountability Unit (HAU). The HAU will be in charge of holding jurisdictions accountable for their housing element commitments, as well as with other state housing laws. Violations of these state laws may lead to consequences including revocation of housing element certification and/or referral to the California Office of the Attorney General.

#### 6<sup>th</sup> Cycle RHNA Process and Status

As part of the Housing Element update, HCD requires each jurisdiction in the state to demonstrate capacity to meet their local "fair share" of the assigned Regional Housing Needs Determination (RHND), including total housing units across a series of affordability categories. The RHNA is then determined and assigned through a process led by HCD and regional Councils of Governments (for the Bay Area, this is ABAG/MTC). The City of Brentwood has been allocated a total of 1,522 units for the upcoming cycle.

Table 2 summarizes the current RHNA in comparison to 5<sup>th</sup> Cycle allocations. As the estimate shows, the projection would more than double the number of units assigned in the current cycle. Compared to the 5<sup>th</sup> Cycle, Very-Low and Low-income allocations together increase by 276 units, and the Above-Moderate income category by 362 units.

**Table 2: 6th Cycle RHNA and Comparison to 5th Cycle**

	5th Cycle RHNA (2015-2022)	6th Cycle RHNA (2023-2031)	
Category	Units	Units	Comparison to Cycle 5
<b>Very Low</b>	234	402	+168
<b>Low</b>	124	232	+108
<b>Moderate</b>	123	247	+124
<b>Above-Moderate</b>	279	641	+362
<b>TOTAL</b>	<b>760</b>	<b>1,522</b>	<b>+762</b>

**DISCUSSION**Housing Element Process and Schedule

The Housing Element Update began in November 2021, and will be drafted throughout 2022 and early 2023. It will reflect a robust process with significant engagement with the public, key stakeholders, the City Council and the Planning Commission throughout, to ensure a community-wide conversation about housing policy, future housing sites, and strategies and actions to meet the City’s assigned RHNA. Staff and the consultant have been diligently working on the extensive outreach efforts that are ready to be launched to seek initial input on the Housing Element Update, including this initial community meeting/joint workshop with the City Council and Planning Commission, communication with key stakeholders (such as housing developers and community services providers), and an online community survey.

A simplified schedule with key dates is shown in Table 3 below. Initial steps in the process began in November 2021. As the project proceeds through the summer, there will be an extensive review of existing housing conditions, policies, and programs for inclusion in the Housing Element. Critical to the process will be the sites inventory, whereby sites to accommodate the City’s RHNA allocation will be analyzed. Following completion of the sites analysis, the public review draft of the Housing Element will be created, and taken through a review process that incorporates a required review by HCD, as well as input from the City Council and Planning Commission.

**Table 3: Project Schedule**

Task	Month
Introductory Kick-Off Meeting with City Council and Planning Commission	April 2022
Community Survey	April 2022
Prepare Technical Studies, Housing Needs, Constraints and Resources Baseline Review	February – May 2022
Stakeholder and Focused Community Outreach	May-June 2022
Community Workshop - Land Use Strategies and Housing Policies	May-June 2022
Start of Public Review Draft 30-Day Review Period*	June - July 2022
Start of HCD 90-Day Review Period	August - September 2022
Public Hearings to adopt Housing Element	December 2022 - January 2023
<i>* New this cycle, if any comments are received during the Public Review Period, the City must take at least 10 business days to consider and incorporate public comments.</i>	

### Housing Element Public Engagement Plan

Staff and Kimley-Horn have prepared a Community Engagement Plan that outlines several outreach activities over the duration of the Project. Currently, the Engagement Plan describes the majority of the outreach activities as virtual events given the COVID-19 restrictions that were in place at the onset of the Housing Element Update process. Although the majority of the activities are currently described as virtual, staff is in discussion with Kimley-Horn regarding how future activities may transition to in-person. Since the current contract with Kimley-Horn did not include in-person appearances, and since their staff is based in different regions throughout the State, staff is evaluating whether an additional contract amendment may be required to accommodate in-person meetings. Community outreach efforts have now begun and will continue through the adoption of the Housing Element Update in 2023. The public will have many opportunities to obtain information and provide input in a variety of ways, including:

- Project website;
- Community workshops;
- Informational handouts;
- Housing Element Public Review Draft;
- City Council and Planning Commission Joint Sessions; and
- Final Public Hearings with Planning Commission and City Council.

The Engagement Plan identifies dedicated community meetings, held in a workshop format, to provide information and seek broad community input in the process. The outreach activities have been designed to engage a wide representation of the Brentwood community. The Engagement Plan includes efforts to target the engagement of community members who have not traditionally participated in community outreach events and may be harder to reach. Creative methods to engage senior citizens, those for whom English is not their first language, persons with limited access to technology, those living in disadvantaged areas, and other underrepresented groups in Brentwood will be included in the Engagement Plan.

### *Outreach and Communication Tools*

The Housing Element Update website will serve as the primary medium through which community members access information and project documents and learn about the Housing Element Update. The website will be user-friendly and updated regularly to include content that will reflect public engagement opportunities as they are scheduled and material available for public review. The website has been created with a project-specific URL to identify with the project: [BrentwoodHousingElement.com](http://BrentwoodHousingElement.com)

The website will allow a convenient access point for interested parties to sign up to be notified about future meetings and upcoming events and will include pages dedicated to public engagement, project documents, and “Frequently Asked Questions.” In addition, the website will provide opportunities for interactive involvement through an on-line survey and other tools. These will occur alongside more traditional methods of outreach such as press releases, print media, and other publicity.

The project website and most outreach materials for the community meetings will also be provided in English and Spanish, with opportunities for Spanish-speaking engagement during each meeting through interpretation services for all virtual meetings and/or in-person meetings. If the City Council determines that other language translation is appropriate, this can be accommodated. Although translation services were not fully scoped as part of the Housing Element Update contract with Kimley-Horn, funding for initial translation services have been identified. Funding for the remainder of the translation services planned for is currently being

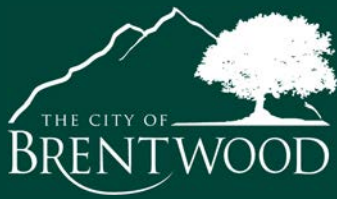
evaluated. All Project materials, recordings, and summaries will be provided on the Project website for community accessibility as well.

To aid in soliciting participation from disadvantaged communities, the City is in the process of identifying interested parties and stakeholders to be regularly engaged, as well as to aid in soliciting participation from their organizations and members. City staff will then continue to communicate and engage with participating community members and stakeholders throughout the update process including notification of all public meetings and hearings.

**FISCAL IMPACT**

There is no financial impact anticipated as a result of this initial discussion. The cost of the update was included as part of the adopted 2021/22 – 2025/26 Capital Improvement Program which included the Housing Element Update (CIP Project No. 337-37258) with subsequent amendment to the 2021/22 Operating Budget approved by the City Council on October 12, 2021.

Attachment A - "What is a Housing Element?" (English and Spanish versions), based on ABAG Regional Technical Assistance



# What is a Housing Element?

A Housing Element is how local jurisdictions plan to meet the housing needs of everyone in the community. At its core a Housing Element is an opportunity to have a community conversation about how to address local housing challenges and find solutions. The Housing Element is one important part of a city or county's General Plan, which serves as the blueprint for how a city or county will grow and address changing needs for development. Every eight years, every city, town and county must update their Housing Element and have it certified by the California Department of Housing and Community Development.

A Housing Element is a local plan, adopted by a city, town or county that includes the goals, policies and programs that direct decision-making around housing.

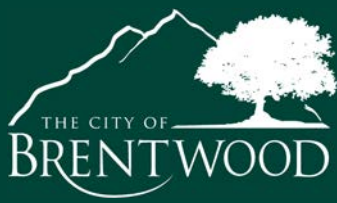
All jurisdictions in the Bay Area must update their Housing Element for the 2023-2031 planning period. Local jurisdictions look at housing trends, zoning and market constraints, and evaluate various approaches to meeting housing needs across income levels.

The Inventory of Available Sites, or "Sites Inventory," is a key component of a Housing Element where jurisdictions identify if they have enough land zoned for housing to meet the future need.

Local governments must involve the public from all economic segments of the community in developing the Housing Element.

- State law does not require that jurisdictions **build** or **finance** new housing, but they must **plan** for it.
- Every city in California receives a target number of homes to plan for. This is called the Regional Housing Needs Allocation or RHNA.
- The state of California determines the number of new homes the Bay Area needs to plan for – and how affordable those homes need to be – in order to meet the housing needs of people at all income levels.
- The Association of Bay Area Governments convened diverse stakeholders in a Housing Methodology Committee to distribute the region's housing allocation to each jurisdiction in the Bay Area.
- Housing elements must be updated every eight years and must be certified by the California Department of Housing and Community Development.





# What are the Components of a Housing Element?



The Housing Element typically includes:

1. **Housing Needs Assessment:** Examine demographic, employment and housing trends and conditions that affect the housing needs of the community.
2. **Evaluation of Past Performance:** Review the prior Housing Element to measure progress in implementing policies and programs.
3. **Housing Sites Inventory:** Identify locations of available sites for housing development or redevelopment to ensure that there is adequate capacity to address the Regional Housing Needs Allocation.
4. **Community Outreach and Engagement:** Implement a robust community outreach and engagement program, with a particular focus on outreach to traditionally underrepresented groups.
5. **Constraints Analysis:** Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
6. **Policies and Programs:** Establish policies and programs to fulfill the identified housing needs.

## What Happens if a Jurisdiction Does Not Adopt a Housing Element?

If a city does not comply with State law, it can be sued. In addition to facing significant fines, a court may limit local land use decision-making authority until the jurisdiction brings its Housing Element into compliance. Additionally, local governments may lose the right to deny certain projects. These and other consequences are established in state law; Housing Elements are subject to regulatory oversight by the California Department of Housing and Community Development. ABAG does not play a direct role in regulating local Housing Elements.



# ¿Qué es un Elemento de Vivienda (Housing Element)?



Un Elemento de Vivienda es la manera en que las jurisdicciones locales planean cómo satisfacer las necesidades de vivienda de todos los miembros de la comunidad.

Fundamentalmente, un Elemento de Vivienda es una oportunidad para tener una conversación con la comunidad sobre cómo abordar los retos locales de vivienda y encontrar soluciones. El Elemento de Vivienda es una parte importante del Plan General de una ciudad o condado, que sirve como proyecto de cómo una ciudad o condado crecerá y abordará las necesidades cambiantes de desarrollo. Cada ocho años, cada ciudad, pueblo y condado debe actualizar su Elemento de Vivienda y obtener la certificación del Departamento de Vivienda y Desarrollo Comunitario de California.

Un Elemento de Vivienda es un plan local, aprobado por una ciudad, pueblo o condado, que incluye las metas, las políticas y los programas que dirigen la toma de decisiones en temas de vivienda.

Todas las jurisdicciones en el Área de la Bahía deben actualizar su Elemento de Vivienda para el período de planificación 2023-2031. Las jurisdicciones locales analizan tendencias de vivienda, la zonificación y limitaciones del mercado, y evalúan diversos enfoques para satisfacer las necesidades de vivienda para personas de todos los niveles de ingresos.

El Inventario de sitios disponibles (*Inventory of Available Sites*), o "Inventario de Sitios", es un componente clave de un Elemento de Vivienda en el que las jurisdicciones identifican si tienen suficientes terrenos zonificados para viviendas para satisfacer la necesidad futura.

Los gobiernos locales deben invitar la participación del público de todos los segmentos económicos de la comunidad durante el desarrollo del Elemento de Vivienda.

- La ley estatal no obliga a las jurisdicciones a **construir** o a **financiar** nuevas viviendas, sin embargo, deben *planificarlas*.
- Cada ciudad en California recibe un número objetivo de hogares que debe planificar. A esto se le llama Asignación Regional de Vivienda Necesaria (RHNA, por sus siglas en inglés).
- El estado de California determina el número de hogares que el Área de la Bahía necesita planificar, y qué tan accesibles en precio esos hogares necesitan ser, para poder cumplir con las necesidades de vivienda de las personas a todo nivel de ingreso.
- La Asociación de Gobiernos del Área de la Bahía convocó a una variedad de partes interesadas en un Comité de Metodología de Viviendas para distribuir la asignación de viviendas de la región a cada jurisdicción en el Área de la Bahía.
- Los elementos de vivienda deben actualizarse cada ocho años y deben ser certificados por el Departamento de Vivienda y Desarrollo Comunitario de California.



# ¿Cuáles son los componentes de un Elemento de Vivienda?



El Elemento de Vivienda suele incluir:

1. **Evaluación de las necesidades de vivienda:** Examinación de las tendencias y condiciones demográficas, de empleo y de vivienda que afectan las necesidades de vivienda en la comunidad.
2. **Evaluación de desempeño anterior:** Analizar el Elemento de Vivienda anterior para medir el progreso de implementación de políticas y programas.
3. **Inventario de los sitios de vivienda:** Identificar la ubicación de los sitios disponibles para el desarrollo o la renovación de viviendas para garantizar que haya una capacidad adecuada para abordar la Asignación Regional de Vivienda Necesaria.
4. **Divulgación y participación comunitaria:** Implementar un programa sólido de divulgación de información y participación comunitaria, con un enfoque particular en la participación de los grupos tradicionalmente subrepresentados.
5. **Análisis de las limitaciones:** Analizar y recomendar soluciones para las barreras gubernamentales y no gubernamentales existentes y potenciales en el desarrollo de viviendas.
6. **Políticas y programas:** Establecer políticas y programas para satisfacer las necesidades de vivienda identificadas.

## ¿Qué sucede si una jurisdicción no adopta un Elemento de Vivienda?

Si una ciudad no cumple con la ley estatal, se le puede demandar. Además de hacerse acreedor de multas significativas, la ciudad podría ver limitada por un tribunal su autoridad en la toma de decisiones sobre el uso del suelo local, hasta que la jurisdicción cumpla con su Elemento de Vivienda. Asimismo, los gobiernos locales pueden perder el derecho a rechazar determinados proyectos. Estas y otras consecuencias están establecidas en la legislación estatal; los Elementos de Vivienda están sujetos a la supervisión normativa del Departamento de Vivienda y Desarrollo Comunitario de California. La ABAG no tiene un rol directo en la regulación de los Elementos de Vivienda locales.