

Planning Commission Staff Report

August 13, 2014
Item 6.b.

- SUBJECT:** P14-0440
- APPLICANT:** City of Pleasanton
- PURPOSE:** Review the 2015 - 2023 Draft Housing Element and consider a recommendation to the City Council to authorize submittal to the State of California Department of Housing and Community Development (HCD)
- EXHIBITS:**
- A. [Draft Housing Element - Goals, Policies and Programs*](#)
 - B. [Draft Housing Element - Background Report*](#)
 - C. [Draft Appendix A \(Review and Assessment of 2007 Housing Element\)*](#)
 - D. [Draft Appendix B \(Housing Sites Inventory\)*](#)
 - E. [Goals, Policies and Programs – Guide](#)
 - F. [2007-2014 Housing Element, Site Criteria and Ranking](#)
 - G. [Community and Stakeholder Workshop Summary Reports](#)
 - H. [Public Comments](#)
 - I. [Draft Addendum to the City of Pleasanton Housing Element Supplemental EIR](#)

* Exhibits A through D are also available on the City's Housing Element Update website at: <http://www.cityofpleasantonca.gov/business/planning/HousingElement/housingelementupdate.html>

BACKGROUND

The Housing Element is part 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. The policies contained in the Housing Element are an expression of the Statewide housing goal of "attaining decent housing and a suitable living environment for every California family," as well as a reflection of the unique concerns of the community. Periodic updates of the Housing Element, including certification by the State Department of Housing and Community Development (HCD), are required to ensure that City policies continue to reflect changing community needs, challenges, and opportunities in compliance with State law. Lack of a State-certified Housing Element could also subject the City to penalties as a result of legal challenge. If a court finds

that the Housing Element does not comply with State law, the court may suspend City authority to issue building permits or grant zone changes.

4th Housing Element Cycle – 2007-2014 Housing Element

The previous Housing Element (2007-2014) included a comprehensive update which was guided by the Housing Element Update Taskforce. Through extensive community outreach which included 27 Taskforce, Housing Commission, Planning Commission and City Council meetings, the City adopted a comprehensive update to the Goals, Policies and Programs, the Housing Element Background Report and the Housing Sites Inventory in February 2012. This update included rezoning nine properties to allow for high density residential development to meet the City's mandated Regional Housing Needs Allocation (RHNA).

Because the City had a very limited housing inventory during the first half of the 4th Housing Element Update cycle, the City's Growth Management Ordinance (GMO) unit allocation number was not evenly distributed through the entire planning period, resulting in a relative surge in residential development approvals at the end of the period. As a result, from the time the Housing Element Update was approved in 2012, until the end of the 4th RHNA cycle on June 30, 2014, the City Council issued growth management allocations to the degree that the City met its RHNA obligation. This is discussed in more detail on page 9 of this report. In October of 2013, the City approved the revised GMO for the 5th RHNA cycle, which allows for an annual Growth Management unit allocation of 235 units per year. The current GMO unit allocation became effective for all projects approved after June 30, 2014. All projects approved prior to July 1, 2014 were allocated as part of previous (4TH) RHNA cycle.

5th Housing Element Cycle – 2015-2023 Housing Element

As part of the current Housing Element Update, HCD continues to require each city to demonstrate capacity to meet its revised RHNA affordable housing obligations. Based on State law, the Housing Element Update is required to identify sites to accommodate the City's assigned housing obligation for the review period. The City is only required to demonstrate that it maintains the capacity to accommodate the assigned housing obligations, and is not required to construct the projects. In order to demonstrate sufficient housing capacity, the updated Housing Element includes an updated site inventory of parcels within the City that could be developed with housing to meet the assigned RHNA goals for 2014 -2022. A summary of the inventory table has been included as Table 1.

The preparation of an inventory of land suitably zoned to meet the City's housing need and the associated rezonings were a large component of the last Housing Element Update. Based on the existing residential site inventory, the City does not anticipate having to rezone any properties to meet the City's housing needs during the current Housing Element Update.

Table 1: Estimated Current Capacity

Income Levels	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Estimated Capacity					
o Permitted and Approved Projects	291		1,515	174	1,980
o Vacant and Underutilized Land	1,191		-	188	1,379
Total	1,482		1,515	362	3,359
2014-2022 RHNA requirement for 30+ units/acre	1,107		391	407	553
RHNA Surplus/Shortfall	+375		+1,108	-191	+1,292

DISCUSSION

RHNA Requirements

When analyzing whether the City has demonstrated adequate capacity to meet its assigned affordable housing obligation, HCD analyzes each of the City’s RHNA income categories, with priority given to ensuring adequate inventory for housing for lower-income households. Per HCD guidelines, vacant/underutilized sites with a density of 30 units per acre or greater are considered inventory for the construction of very low- and low-income housing; permitted and approved sites with a density of 30 units per acre or greater are considered inventory for the construction of moderate-income housing; and lower density single-family residential sites are considered inventory for the above moderate-income category. The majority of the City’s surplus (1,108 units) are within the moderate-income category and are comprised entirely of projects that are already permitted and approved. Even if the City has a “surplus” of overall inventory, HCD will not certify the Housing Element unless the requirements for each income category (particularly low and very low income categories) are met. However, they will allow use of a surplus in a higher density category to be used in a lower density category.

The City of Pleasanton is required to show capacity to build 1,107 units affordable to very low- and low-income households. Staff’s current estimate anticipates a capacity of 1,482 units (291 units approved through affordable housing agreements and 1,191 units on vacant/underutilized sites), 375 units above the required capacity. All vacant or underutilized sites zoned for 30 units per acre or more are shown in Table 2.

Table 2: RHNA Low- and Very Low- Income Capacity (i.e. 30+ units/acre)

	Low- and Very Low-Income
Estimated Capacity	
Permitted and Approved Projects*	291*
Sheraton Site	99
Stoneridge Shopping Center Site	88
Kaiser Site	183
BART Site	249
CM Capital 2 Site	200
Hacienda 3 (Roche) Site	372
Total	1,482
2014-2022 RHNA	1,107
RHNA Surplus	+375

* Restricted units through Affordable Housing Agreements

At this time HCD has not formally reviewed Staff’s analysis of the estimated capacity. Because the 291 entitled units are guaranteed through current Affordable Housing Agreements, staff is confident that HCD will accept these units for the purposes of the site inventory. However, staff has concerns regarding the adequacy of the vacant/underutilized land capacity. Although sites may be zoned to allow high density residential uses, they must also be viable for the development of such projects. Without knowing HCD’s conclusions regarding the viability of all sites, staff hesitates to recommend that any high density site be removed from the site inventory and recommends authorization to submit to HCD with the proposed Housing Sites Inventory as drafted.

Goals, Policies and Programs

The previous Housing Element included a comprehensive update that included reviewing all Goals, Policies and Programs which were guided by the Housing Element Update Taskforce. With the comprehensive update completed in 2012, staff is recommending that most of the programs included in the 2007-2014 Housing Element be carried forward with minor adjustments and refinements where necessary. Since many of the programs can help to achieve multiple goal and policy objectives, staff has included a guide within Exhibit E with a breakdown of all goals, policies and programs. The minor adjustments and refinements made to the 2007-2014 programs include:

- Modify “Time Period” objectives to meet the requirements of Government Code 65583;

- Clarify programs to include assistance to those with disabilities (including developmental disabilities) to meet the objectives of Senate Bill (SB) 812;
- Consolidate Condominium Conversion Programs and reevaluate the City Condominium Conversion Ordinance and regulations (Programs 8.1 and 8.2);
- Consider adding incentives such as a density bonus to utilize rehabilitation funds in exchange for affordable housing (Program 14.4);
- Consider additional programs and incentives (including waiving fees or development standard variances) to encourage second unit construction (Programs 6.2 and 6.3);
- Continue community discussion regarding the East Pleasanton Specific Plan (Program 46.5);
- Review the Inclusionary Zoning Program, initiate discussions regarding program effectiveness and amend the program to be consistent with current court decisions (Programs 17.1 and 17.2); and
- Delete all programs completed within the previous planning period.

Questions have also been raised about whether the Growth Management Ordinance gives any priority to affordable housing over market rate units. The current language of the ordinance does not include such requirements however, the City Council has the authority to reserve units for specific projects on an annual basis to provide equity among prospective housing developers, including developers of affordable housing.

Housing Sites Inventory (Draft Appendix B):

The Planning Commission has previously stated it would give further consideration of the following potential rezonings that would change the current housing site inventory: 1) rezoning the Irby-Kaplan-Zia property to residential uses; and 2) rezoning the CM Capital property to allow for lower density residential development or only non-residential uses. However, the proponents of the Irby-Kaplan-Zia rezonings have indicated they would like to remove their site from consideration for rezoning at this time, therefore this report does not include any of the additional information previously requested by the Planning Commission related to that site.

As part of the previous Housing Element cycle, extending from 2007-2014, the City was required to rezone properties to meet its previously-allocated RHNA. The City proceeded very deliberately in rezoning properties to meet the RHNA requirements, taking into account a variety of factors including: Smart Growth principles, feasibility of development and criteria important for California Tax Credit Allocations for affordable housing funding, ensuring that existing infrastructure could accommodate new growth, protecting existing neighborhoods, and enhancing the City's quality of life. Out of an initial list of 20 sites, the City undertook rezoning only of 9 sites, with the express intent of meeting its RHNA requirements in a cautious way that was protective of the City's social, environmental, and economic fabric.

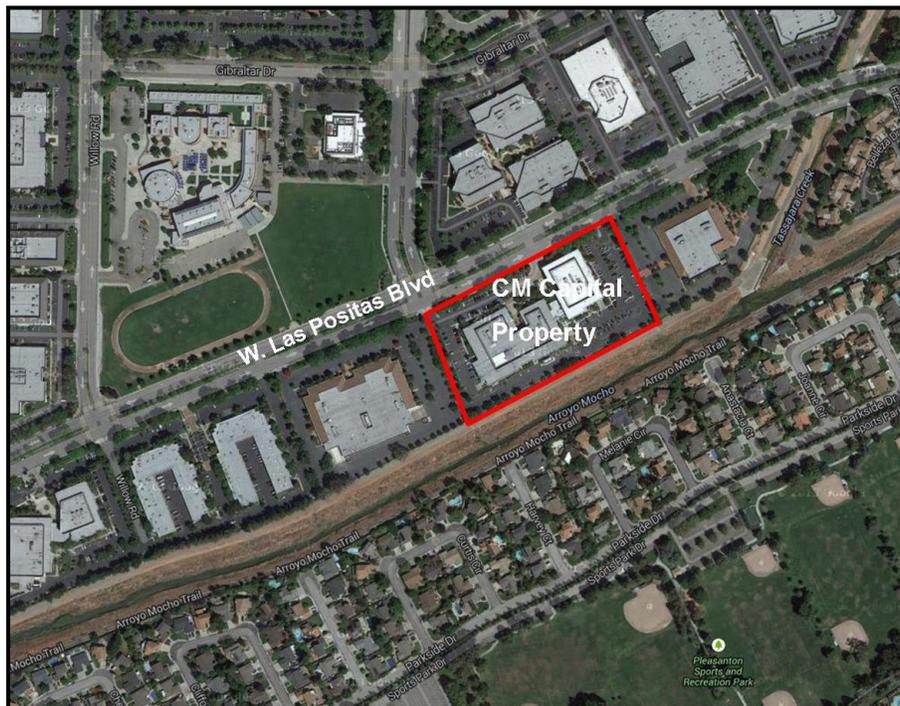
The CM Capital site was one of nine sites chosen to be rezoned during the last cycle, primarily because it received a very high score for criteria important for California Tax Credit Allocations for affordable housing funding, and was considered a desirable location for higher-density housing of 30 units or more per acre due to its location in close proximity to local job centers and the existence of buffers between the site and single-family residential neighborhoods in the vicinity. The original site evaluation ranking criteria is included within Exhibit F.

A description of the CM Capital property is provided below. Staff is seeking feedback on whether the Planning Commission wishes to recommend the City Council pursue any changes of the zoning on the CM Capital site. As noted above, Staff is not recommending any changes to the housing inventory at this time.

CM Capital Site

The CM Capital properties consisting of two parcels (5.9 acres and 6.7 acres) were zoned MU (Mixed-Use) in 2012 as part of the previous Housing Element Update (see Aerial 1). The 5.9 acre property at 5850 W. Las Positas has received approvals for Summer Hill Apartments to construct a new 177 unit apartment development. The remaining 6.7 acre site located at 5758 and 5794 W. Las Positas maintains the capacity to accommodate 200 residential units although it currently is the site of an existing commercial office building.

The adjacent residents across Arroyo Mocho within the Parkside Neighborhood have requested the City consider down-zoning the property to a lower density residential zone or to remove residential from the types of uses allowed on the site. The property owner is opposed to the re-designation of the property and has expressed a wish to maintain the current Mixed-Use zoning.



Aerial 1 – CM Capital Site

PUBLIC COMMENTS AND CONCERNS

The City of Pleasanton hosted two community workshops and two stakeholder meetings to obtain community feedback and assistance in reviewing existing sites for housing and to obtain ideas and suggestions for the Housing Element Update. The first community workshop and two stakeholder meetings were conducted in March/April with the second community workshop held in July. The Community and Stakeholder Workshop Summary Reports are included within Exhibit G for further reference. Additional input was provided by the Housing Commission and Planning Commission during study sessions in April and then later in June.

Throughout the update process Staff has received feedback regarding the current status of the Housing Element and concerns regarding housing development and growth in the future. Below is a summarized response to the key concerns raised during the update process:

Inclusionary Zoning Ordinance (IZO)

The City's IZO was adopted to establish a clear and attainable plan for using the limited remaining developable land in a manner that is consistent with City housing policies. To that end, the IZO requires that 15% of all units in a new residential multi-family rental development and that 20% of all units in a new residential ownership development be priced at affordable levels.

Concerns have been raised regarding the IZO and potential restrictions on the City's ability to ensure that rental units remain affordable. The court in *Palmer/Sixth Street Properties v. City of Los Angeles* (175 Cal. App. 4th 1396 (2009)) held that local inclusionary requirements requiring rent restricted units violate the Costa-Hawkins Act, which allows landlords to establish the initial rent for new units and adjust rents to market levels whenever a unit is vacated. The *Palmer/Sixth Street Properties v. City of Los Angeles* case resulted in the inability to enforce certain aspects of the IZO with regard to rental housing projects, although developers may still choose to voluntarily comply. The City applies the IZO consistent with state statutory and common law and continues to strive to voluntarily negotiate affordable housing agreements meeting the goals of the IZO consistent with state statutory and common law. The City has attempted to maintain 15 percent of the total number of units of all new multiple-family residential projects containing 15 or more units be affordable to very low- and low-income households. However, due to the concern regarding the status of the IZO, Staff has included Program 17.1 to review and amend the ordinance by January 2016:

Program 17.1: Review the City's Inclusionary Zoning Ordinance and amend it:

- for consistency with the Housing Element and other City affordable housing programs;
- to identify incentives for non-profit housing developers and other housing developers to construct projects, including three bedroom units for large households;
- to determine if it is appropriate to increase the percentage of affordability to support housing affordable to low- and very low-income households;
- to be consistent with recent court decisions regarding rental housing and State law

Responsible Agency: Housing Division, Housing Commission, City Council
 Time Period: January 2016, then annually.
 Funding Source: Housing Division Budget

To maintain the momentum behind adoption of the Housing Element Update and to inform the future discussion of the IZO revisions, Staff is recommending that the IZO discussion occur by January 2016, as indicated within Program 17.1.

Growth Management Ordinance (GMO)

Historically, the City of Pleasanton maintained a GMO to control residential growth consistent with the City’s approved Housing Cap. In 2006, the State, along with housing advocacy groups, sued the City on the basis that the Housing Cap was discriminatory and did not allow the City to meet State mandated RHNA requirements. The litigation was successful, and resulted in the removal of the Housing Cap from the General Plan. The vast majority of growth management allocations were issued between the time the Housing Element Update was approved in 2012 and the end of the 4th RHNA cycle on June 30, 2014 due primarily to the lack of housing sites inventory. Some residents of the community perceive the concentrated issuance of growth management allocations in approximately the last two years of the previous RHNA cycle as indicative of an unacceptably high rate of housing growth in the City. On an average yearly basis through the duration of the last RHNA cycle, growth allocations were consistent with the City’s GMO. Approved development by year for the previous two Housing Element cycles is provided below in Table 3. In light of the previous litigation, Staff has reviewed and amended the GMO to better facilitate the planned metering of growth from this point forward. The revised GMO has been designed to establish a predictable growth rate which reflects the community’s desire for planned growth and alleviates the potential for strain on City services and infrastructure. In accordance with the City’s approved GMO and mandated RHNA requirements, the City will be limited to issuing building permits for 235 new residential units per year.

Table 3: Entitled Housing Units per Year

Year	Approved Units	Year	Approved Units
2003	12	2009	19
2004	12	2010	673
2005	22	2011	42
2006	79	2012	508
2007	9	2013	1,148
2008	130*	2014	274
Total Units Approved 2003-2014:		2,654	
Average Units Approved per Year:		244	

* Not included within the 2008 approvals is the Windstar development approved to construct 350 residential units. The project has since been superseded by the newly approved Workday commercial development.

Infrastructure

The Housing Element is required to demonstrate that the City maintains the capacity to accommodate the assigned housing obligations. Each individual project is required to gain the necessary approvals, and is subject to all public hearing and review requirements. These review requirements would ensure that each residential project conforms to the City's General Plan and Zoning Ordinance and would be adequately served by infrastructure and required services. The following discussion describes infrastructure and service concerns raised during the Housing Element Update review period:

Water

Public comments have indicated concern that the area's water supply is insufficient to accommodate continued population growth associated with additional housing construction. This concern has been heightened by the community's experience during the current drought, which is one of the most severe in the State's history. In response to cutbacks from Zone 7 (the water supplier for Pleasanton), the City has recently proclaimed a Local Drought Emergency and instituted water demand measures and a Stage 3 drought declaration intended to reduce water consumption by 25%. Between March and June 2014, the City Council approved amendments to Chapter 9.30 (Water Conservation Plan) of the Pleasanton Municipal Code, outlining future water reduction measures, including restrictions on outdoor irrigation and decorative water features to be implemented during droughts. The physical manifestations of these cutbacks have been, in some cases, higher water bills and dry vegetation.

While drought prompts fears of a dwindling water supply, concerns regarding accommodating new growth should primarily be viewed in the context of more effectively managing existing water supplies in the region and State. In particular, water supply and demand issues are best addressed on a regional or State-wide level because our main water supplies are in locations of the State that are at a distance from population centers, and most large water supplies are shared among many users. In Zone 7, approximately 80% of the water supply has been provided by the State Water Project in recent years, which primarily comprises water from the Sierra Nevada. In addition, agriculture consumes approximately 80% of the developed water supply in the State, meaning that issues of water supply and demand cannot be resolved only at the local level, or only in urban areas.

Based on the 2010 Urban Water Management Plan, Zone 7 has sufficient water to accommodate planned growth through 2030, as accounted for in the General Plans of its member agencies. Zone 7 has concluded that a combination of water conservation and the development of new supplies and storage facilities will allow the agency to supply water to all planned growth within its service area, including housing-related growth in Pleasanton, even during multiple dry years (as is currently the case). The Urban Water Management Plan will be updated in 2015, and is expected to include a similar approach to accommodating growth as the 2010 plan, even in the midst of a severe drought.

In addition, new housing that could be developed under the Housing Element is expected to result in lower per capita demand for water supply than existing housing, as summarized below:

- On a per household basis, multifamily homes typically require half as much water outdoors as do single-family homes, and of the 2,067 unit-capacity required by RHNA, approximately 76% would be expected to be multi-family units.
- New residential units built in the City are anticipated to be more water efficient than existing units due to the implementation of current requirements related to the installation of drought-tolerant landscaping and water-efficient appliances and fixtures.

Therefore, new housing-related growth in the City (under the GMO the City may issue building permits only for 235 units on an annual basis) would not be expected to substantially compromise existing water supplies. Furthermore, after approval of the Recycled Water Feasibility Study in November 2013, the City is moving forward with implementation of a recycled water program. This recycled water program will reduce the demand for potable water within Zone 7 and assist in creating a more reliable water supply, since the recycled water would be generated and consumed locally. The City will continue to explore opportunities for recycled water to reduce its reliance on an imported supply.

However, the City also possesses the flexibility to institute more stringent measures to reduce water demand in the event of a prolonged drought, pursuant to a 2009 Water Shortage Contingency Plan developed by the water retailers who purchase water from Zone 7 (including the cities of Pleasanton and Livermore, Dublin-San Ramon Services District, and California Water Service Company-Livermore District). The Water Shortage Contingency Plan identifies a series of water conservation measures that could be implemented by each of the water retailers at different drought declarations. At a Stage 3 or 4 drought declaration, the plan allows water retailers to refuse new or additional service requests for residential, commercial, industrial, and institutional projects comprising more than 500 dwelling units (or an equivalent square footage of commercial or industrial uses).

Sewer

Public concern has also been raised about the ability of the City's sanitary sewer infrastructure to accommodate new housing growth, particularly if such growth is focused in one area of the City. The City of Pleasanton owns and maintains the pipelines, manholes, force mains, pump stations, and siphons in the local sewer collection system within the City's limits. Most of the City's existing collection system is in satisfactory condition and operates in accordance with acceptable industry standards for conveyance of average dry weather flows, peak hourly dry weather flows, and peak wet weather flows. If all of the housing sites within the current Housing Sites Inventory are developed, additional expansions to the local sewer collection system may be warranted. Such improvements would include a new pump station and associated pipelines. In anticipation of future growth, the City is designing a future pump

station that would service properties east of Hopyard Road and north of Stanley Boulevard (including the BART, Nearon, California Center, and CM Capital Properties). The new pump station is anticipated to be operational by late 2016. Replacement and improvement funds in the City's Capital Improvement Program (CIP) are funding the first phases of the pump station project, and the City's CIP and/or contributions from new development, will fund the later phases. Due to the relatively slow rate of housing growth in the City imposed by the Growth Management Ordinance, no other major improvements to the City's sewer infrastructure are anticipated to accommodate Housing Element-related growth.

Schools

Members of the public expressed concern that some existing schools are overcrowded and may not be able to accommodate additional housing-related growth. The Pleasanton Unified School District (PUSD), which operates independent of the City, is responsible for the operation of existing schools and planning for future enrollment. To mitigate possible impacts to schools associated with new development, PUSD collects developer fees on building plans for new construction before the City issues building permits on those plans (for commercial, multi-family and single-family development). The fees, which are set by State law, are to be used to cover the costs of new school facilities that are required to accommodate new residential development. The school district also negotiates with housing developers for a voluntary gift fee beyond the California statutory limits to supplement the State authorized fee.

Traffic

The potential for housing development to affect local and regional traffic has also been identified as a key concern. The Pleasanton General Plan requires site-specific traffic studies for all major developments that could generate traffic that would cause major intersections to operate at or below Level of Service (LOS) D, and the implementation of mitigation measures to reduce or eliminate traffic impacts. Exceptions are only made for the Downtown and "Gateway Intersections" where the LOS D or better standard may be exceeded. Additionally, the effects of housing-related growth on the transportation system were analyzed in the Supplemental Environmental Impact Report (SEIR) prepared for the Housing Element Update and Climate Action Plan General Plan Amendment and Rezonings. Traffic-related mitigation measures identified in the SEIR require developers of residential units to contribute fair-share funds through the payment of the City of Pleasanton and Tri-Valley Regional traffic impact fees. These fees would help fund future improvements to local and regional roadways and ensure that project sponsors bear the costs of the circulation system improvements required to serve their projects.

NEXT STEPS

At its meeting on September 2, 2014 the City Council will review the Draft Housing Element. Staff's goal is to gain authorization to submit the Draft Housing Element to HCD immediately following the City Council discussion on the Draft Housing Element. Once authorized, the Draft 2015-2023 Housing Element Update will be submitted to HCD for a 60-day review period. During this time, the proposed Housing Element Update will remain available for review and

comment. Once State HCD approval is obtained, the Final Housing Element Update will be presented to the Planning Commission and City Council for adoption with the adopted Final Housing Element submitted to State HCD for certification.

PUBLIC NOTICE

Notice of this item was published in The Valley Times. In addition the City sent notification to owners and tenants within 1,000-feet of the Irby-Kaplan-Zia Site and the CM Capital Site, as well as all interested parties who have provided contact information during the Housing Element Update process. Staff received comments from Citizens for a Caring Community and George Bowen. The letters has been included within Exhibit H for your reference.

ENVIRONMENTAL ASSESSMENT

On January 4, 2012, the City Council certified an SEIR and adopted the California Environmental Quality Act (CEQA) Findings and a Statement of Overriding Considerations for the Housing Element Update and Climate Action Plan General Plan Amendment and Rezoning. This SEIR was a supplement to the EIR prepared for the Pleasanton 2005-2025 General Plan which was certified in July 2009.

CEQA states that a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but no major revisions to the EIR are required (including those associated with new environmental impacts, alternatives, or mitigation measures). Because no land use changes are recommended to meet the City's RHNA requirements, and any potential land use changes associated with zoning changes are anticipated to be minor, environmental effects associated with the Housing Element Update are adequately evaluated in the previously certified SEIR. Staff has prepared a Draft Addendum included within Exhibit I.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the 2015 - 2023 Draft Housing Element and recommend the City Council authorize its submittal to the State of California Department of Housing and Community Development (HCD).

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