



## STAFF REPORT TO THE PLANNING COMMISSION

**DATE:** Regular Meeting of November 18, 2024

**TO:** Chair Schaufenbil and members of the Planning Commission

**SUBMITTED BY:** Timothy Rood, AICP, Community Development Director

**SUBJECT:** 2023-2031 Housing Element Update

### RECOMMENDATION:

That the Planning Commission:

1. Request planning staff present the staff report;
2. Open the public hearing;
3. Receive comments from the public;
4. Close the public hearing;
5. Request clarification from staff on any issues related to the project; and
6. Adopt a Resolution recommending that the City Council: adopt the Initial Study/Negative Declaration for the 2023-2031 Housing Element, find that the Housing Element substantially complies with state law, and repeal the 2015-2023 Housing Element and adopt the 2023-2031 Housing Element.

### EXECUTIVE SUMMARY:

The City of Hercules has prepared a draft update to the Housing Element of the General Plan to affirmatively further fair housing and accommodate the 995-unit Regional Housing Needs Allocation (RHNA) by income level for the 2023-2031 Housing Element cycle. The content of the draft 2023-2031 Housing Element is structured for consistency with the requirements set forth in state law. In addition to fulfilling the requirements of state law, the Housing Element also demonstrates the City's strategy for meeting its locally determined housing needs and describes how these needs are addressed through policies and programs. Public review and input has been a critical component of this 6th Cycle Housing Element Update.

This staff report provides a summary of the Housing Element requirements, an overview of the status of the City's draft Housing Element, and the findings provided to the City of

Hercules by HCD following the first 90-day review and subsequent 60-day reviews of a total of five drafts of the Element.

## **BACKGROUND:**

CA Government Code Title 7, Division 1, Chapter 3, Article 10.6 [65580 – 65589.11] regulates the use and requirements of housing elements in California. The state law requires that the jurisdictions update their General Plan Housing Element every eight years. State law further requires the current update for jurisdictions in the Association of Bay Area Governments (ABAG) region to comply by January 31, 2023.

The City of Hercules's 2023-2031 Draft Housing Element was prepared with the benefit of community, Planning Commission and City Council input and discussion at two community workshops and five public meetings of the Planning Commission or City Council over the course of the two-year Housing Element preparation period. Guidance was also provided by HCD during the process.

**First draft:** In June 2022, the City of Hercules published a draft Element on the City website and requested public comment. The City of Hercules received no comment letters during the public review period, and the draft was submitted to HCD on June 17, 2022. HCD returned a comment letter on November 7, 2022 stating that revisions were needed to comply with state law. Staff and consultants were not able to secure a meeting with the City's assigned HCD reviewer, Connor Finney, to clarify the comments or provide technical assistance. Based upon the comment letter, staff and consultants revised the draft Housing Element to include additional information and analysis requested by HCD and prepared a matrix showing where each comment had been addressed in the revised draft.

**Second draft:** In December 2022, the City of Hercules published a revised draft Element on the City website for the required seven days and requested public comment on those changes. The City of Hercules received no comment letters during the public review period and submitted a revised draft to HCD on December 28, 2022. Staff and consultants were not able to secure a meeting with the City's assigned HCD reviewer, Connor Finney. HCD returned a comment letter on March 6, 2023 requesting additional information and analysis. Based upon those comments, staff and consultants revised the draft Housing Element to include additional information and analysis requested by HCD and prepared a matrix showing where each comment had been addressed in the revised draft.

**Third draft:** In March 2023, the City of Hercules published a revised draft Element on the City website for the required seven days and requested public comment on those changes. The City received no comment letters during the public review period and submitted a revised draft to HCD on March 22, 2023. Staff and consultants were not able to secure a meeting with the City's assigned HCD reviewer, Connor Finney. HCD returned a comment letter on June 2, 2023 requesting additional information and analysis. Based

upon those comments, staff and consultants revised the draft Housing Element to include additional information and analysis requested by HCD and prepared a matrix showing where each comment had been addressed in the revised draft.

On June 26, 2023, the City had an initial virtual meeting with its assigned HCD reviewer, Connor Finney, to discuss the third round of comments. At that meeting, the City learned that Mr. Finney was leaving HCD in two weeks and the City's element was being reassigned to another reviewer. A virtual meeting with the new reviewer, Fidel Herrera, was held on August 16, 2023. Technical assistance requested during that meeting, relating to unresolved comments, was provided by HCD on September 21, 2023.

**Fourth draft:** In November 2023, the City of Hercules published a revised draft Element on the City website for the required seven days, requested public comment on those changes, and then submitted the revised draft to HCD on November 10, 2023. The City of Hercules received no comment letters during the public review period. Staff and consultants requested but were not able to secure a meeting with the City's newly assigned HCD reviewer, Jamillah Williams. HCD returned a comment letter on January 12, 2024 requesting additional information and analysis and changes to proposed fair housing programs, including place-based programs targeted at individual neighborhoods, additional actions, measurable outcomes, and timeframes. Staff and consultants met virtually with Ms. Williams and her supervisor Chelsea Lee of HCD on January 31, 2024 to discuss the comments. HCD agreed to informally review changes prior to the next submittal.

**Informal Review:** On March 8, 2024, the City's consultants submitted draft revisions of Chapter 5: Housing Constraints for informal review. The revisions addressed HCD comments on the chapter, including zoning for a variety of housing types, capacity for emergency shelters, approval findings for various types of housing, requests for lesser densities, and the City's ADU ordinance. A matrix was prepared showing where each comment had been addressed.

On March 28, 2024, the City's consultants informally submitted draft revisions of Chapter 2: Housing Plan, addressing HCD comments on the chapter, including approval streamlining for multifamily housing and emergency shelters, findings for reasonable accommodations for people with disabilities, and additional commitments, metrics and timelines regarding housing for persons with special needs. A matrix was prepared showing where each comment had been addressed.

HCD returned informal comments on Chapter 2 and 5 on April 24, 2024, along with a sample analysis of reasonable accommodation. None of the revisions were found to be acceptable.

The City's consultants, MIG, engaged a subconsultant, Veronica Tam & Associates (VTA), a Pasadena-based planning firm that has been involved with dozens of certified

6<sup>th</sup> Cycle Housing Elements. VTA is familiar with the types of language and programs that HCD has accepted from other cities. VTA worked with City and MIG staff from May through September 2024 to make additional revisions. From May 16 through June 13, 2024, the team met weekly with HCD staff to review draft revisions in an attempt to determine if they would be acceptable to HCD.

Redlines of all sections revised in response to the comments were informally submitted to HCD on June 18, 2024. On July 8, 2024, HCD Senior Housing Policy Manager Chelsea Lee notified the City that she had completed her review but had a few areas to confirm with her supervisor, Paul McDougall. Mr. McDougall's comments were provided to the City on July 16, 2024. Comments included requests for additional place-based strategies, including environmental justice policies and programs, transit connectivity to job sectors in under-resourced areas of the city, additional housing mobility programs, additional analysis of the suitability of nonvacant housing sites, and additional revisions to programs for group homes and housing for persons with special needs.

Revisions of affected programs were submitted informally on July 23, 2024. Ms. Lee of HCD provided comments on July 26, 2024, requesting additional program actions related to the use of housing vouchers, additional metrics related to tenant counseling and establishment of a citywide rental registry system, annual outreach to landlords to expand voucher participation, and community education. Revisions were submitted informally on August 2, 2024.

On August 12, 2024, Ms. Lee stated that she had completed her review and the City could proceed to post the updated draft.

**Fifth draft:**

On August 14, 2024, the City of Hercules published a revised draft Element on the City website for the required seven days, requested public comment on those changes, and then submitted the revised draft to HCD on August 22, 2024. The City of Hercules received no comment letters recommending any changes during the public review period.

**Additional Requests:**

On September 17, 2024, Ms. Lee requested additional clarifications regarding the proportion of lower-income units accommodated by non-vacant sites, an updated community engagement summary, and identification of any sites re-used from prior elements. On October 7, 2024, the City provided HCD with an updated community engagement appendix and an updated page H6-22, which added a table breaking out the number and proportion of lower income RHNA units accommodated by non-vacant sites and an additional sentence stating that all sites used to accommodate remaining RHNA needs after crediting pending projects had not been used in previous cycles.

The revised page and community engagement appendix were posted on the City website on October 7, 2024. The City did not receive any comments.

## **HCD Substantial Compliance Letter**

A letter from HCD (Attachment 4) was received on October 21, 2024, notifying the City that the revised draft Housing Element and associated amendments, if approved by the City Council, would be in substantial compliance with State Housing Element law.

## **Required Components of a Housing Element**

This section summarizes the required components of Housing Element Updates per State law, new requirements included since the 5th Cycle Housing Element Update (2015-2023), and penalties for non-compliance with Housing Element laws. The section also includes a summary of public meetings related to the 6th Cycle Housing Element Update prior to today's meeting.

Pursuant to Government Code Section 65583, local governments are required to include the below items as components within their Housing Elements, and subsequent updates thereto. Newly required components introduced as part of the 6<sup>th</sup> Cycle are noted and discussed in further detail within the "New Requirements for the 6<sup>th</sup> Cycle Housing Element Update" Section below.

- 1. Housing Needs Assessment.** Examine demographic, employment and housing trends and conditions and identify existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities). This section includes a community's RHNA as determined by a community's regional planning body in partnership with HCD.
- 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 demonstrate there is enough land zoned for housing to meet future need at all income levels. This is a new component of state law: The standards for designating adequate sites were substantially changed from the sixth cycle, particularly for non-vacant sites.
- 4. Community Engagement.** Implement a robust community engagement program that includes reaching out to individuals and families at all economic levels of the community plus historically 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 be carried out during the 2023-2031 planning period to fulfill the identified housing needs.
- 7. Affirmatively Furthering Fair Housing (AFFH).** This is another major new component of state law: Agencies must analyze and address significant disparities in housing needs and access to opportunity by proposing housing goals, objectives, and policies that aid in replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically

concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

### **New Requirements for the 6<sup>th</sup> Cycle Housing Element Update**

Pursuant to recent State legislation, the following items are now required as part of the Housing Element Update process:

- **Affirmatively Furthering Fair Housing (AFFH).** Assembly Bill 686 (AB 686), passed in 2018, created new requirements for jurisdictions to affirmatively further fair housing consistent with the requirements of the federal Fair Housing Act. According to AB 686, affirmatively furthering fair housing means to take “meaningful actions, in addition to combating discrimination, which overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” The four main goals are to:
  - Address significant disparities in housing needs and in access to opportunity, and
  - Replace segregated living patterns with truly integrated and balanced living patterns, and
  - Transform racially and ethnically concentrated areas of poverty into areas of opportunity, and
  - Foster and maintain compliance with civil rights and fair housing laws.
- **Public Comment on Draft Revisions.** Assembly Bill 215 (AB 215, 2021) requires local governments to make the first draft revision of their housing element update available for public comment for at least 30 days. Further, if any comments are received, a local government must take at least ten additional business days to consider and incorporate public comments into the draft revision before submitting to HCD. HCD must review the draft and report its written findings to the planning agency within 90 days of receiving the first draft submittal for each housing element revision or within 60 days of its receipt for a subsequent draft amendment or adoption.

### **Penalties for Non-Compliance**

In the 6th Cycle, jurisdictions face a number of new consequences for not having a certified Housing Element. Under legislation enacted in recent years, if a jurisdiction does not comply with State housing law, HCD may refer the jurisdiction to the Attorney General. Significant fines may be imposed if a jurisdiction does not comply with a court order within one year. A court finding a Housing Element inadequate may limit local land use decision-making authority until the jurisdiction brings its Housing Element into compliance, or local governments may lose the right to deny certain projects. Finally, a jurisdiction without a compliant Housing Element may be subject to the “Builder’s Remedy” provisions of the Housing Accountability Act which mandates approval of certain affordable housing projects.

Conversely, an HCD-certified housing element makes jurisdictions eligible for, or with higher priority for, numerous sources of funding, such as Local Housing Allocations, Affordable Housing and Sustainable Communities Grants, SB 1 Planning Grants, CalHOME Program Grants, Infrastructure Grants, Pro-Housing Design funding, Local Housing Trust Funds and Regional Transportation Funds (such as MTC's One Bay Area Grants).

### **Summary of Prior Meetings and Study Sessions**

Informational updates on the Housing Element were presented to the City Council on October 25, 2021 and June 14, 2022. In addition, informational updates on the Element were presented to the Planning Commission on February 7, 2022; July 17, 2022; and February 6, 2023.

### **ANALYSIS:**

#### **Housing Element Requirements**

The following section summarizes the contents of the City of Hercules Housing Element Update for the 2023-2031 Planning Period.

#### **Housing Needs Assessment**

As part of the Housing Element Update process the City of Hercules is required to analyze the City's existing and projected housing needs of, including its fair share of RHNA requirements. The City's analysis of housing needs is required to include an assessment of detailed demographic data including population, age, size, and ethnicity; household characteristics; overpayment trends; housing stock conditions; units in need of replacement or rehabilitation; and needs of special needs populations including the elderly, persons with disabilities, unhoused persons, extremely low-income households, and farmworkers. Utilizing the *Housing Needs Data Report* provided by ABAG, the 6<sup>th</sup> Cycle Housing Element Update outlines the following housing needs of the City of Hercules.

#### **Regional Housing Needs Allocation (RHNA)**

In January of 2022, HCD approved ABAG's adopted *Final RHNA Plan for the San Francisco Bay Area: 2023-2031 (Plan)* which establishes a total RHNA for the San Francisco Bay Area of 441,176 residential units for the 6<sup>th</sup> Cycle housing element update 2023-2031 planning period. ABAG's *Plan* further distributes this RHNA across the Bay Area's nine counties, and 101 cities based on demographic and population data received from the California Department of Finance (DOF). Local jurisdictions must then utilize their ascribed RHNA to update the housing elements of their general plans for the 6<sup>th</sup> Cycle planning period, inclusive of identifying eligible land resources to accommodate this RHNA. See the Sites Inventory Section below.

RHNA requirements are organized into four affordability categories, established according to the Area Median Income (AMI) of a geography. These categories include

very low-income residential units, which are affordable to households earning less than 50% of AMI; low-income residential units, which are affordable to households earning between 50% and 80% of AMI; moderate income residential units, which are affordable to households earning between 80% and 120%; and above moderate-income residential units which are affordable to households earning upwards of 120% of AMI. The City of Hercules’s RHNA is 995 units. The RHNA breakdown is shown in Figure 1.

Figure 1: City of Hercules Regional Housing Needs Allocation (RHNA)

Income Group	% of County MFI	RHNA (Housing Units)	Percentage of Units
<b>Very Low</b>	0-50%	344	34.6%
<b>Low</b>	51-80%	198	19.9%
<b>Moderate</b>	81-120%	126	12.6%
<b>Above Moderate</b>	120%+	327	32.9%
<b>Total</b>		995	100%

Source: Final RHNA Plan for the San Francisco Bay Area: 2023-2031

### RHNA Buffer

New “no net loss” provisions of Government Code Section 65863 require the City to ensure an adequate supply of land resources are available for housing development throughout the duration of the 2023-2031 planning period. If housing sites identified within the City’s 6th Cycle housing element update are developed with non-residential uses, lower residential densities, or residential uses at affordability levels higher than anticipated by the Housing Element, then the City’s Housing Element could be determined to be out of compliance. Accordingly, the City’s RHNA requirement is further buffered with 228 additional units (shown as “Surplus” in Fig. 2) to aid the City in compliance with “no net loss” provisions.

### Constraints Analysis

In addition to analyzing the City’s existing and projected housing needs, the Housing Element Update must also identify and analyze potential and actual governmental and nongovernmental constraints to the maintenance, improvement, or development of housing for all income in the community, regardless of protected class. A summary of constraints to the development and improvement of housing in Hercules is included below, along with descriptions of local efforts to lessen these constraints as applicable.

**Market constraints** include land costs, construction costs, availability of development financing, and availability of mortgage financing.

**Governmental constraints** include land use controls, Planned Development districts, the “Measure J” Growth Management Program, residential development standards, parking requirements, specific/area plans, permit fees, and permit processing times. The City’s permit and processing fees are comparable to, and often lower than, those of



nearby cities such as El Cerrito and Martinez. Because the Conditional Use Permit, Administrative Use Permit and Design Review Permit requirements of the Hercules Municipal Code can, to an extent, be considered barriers to housing construction in areas designated for housing, Program H3-3: Development Process Streamlining commits the City revise the Zoning Ordinance to make multi-family housing projects subject to design review approval only and to amend the subjective language for Design Review findings to provide more certainty in the approval process.

Hercules encourages the development of affordable housing through Chapter 13.30 of the Development Code (Property Development Standards). This section of the Development Code is intended to implement the requirements of Government Code §65915, which allow incentives for the development of affordable housing for low-income, moderate-income, and senior households. The density bonus regulations also allow for exceptions to applicable zoning and other development standards to further encourage development of affordable housing.

In 2006, the City of Hercules adopted an inclusionary housing ordinance that required new residential developments to include a minimum percentage of dwelling units that were affordable to very low-, low-, and moderate-income households. The ordinance included provisions requiring that in residential developments, ten percent of the dwelling units must have been affordable, or a had to have paid a fee in lieu of providing some or all of the required units. Given economic conditions and the elimination of redevelopment agencies, in 2012 the City Council suspended the Inclusionary Housing ordinance indefinitely. The City continues to work with project applicants to achieve affordable housing through negotiations/development agreements on a case-by-case basis.

The City of Hercules amended the Zoning Ordinance multiple times between 2015 and 2024 to address the provision of housing, including but not limited to residential care facilities, transitional housing, supportive housing, single-room occupancy housing, emergency shelters/low-barrier navigation centers, ADUs, SB 9 urban lot splits and two-unit developments, density bonus projects, and reasonable accommodation procedures. Permit requirements for these facilities are consistent with those applied to other similar uses in the same zone. The City has no unique policies or conditions that may constrain the development or improvement of housing for persons with disabilities.

### **Housing Resources & Sites Inventory**

As part of the 6th Cycle housing element update, the City of Hercules is also required to identify resources available to the City for the preservation, rehabilitation, and production of housing throughout the community. This includes programmatic and financial resources, such as those offered locally or through State or Federal partners. These resources also include land resources within the City of Hercules that were identified as eligible for accommodation of the City's RHNA Requirements. Pursuant to Government Code Section 65583.2(a) the following land resources are eligible for accommodation of the RHNA: vacant sites zoned for residential use; or vacant sites zoned for nonresidential

use that allows residential development; or residentially zoned sites that are capable of being developed at a higher density; or sites zoned for nonresidential use that can be redeveloped for residential use, and for which the Housing Element includes a program to rezone the site.

The City's Housing Sites Inventory is summarized in Figure 2 and the map below. Entitled projects are reflected in the City's Housing Sites, including Bayfront Phase III (Blocks KLMOP), Hill Town, Owl Ranch, and Sycamore Crossing, which together would provide 21 low-income units, 31 moderate-income units, and 1,093 market-rate units. The Housing Element Sites Inventory also includes vacant and underutilized sites within the planned mixed-use "New Town Center" district of Central Hercules, between Willow Avenue and Highway 4. These include the Loop Site, Hercules Transit Center, and Caltrans corporation yard. These sites ensure that the remaining RHNA can adequately be accommodated during the planning period.

It should be noted that the entitled projects already approved include between zero and 5% affordable units, and the affordable units would all be either low- or moderate-income. The pipeline projects, if all built as approved, would not provide any of the RHNA's required 344 very low-income units, and would provide only 10 of the required 198 low-income units and 31 of the required 126 moderate-income units. Accordingly, the City's Housing Plan relies heavily on the New Town Center sites, which are zoned for multi-family/mixed-use development at 30 to 75 units per acre and received programmatic environmental clearance through the 2008 New Town Center EIR. The Housing Plan assumes all three sites will be developed as 100% affordable housing, providing 469 very low-income units, 198 low-income units, and 189 moderate-income units. The Element calls for the City to actively engage Caltrans to pursue development of its site or, if determined infeasible by the end of 2028, rezone alternative sites.

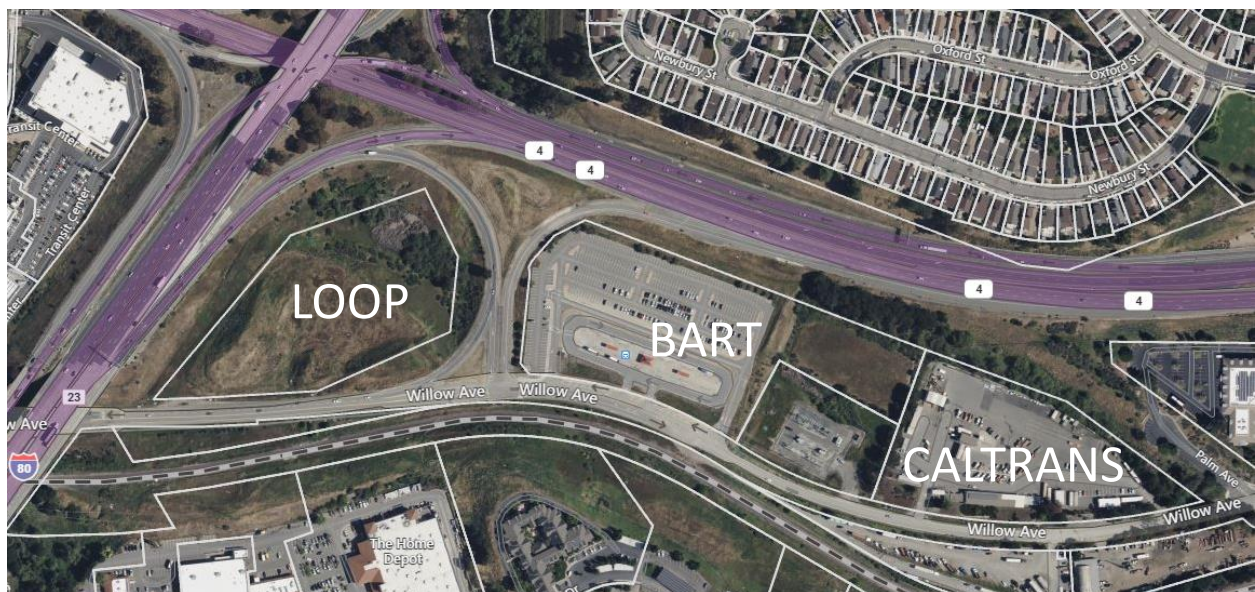
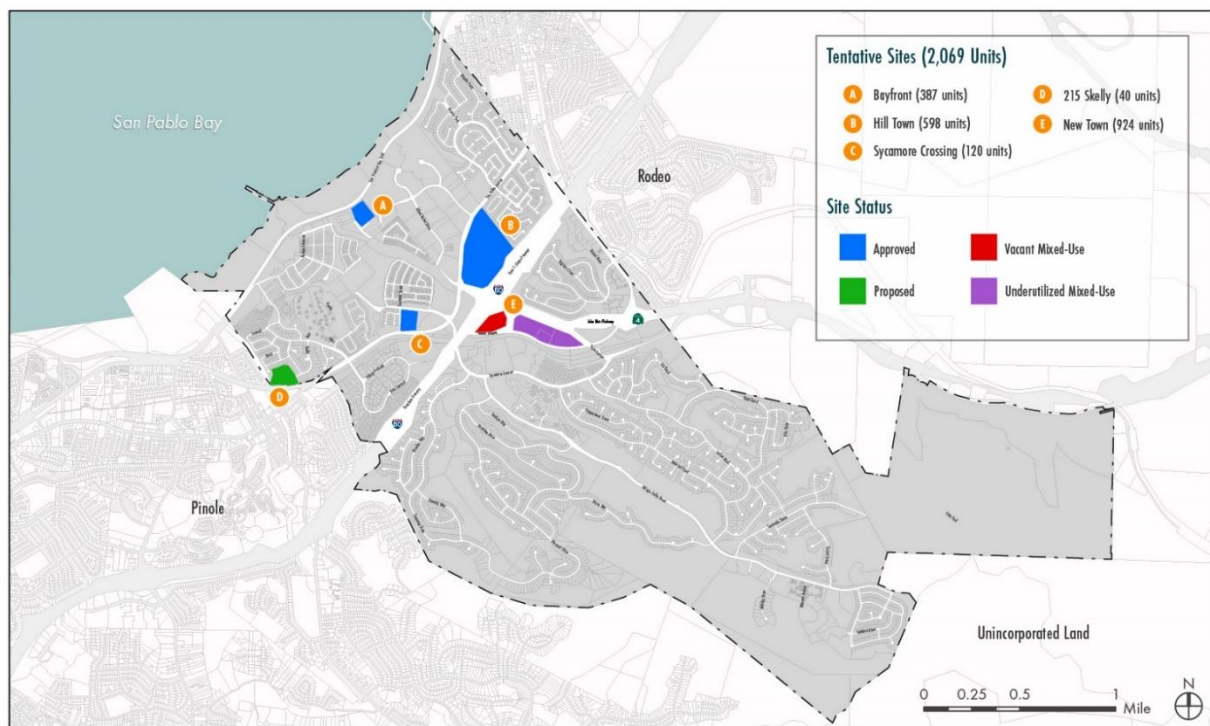


Figure 2: City of Hercules Housing Sites Inventory

	VL	L	Mod	AM	Total
<b>RHNA</b>	<b>344</b>	<b>198</b>	<b>126</b>	<b>327</b>	<b>995</b>
Approved/Under Construction	0	10	31	888	929
<i>Bayfront</i>	0	9	0	162	171
<i>Hill Town</i>	0	0	30	568	598
<i>Owl Ranch</i>	0	1	1	38	40
<i>Sycamore Crossing</i>	0	0	0	120	120
Remaining RHNA	344	188	95	0	627
<b>Total Sites Inventory</b>	<b>469</b>	<b>197</b>	<b>189</b>	<b>0</b>	<b>855</b>
Vacant Site (Loop)	402	0	0	0	402
Non-vacant Sites	67	197	189	0	453
<i>Lot 1 (Caltrans)</i>	28	82	78	0	188
<i>Lot 2 (BART)</i>	39	115	111	0	265
Shortfall/Surplus	+125	+9	+94	-	+228
Shortfall/Surplus (lower income combined)	+134		+94	-	+228
% Buffer	+25.2%		+98.9%	-	-



City of Hercules Housing Element Sites - March 2023



## **Policies and Programs**

The Housing Element Update includes a set of goals, policies, and implementing programs intended to promote the preservation, rehabilitation, and production of housing throughout Hercules. Goals are long-range, broad, and comprehensive targets that describe the future outcomes the City desires. A policy is a specific instructional guideline that seeks to promote goals. Together, goals and policies are implemented through a series of programs that identify specific, quantifiable actions the City will undertake during the 6<sup>th</sup> Cycle planning period. Draft Goals, Policies and Programs included within Chapter 2 the City of Hercules's draft Housing Element Update.

## **Affirmatively Furthering Fair Housing**

Assembly Bill 686 (AB 686), passed in 2018, created new requirements for jurisdictions to affirmatively further fair housing (AFFH) as part of the Housing Element Update process. These requirements found in Government Code Section 8899.50 are intended to address racial inequalities seen today throughout the Bay Area, which developed through historical policies and practices enacted at federal, state, regional and local levels and across the public and private sectors. Though most of Hercules was developed after these explicit forms of historical discrimination had been outlawed, the results of these systems have left a lasting imprint on the Bay Area region. Racially explicit practices (e.g., racial covenants) that excluded persons of color from predominately white neighborhoods have been replaced with race-neutral land use policies that continue to exclude these same groups. Furthermore, rapidly increasing housing costs have deepened racial and economic disparity and segregation, displacing many low-income individuals and people of color to the peripheries of the region or out of the Bay Area all together.

Accordingly, the State has determined that the City must incorporate fair housing considerations into its 6<sup>th</sup> Cycle Housing Element Update to increase housing opportunities in high resource neighborhoods and bring additional resources to traditionally under-resourced neighborhoods.

The following section summarizes the components of the required AFFH component of City of Hercules's Housing Element Update.

## **Targeted Community Outreach**

The City of Hercules must demonstrate "meaningful, frequent, and ongoing community participation, consultation and coordination" as part of the 6<sup>th</sup> Cycle Housing Element Update process. This is intended to ensure that input has been received from groups historically and presently most impacted by fair housing issues and that local knowledge is incorporated into Housing Elements. Accordingly, the City's targeted community outreach efforts included:

- Detailed interviews with eight stakeholders and community organizations
- Two virtual community workshops
- An online survey

- Outreach through the City's newsletter, website and social media

### **Assessment of Fair Housing**

The City must also describe and analyze the unique housing circumstances of the City of Hercules. This analysis is referred to as an Assessment of Fair Housing (AFH) and analyzes circumstances in Hercules pertaining to Fair Housing issues, including:

#### Fair Housing Enforcement and Outreach

The City's AFH includes information regarding the City's Fair housing enforcement and outreach capacity. This refers to the ability of a locality and fair housing entities to disseminate information related to fair housing laws and rights and to provide outreach and education to community members. Enforcement and outreach capacity also includes addressing compliance with fair housing laws, such as investigating complaints, obtaining remedies, and engaging in fair housing testing. The Fair Employment and Housing Act and the Unruh Civil Rights Act are the primary California fair housing laws. California state law extends anti-discrimination protections in housing to several classes that are not covered by the federal Fair Housing Act (FHA) of 1968, including prohibiting discrimination on the basis of sexual orientation.

In Contra Costa County, local housing, social services, and legal service organizations include the Fair Housing Advocates of Northern California (FHANC), Eden Council for Hope and Opportunity (ECHO) Fair Housing, Bay Area Legal Aid, and Pacific Community Services. While these organizations provide valuable assistance, their capacity and funding are generally insufficient to meet local needs for services.

In Hercules, ECHO Fair Housing provides services through their Fair Housing Program, such as first-time home buyer counseling and education, investigations and enforcement in response to reports of housing discrimination complaints, and tenant/landlord services to conciliate or mediate housing disputes. ECHO also makes referrals to legal services for advice and representation on housing-related issues. One ECHO fair housing counselor serves most of Contra Costa County. Bay Area Legal Aid does not have a physical office in Hercules but continues to provide legal help, advice, and referrals through its Legal Help hotline serving Western Contra Costa County.

In Hercules, only two inquiries were made to ECHO regarding fair housing between 2016-2021. The nature of the first allegation was on fair housing discrimination on the basis of income source. ECHO provided counseling to the client and landlord. The second inquiry was a general fair housing inquiry on the basis of racial discrimination. Testers from ECHO were sent for investigation but found insufficient evidence to move forward. The City Attorney's Office is not aware of any past consent decrees or fair housing lawsuits in Hercules.

### **Segregation and Integration Patterns**

The City of Hercules's AFH also analyzes segregation and integration patterns within the jurisdiction as well as regionally. Segregation and integration patterns are analyzed by evaluating the concentration (or lack thereof) of protected groups within the community, relative to their distribution across a larger geography.

The Element documents that Hercules does not have a history of segregation and does not have a concentration of protected groups within the community.

### **Racially and/or Ethnically Concentrated Areas of Poverty (R/ECAPS)**

The City's AFH includes an analysis of Racially and or Ethnically Concentrated Areas of Poverty (R/ECAPS), which would be areas in Hercules defined by HUD as (1) having a non-white population of 50 percent or more, and (2) having extreme levels of poverty, meaning either: (a) at least 40 percent of the population lives at or below the federal poverty line, or (b) the poverty rate is three times the average census tract level poverty rate in the region, whichever is less.

The Element documents that Hercules does not have any racially and/or ethnically concentrated areas of poverty.

### **Disparities In Access to Opportunity**

The City's AFH also evaluates disparities in access to opportunity within Hercules, which would be areas within the City of Hercules that had substantial differences in access to education, transportation, economic and environmental outcomes than other areas as identified by the California Tax Credit Allocation Committee (TCAC).

The Element documents that Hercules does not have any significant disparities in access to opportunity.

### **Disproportionate Housing Needs (For Low-Income Households and Protected Classes)**

The City of Hercules's AFH also evaluates disproportionate housing needs among low-income households and protected classes within the City of Hercules. Disproportionate housing needs are evident when members of a protected group disproportionately experience a housing need in comparison to other groups or the total population. Disproportionate housing needs typically refer to the risk of displacement, over-crowding, or cost-burdened, among others.

In Hercules, about 32% of all households experience cost burdens. Similar to Contra Costa County, renters experience higher rates of cost burdens than owners (40.95% to 30.34%), though at a lower level of disparity compared to the county. Overpayment by renters is highest in Victoria by the Bay (over 80%), moderate in central Hercules (60-80%), and lowest in eastern and western Hercules (20-40%). Overcrowding affects less than 8.2% of households in all parts of Hercules.

## Site Identification

State Law requires the City of Hercules to evaluate whether Housing Sites identified as suitable for accommodation of the City’s RHNA requirements are identified relative to the full scope of the assessment of fair housing (e.g., segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, etc.). A summary of how Housing Sites were identified in a manner consistent with AFFH requirements is included in Chapter 6, Housing Resources.

## Goals, Policies, and Actions

The AFFH Meaningful Actions Matrix below summarizes the policies and programs required by State Law to demonstrate the City of Hercules’s commitment to affirmatively further fair housing as part of the Housing Element Update process.

Given the City’s staffing levels, many of these new programs will require consultant support as well as considerable staff time to successfully implement. Certain fair housing program activities are eligible for Housing Asset funding as administrative expenses related to affordable housing development (for example, preparation of a Notice of Funding Availability). Other housing programs will require General Plan funding. Staff anticipates including funding for consultant services for housing programs in the Fiscal Year 2025-26 annual budget.

**Table H.21: AFFH Meaningful Actions Matrix**

HE Programs or Other Activities	Specific Commitment	Timeline	Geographic Targeting	2023-2031 Metrics
<b>Fair Housing Outreach and Enforcement</b>				
Program H4-2: Fair Housing Services	Assist households through FHANC and ECHO Fair Housing, providing fair housing services and educational programs concerning fair housing issues. Refer fair housing complaints to ECHO and consider providing funding support.	Annually	Citywide with emphasis on northwest Hercules where there is a larger proportion of renter-occupied households.	Refer 5 residents to fair housing services and programs offered by FHANC and ECHO annually.
	Promote fair housing practices, including advertisements on the City’s website, and provide educational information on fair housing to the public.	Annually	Citywide	Annually review and update fair housing information and brochures offered to the public, publish information in the Hercules Herald, and on City social media.
	Seek opportunities to attend public events or provide information to event organizers at gatherings designed to inform the public about governmental services.	Annually	Citywide	Disseminate or provide fair housing information at two community events during the planning period.

<p>Program H4-3: Affirmatively Furthering Fair Housing</p>	<p>Promote awareness of federal, State, and local regulations through the City website, at local public centers, at City and at Council meetings yearly. Implement an accessibility policy that establishes standards and procedures for providing equal access to City services, ensures all applications are considered, reviewed, and approved without prejudice, and continue to implement the Analysis of Impediments to Fair Housing Choice and HUD Consolidated Plan. Lastly, ensure all community stakeholders are engaged by conducting public meetings at suitable times, in accessible places, and provide translation services as needed.</p>	<p>2024 for “impediments”; 2025 for multilingual strategy</p>	<p>Citywide</p>	<p>Conduct or participate in bi-annual developer convenings.</p>
<p>Program H4-4: Outreach Plan</p>	<p>Implement an outreach plan for housing-related issues, such as Housing Element updates. Reach out to the community regarding housing topics in general and specific new developments.</p>	<p>By 2025; Bi-annually</p>	<p>Citywide</p>	<p>Establish an outreach plan by December 2025 and conduct community outreach bi-annually as new housing topics or developments arise.</p>
	<p>Expand outreach to non-profit developers, area service providers, and community-based organizations. Partner with local community-based organizations to hold community meetings about General Plan updates to gain input from residents on housing needs in the city. Invest resources to provide food, childcare, interpretation, and translation services at these events.</p>	<p>By 2026</p>	<p>Citywide</p>	<p>Expand outreach efforts and resources for General Plan community meetings, if needed.</p>
	<p>Actively recruit residents from protected classes and underserved neighborhoods to participate on committees, such as the Council on Homelessness of Contra Costa County, to address homelessness and affordable housing needs.</p>	<p>By 2027; bi-annually</p>	<p>Citywide with emphasis on LMI areas (along I-80 and Lupine Road)</p>	<p>Bi-annually recruit residents to participate in regional committees to address homelessness and affordable housing needs with the goal of recruiting one resident every two years.</p>
	<p>Develop presentations and/or materials that address the local need for affordable housing and more resilient neighborhoods.</p>	<p>By 2026</p>	<p>Citywide</p>	<p>Develop materials to address local need and utilize these materials on an ongoing basis.</p>
<p><b>Housing Mobility</b></p>				
	<p>Support first-time low- and moderate-income home buyers by</p>	<p>Annually</p>	<p>Citywide</p>	



Program H1-1: First-Time Homebuyer Assistance Programs	connecting them to the Down Payment Assistance program, encouraging application to the Federal Home Ownership Program.			Refer twelve households annually and track results.
	Publicize housing assistance programs and provide information on these programs on the City's website and via social media, through flyers posted at City facilities, and via staff assistance at City Hall.	Annually	Citywide with emphasis on LMI areas, tracts 3592.03 and 3591.04 (along I-80 and Lupine Road)	
Program H1-3: Section 8 Housing Choice Voucher Program	Expand the location of participating voucher properties.	By 2031	Citywide (all moderate resource areas)	Facilitate or support one voucher driven development project.  Work with the Contra Costa Housing Authority with the goal of increasing HCV use in the city by 10% (using 2023 as a baseline).  Conduct outreach to landlords with the goal of referring 5 residents in tract 3591.04 to the County HCV program annually.
	Continue to support the HCV section 8 program, promote HCV usage in higher resource areas, and work with the Contra Costa Housing Authority to increase HCV use in Hercules.	Annually	Citywide	
	Continue to support the HCV program, promote HCV usage to protected/vulnerable populations, and work with the Contra Costa Housing Authority to increase HCV use in Hercules.	Annually	Citywide with emphasis on tract 3591.04 (Village Park/Forest Park) where larger protected populations exist (single-parent, lower median income).	
	As part of Program H4-4 (Outreach Plan), conduct outreach to landlords to expand participating voucher properties.	Annually	Tract 3591.04 (Village Park/Forest Park) where larger protected populations exist (single-parent, lower median income).	
	As part of Program H4-4 (Outreach Plan), conduct outreach and tenant/landlord education through community events and public forums regarding income discrimination and voucher programs	Annually		
Program H2-3: Senior Housing	Conduct a comprehensive analysis of the current Development Code to identify areas where adjustments can be made to better accommodate the development of senior housing	By 2024	Citywide with emphasis on southwest Hercules, tract 3592.04 and 3591.04, where populations of persons with disabilities and elderly populations are larger.	
	Engage with stakeholders, including local senior advocacy groups, developers, and residents, to gather input and insights on the specific needs and preferences of the senior population in Hercules	By 2025		
	Review and revise the development code to provide appropriate	By 2026		

	standards to encourage development of senior housing.			
Program H2-5: Alternative Housing Models	Encourage the provision of innovative housing types that may be suitable for the community, including modular homes, middle housing types, community care facilities, supportive housing, and assisted living for seniors, through discussions with developers.	Annually (as part of annual outreach to developers to promote alternative housing)	Citywide (all moderate resource areas)	Facilitate the development of one Alternative Housing Model project during the planning period.
Program H3-2: Housing for Extremely Low-Income Households	Encourage and remove constraints on housing for extremely low-income households by supporting the establishment of transitional and supportive housing, applying the same residential zoning restrictions, complying with AB 101 (Low-Barrier Navigation Centers), and prioritizing funding for extremely low-income projects.	By 2025; Outreach annually	Citywide	Facilitate or support one voucher driven development project during the planning period.
Program H4-1: Housing for Persons with Special Needs	Prioritize development projects that include a component for special-needs groups. Revise and streamline the development code associated with the approval of residential care facilities. Lastly, encourage developers of single-family homes to incorporate universal design.	By 2031; Outreach annually	Citywide	Prioritize one special needs housing project during the planning period.
	Make available information from HomeMatch Contra Costa for their services for older adults, including shared housing, extra income, or assistance with home maintenance.	By 2024; Annually	Citywide with emphasis on central and southwest Hercules, including tract 3591.04 (Village Park/Forest Park) where larger protected populations exist (single-parent, lower median income).	Promote information on HomeMatch Contra Costa County with the goal of referring one resident to HomeMatch services annually.
Program H4-5: Reasonable Accommodation	Encourage developers of single-family housing to incorporate universal design and track the number of newly constructed or rehabilitated dwelling units accessible to people with disabilities. The City will provide the address and number of units to Resources for Independent Living Sacramento for inclusion in their housing list for people with disabilities.	By 2026/2031	Citywide	Increase the number of units accessible to persons with disabilities by 5% of new multi-family during the planning period and advertise these units through Resources for Independent Living Sacramento for Solano and Contra Costa County.

AFFH: County HCV Listing Program	Participate in the County-sponsored HCV Listing Program to advertise affordable housing opportunities in the city.	Annually	Citywide	Annually assist County efforts to keep the HCV Listing up to date with affordable housing opportunities in Hercules.
<b>New Housing Opportunities in High Resource Areas</b>				
Program H1-2: Affordable Housing Partnerships and Funding Sources	Increase affordable housing activities like construction, rehabilitation, and financial assistance to renters and owners. Provide loans and grants to maintain a high-quality affordable housing stock, and actively support efforts to secure additional affordable housing funding sources.	By 2031; Outreach annually	Citywide (all moderate resource areas)	Facilitate the development of two affordable housing projects
Program H2-1: Ensure Adequate Sites to Accommodate Regional Fair Share of Housing Growth	Maintain an inventory of available sites for residential development and provide it to prospective developers, continue to track new housing projects and progress toward meeting the City's RHNA, and create a regulatory environment that enables the private market to build a variety of housing types and income levels.	By 2031; Outreach annually	Citywide	Facilitate the development of 995 housing units, including 542 affordable to lower income households.
Program H2-2: Mixed-Use and TOD Sites Lot Consolidation	Continue to facilitate construction of residences in mixed-use zones and within the transit-oriented Waterfront District Plan area and continue to provide incentives for lot consolidation of parcels in mixed-use areas.	By 2031; Outreach annually	Citywide; New Town Center	Facilitate 3 development projects on mixed-use and TOD sites during the planning period.
Program H2-4: Accessory Dwelling Units (ADUs)	Encourage conversion of unpermitted ADUs without penalty and provide information to the applicant/homeowner.	Annually	Citywide	Encourage conversion of unpermitted ADUs with the goal of legalizing one ADU annually.
	Encourage ADU development by developing an ADU information packet, coordinate with neighboring jurisdictions to participate in educational opportunities, and monitor ADU permit applications and approvals.	Complete information packet by 2025; Facilitate development of 16 ADUs by 2031	Citywide with emphasis on single-family neighborhoods (southern and eastern Hercules)	Support the development of 16 accessory dwelling units during the planning period.
	Participate in regional efforts to pre-approve ADU plans for County residents, including Hercules residents.	Participate in annual regional efforts	Citywide	Coordinate with regional jurisdictions to pre-approve ADU plans.
<b>Place-based Strategies for Neighborhood Improvement</b>				
Program H1-4: Monitor and Preserve Affordable	Utilize CDBG or other funds to provide financial assistance for minor repairs of homes owned and	Annually	Citywide with emphasis on eastern side of Hercules where	Assist 16 lower-income households per year.

Housing and At-Risk Housing	occupied by lower-income residents.		housing units tend to be older.	
Program H1-5: Code Enforcement	Inspect all inquiries of code enforcement violations	Annually	Citywide	Work with residents and code enforcement to resolve all units cited for building code violations with the goal of resolving two violations per year.
Program H3-6: Infrastructure Master Planning	<p>Review the General Plan and engage stakeholders from diverse backgrounds to gather input and insights on local development needs and infrastructure requirements. The City will complete CIP projects to facilitate neighborhood improvements which may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>Refugio Park Tree Replacement and Shade Structures (central Hercules) – As of May 2024, approximately 70 trees have been installed and additional improvements will commence at the end of 2024 (shade structures, pathways, etc.)</li> <li>The Hercules Hub (southwestern Hercules) – The Hercules Hub is a regional, state-of-the-art housing and transportation development. It will connect thousands of housing units with a new train stop along the Capitol Corridor, bicycle and pedestrian pathways, bus routes, carpool options, and a future ferry service. As of May 2024, a ferry feasibility study has been completed and the City is seeking additional grant funding to complete the design of the train station.</li> </ul>	By 2030 (Five year CIP)	Citywide with emphasis on Area 2 where more sites accommodating the lower income RHNA are located.	Identify areas of Hercules where infrastructure improvements are needed and facilitate two infrastructure improvements (CIP) during the planning period.
AFFH: ADA and Mobility Improvements	<p>Implement infrastructure and neighborhood improvements to enhance communities and increase mobility. Improvements may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>Sycamore Avenue Bicycle and Pedestrian East-West</li> </ul>	Annually (as budget is available)	Citywide with emphasis on central and southern Hercules.	Facilitate the construction of two ADA/mobility improvement projects during the planning period.

	<p>Connector – The project will eliminate critical gaps in the City’s pedestrian and bicycle networks between the east and west sides of Hercules</p> <ul style="list-style-type: none"> <li>• Senior Center ADA steps, ramps and walkways</li> <li>• Community Swim Center ADA striping</li> <li>• Teen Center ADA steps, ramps and walkways</li> <li>• Ohlone Community Center ADA transition</li> <li>• Woodfield Park Accessible Pathway</li> </ul>			
<p>AFFH: Transit and Connectivity Improvements</p>	<p>As part of the West Contra Costa County Transit Advisory Committee, work with regional members to implement improvements in Hercules outlined in the West Contra Costa County Express Bus Implementation Plan:</p> <ul style="list-style-type: none"> <li>• Transit Route 1 connecting the Hercules Transit Center to Berkeley</li> <li>• Transit Route 2 connecting the Hercules Transit Center to Emeryville (2A) and Oakland (2B)</li> <li>• Hercules Transit Center Capacity Enhancement (relocate PG&amp;E overhead utility line, provide parking structure, bicycle parking, and electric vehicle parking)</li> <li>• I-80 Part-Time Transit Lanes (improvements such as bus-only lane, auxiliary lane, shoulder use/improvements, and signage/markings)</li> <li>• SR-4/John Muir Parkway Freeway Access Improvement (provide/extend HOV lanes)</li> <li>• Improvements to bicycle/pedestrian facilities around existing and proposed transit routes/centers.</li> </ul>	<p>By 2031</p>	<p>Central and southwest Hercules</p>	<p>Assist in regional efforts to complete one transit improvement outlined in the West Contra Costa County Express Bus Implementation Plan during the planning period.</p>

<b>Tenant Protections and Anti-displacement</b>				
Program H1-4: Monitor and Preserve Affordable Housing and At-Risk Housing	Monitor affordable housing projects in the city and preserve all affordable units.	Ongoing	Citywide	Preserve affordability of all 485 below market-rate units in the city.
Program H2-7: Replacement Housing	Establish clear guidelines and criteria for determining the affordability of replacement units based on the income levels of previous occupants and make this information available to stakeholders and developers.	By 2025	Citywide	Replace 100% of units as required by Government Code section 66300(d).
	Implement monitoring and enforcement mechanisms to track the progress of affordable housing replacement within development projects.	By 2026		

### **Evaluation of Past Progress**

Pursuant to State Law, Chapter 7 of the draft Housing Element summarizes the implementation status of Goals, Policies and Programs from the City of Hercules’s 5<sup>th</sup> Cycle Housing Element Update.

Overall, the Fair Housing programs that targeted households showed that services were provided to a number of special needs households, such as the elderly and persons experiencing homelessness. Although no specific data points exist for some of the 5<sup>th</sup> cycle programs, it is expected that the populations served under many of the direct service actions align with those programs that focused on ELI and LI households. The City recognizes that the expansion of programs focused on special needs populations will be necessary to address the focus areas identified in the fair housing analysis. Overall, the City of Hercules is designated as a moderate resource community with no specific pockets of poverty or wealth, and because of its historic development patterns, Hercules is a very diverse community.

Overcrowded households were not identified in the 5<sup>th</sup> Cycle as a targeted demographic for specific action, nor was farmworker housing; there are no active farms in the City of Hercules and no Agricultural Land Use Designations. Anecdotally and statistically, we know that overcrowding is increasing slightly due to affordability pressures on all households, and the most vulnerable special needs populations will require additional attention beyond tenant protections. Therefore, many of the new program goals, policies, and actions are informed not only by the 5<sup>th</sup> Cycle evaluation but also the fair housing assessment and community input collected during the authoring of the Housing Element. Analyzing the cumulative effectiveness of the 5<sup>th</sup> Cycle Housing Plan actions, policies, and goals in conjunction with the additional analyses conducted in this document, along

with community engagement, has informed the development of the 6<sup>th</sup> Cycle Housing Plan.

The evaluation provides the basis for recommended modifications to policies and programs and the establishment of new housing objectives.

### **Community Engagement**

Consistent with State Law, the City of Hercules has conducted ongoing community outreach efforts throughout the 6<sup>th</sup> Cycle Housing Element Update process. These efforts, inclusive of Planning Commission and City Council discussions held prior to today, are summarized within Appendix A of the Housing Element Update and below.

Over the last several years, the City of Hercules has conducted a comprehensive community engagement and outreach strategy as required by the Government Code to assist in informing the 6<sup>th</sup> Cycle Housing Element Update Process. This strategy has included a series of community meetings and study sessions with Planning Commission and City Council. These meetings and study sessions are summarized below. Feedback received throughout the ongoing community engagement and outreach process has assisted staff and the consulting team in preparing the draft Housing Element Update and related items.

As part of the update, a Public Engagement Plan (PEP) was developed by City staff to provide the community with public participation opportunities during the development of the Housing Element as required by Gov. Code Section 65583 (c)(9). During the development of the PEP, a specific effort was made to enable the community to address the draft Housing Element digitally, as pandemic restrictions were in place during most of the outreach effort time frame. To that end, the City contracted with Tripepi Smith and ZenCity to provide outreach and engagement support on the City's website and via social media.

Prior to the social media advertisements, the City compiled a list of community stakeholders, consisting of 45 community organizations that represented a broad spectrum of the demographic make-up of the City as well as income levels. These organizations were emailed and called directly to set up one-on-one interviews that assisted the City in providing a framework for the tone and tenor of the Housing Element, especially in the development of the Housing Resources and Housing Plan.

The broad approach in the development of the draft Housing Element was then presented to the Planning Commission and the Community Council in open meetings that were announced and advertised per the meeting requirements of the City. Informational reports on the Housing Element update were presented to the Planning Commission on February 7 and July 16, 2022 and February 6, 2023 and to the City Council on October 26, 2021 and June 14, 2022.

In anticipation of the community workshops, meeting announcements were made, a project web page established, and an online survey conducted. Two community workshops were held in March 2022, to discuss Housing Resources, and April 2022, to discuss the Housing Plan. During the interim time between the public meetings, an online survey was conducted, which received 112 responses.

Following the February meeting, the Housing Resources sites identification was refined, and following the April meeting, the Housing Plan was further refined. The draft element was made available for public comment in June and July of 2022, during which time additional refinements were made based on stakeholder interview and survey open comments and was submitted to HCD in August of 2022. During that time period, Tripepi Smith and ZenCity provided social media exposure and links to the Housing Element, the Housing Element link was distributed via the City's e-notification service, and throughout the four rounds of revisions in response to HCD comments, the draft Housing Element remained open for public comment.

As required by state law (SB 18) when considering a General Plan amendment, the City requested from the Native American Heritage Center a list of local tribes with traditional lands or places located within the City's jurisdiction and notified these tribes of the opportunity to conduct consultations for the purpose of preserving, or mitigating impacts to, cultural places located in Hercules. Two tribes requested consultation, and in September and October 2024, the City consulted with the Amah Mutsun Tribal band of San Juan Bautista and the Confederated Villages of the Lisjan Nation regarding the updated Housing Element and the cultural resources mitigation measures that are in effect from prior Environmental Impact Reports and are referenced in the Housing Element Initial Study/Negative Declaration.

### **Review Process**

A letter from HCD (Attachment 4) was received on October 21, 2024, notifying the City that the revised draft Housing Element and associated amendments, if approved by the City Council, would be in substantial compliance with State Housing Element law.

A project chronology is shown below:

- Request for Proposals released -- July 1, 2021
- Contract with MIG executed – August 10, 2021
- Community Workshops held online – March 21 and April 25, 2022
- **First draft** posted on City website and submitted to HCD – June 17, 2022
  - One public comment received from EBMUD and responded to; no changes required in response.
  - HCD comments received – November 7, 2022
- **CEQA Initial Study and Negative Declaration** filed -- August 30, 2022 (SCH #2022080691)



- **Second draft** posted on City website, submitted to HCD on December 29, 2022
  - No public comments received
  - HCD comments received – March 6, 2023
- **Third draft** posted on City website, submitted to HCD on March 22, 2023
  - No public comments received
  - HCD comments received – June 2, 2023
  - Virtual meeting with original HCD reviewer – June 26, 2023
  - Virtual meeting with new HCD reviewer following reassignment – August 16, 2023
  - Technical assistance resources received from HCD – September 21, 2023
- **Fourth draft** posted on City website for comment – November 2, 2023
  - No public comments received
  - Fourth draft submitted to HCD – November 10, 2023
  - HCD comment letter received – January 12, 2024
  - Virtual meeting with HCD reviewer and supervisor – January 31, 2024
- **Informal submittal** of Chapter 5 revisions to HCD – March 8, 2024
- **Informal submittal** of Chapter 2 revisions to HCD – March 28, 2024
  - HCD informal comments returned – April 24, 2024
- Weekly technical assistance meetings with HCD – May 16 through June 13, 2024
- **Informal submittal** of all revisions to HCD – June 18, 2024
  - HCD notification that Chelsea Lee had completed review but need to confirm some areas with her supervisor, Paul McDougall – July 8, 2024
  - HCD comments received – July 16, 2024
- **Informal submittal** of revisions to affected programs – July 23, 2024
  - HCD comments received – July 26, 2024
- **Informal submittal** of revisions to affected programs – August 2, 2024
  - HCD notification of no further comments – August 12, 2024
- **Fifth draft** posted on City website for comment – August 14, 2024
  - No substantive public comments received
  - Fifth draft submitted to HCD for formal review – August 22, 2024
- **HCD letter of substantial compliance** – October 21, 2024

**State Law Required Findings - CA Government Code Title 7, Division 1, Chapter 3, Article 10.6 (65580 – 65589.11)**

To be in substantial compliance with state law, a housing element must contain all the elements mandated by state housing element law. (*See Fonseca v. City of Gilroy* (2007) 148 Cal.App.4<sup>th</sup> 1174, 1191-92.) HCD’s Findings letter (Attachment 4) demonstrates that the City of Hercules’s Housing Element contains each of the elements mandated by State law.

## **ENVIRONMENTAL REVIEW:**

The City of Hercules has prepared the necessary environmental review, consistent with CEQA, for the Draft 2023– 2031 Housing Element Update.

A Notice of Availability of a draft Initial Study/Negative Declaration (ISND) for the City of Hercules 6<sup>th</sup> Cycle Housing Element Update (Attachment 3) was posted on the state CEQA clearinghouse website, and the ISND was posted on the City website, on August 25, 2022. Comments received during the 30-day public review period were considered in the CEQA analysis. One comment letter was received from EBMUD on September 20, 2022, regarding EBMUD’s requirements related to establishing water service for new development, avoiding groundwater contamination, and water conservation. Although response to comments on an ISND is not required under CEQA, a response letter was sent to EBMUD on October 26, 2022, confirming that the City will follow certain requested processes, including informing applicants for future housing projects of the requirement to coordinate with EBMUD.

## **CONCLUSIONS/RECOMMENDATIONS:**

Staff recommends the Commission adopt a Resolution recommending that the City Council adopt the Initial Study/Negative Declaration for the 2023-2031 Housing Element, find that the Housing Element substantially complies with state law, and repeal the 2015-2023 Housing Element and adopt the 2023-2031 Housing Element.

## **ATTACHMENTS:**

- Attachment 1 – Draft Resolution
- Attachment 2a – 2023-2031 City of Hercules Housing Element
- Attachment 2b – Appendix A: Community Engagement
- Attachment 3 – Initial Study/Negative Declaration
- Attachment 4 – HCD letter confirming substantial compliance
- Attachment 5 – Presentation