CITY COUNCIL STUDY SESSION AGENDA REPORT

MEETING DATE: OCTOBER 8, 2019 **ITEM NUMBER: 1**

SUBJECT: **INTRODUCTION TO THE 2021 HOUSING ELEMENT UPDATE PROCESS**

DATE: **OCTOBER 3, 2019**

FROM: **PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT**

PRESENTATION BY: **BARRY CURTIS, DIRECTOR OF ECONOMIC AND DEVELOPMENT SERVICES**
MINOO ASHABI, PRINCIPAL PLANNER

FOR FURTHER INFORMATION CONTACT: **MINOO ASHABI, AIA (714) 754-5610**
Minoo.ashabi@costamesaca.gov

PURPOSE:

This study session is intended to update the City Council on the status of requirements related to the 6th Housing Element Cycle and to provide initial information related to potential strategies to prepare the required Housing Element update.

BACKGROUND:

Costa Mesa will shortly begin the state-required process to update its Housing Element. The Housing Element is one of the required General Plan Elements and is the only element that has a process for state certification. Costa Mesa's Housing Element is required by state law to be updated with the 6th RHNA Projection period starting June 30, 2021. The Housing Element includes the current status of housing production, projected housing needs in terms of income and special needs populations, and potential locations and policies to meet the local share of the region's housing needs.

This report provides a brief background on existing conditions, an overview of the required Housing Element update process including the development of the Regional Housing Needs Assessment (RHNA), discussion of important state legislation related to housing, and tools available to the City as it develops its Housing Element.

Existing Setting

According to the 2016 General Plan, the City contains a total area of 3,788.4 acres dedicated to residential uses (47 percent of the City's total area of 8,042.4 acres). As of 2010, Costa Mesa's housing stock consisted of 58 percent renter-occupied units and 42 percent owner-occupied units. This ratio is consistent with most northern and central Orange County cities, but higher than many south county cities. The residential land use distribution is divided into three categories: low, medium and high density as follows per the 2016 General Plan.

Land Use Designations	Residential Density	Acres Developed	Acres Undeveloped	Percent
Residential				
Low-Density Residential	≤8 du/ac	2,087.4	0.8	25.9%
Medium-Density Residential	≤12 du/ac	858.1	1.1	10.7%
High-Density Residential	≤20 du/ac	842.9	2.9	10.5%

5th Cycle Housing Element (Adopted) and 2013-2021 RHNA

The current Housing Element was adopted in September 2013 in what was considered to be the 5th Housing Element Cycle for the SCAG region. The City's RHNA allocation for the 5th Housing Element Cycle consisted of one low, one very low, zero moderate and zero above moderate income units. The RHNA for this Housing Element Cycle was unusually low due to ongoing effects of the recession and higher than normal vacancy rates.

In addition to providing an analysis of the population and job growth and identifying areas of housing needs (e.g. special populations, elderly and the four income groups), the Housing Element is required to identify specific locations where housing opportunities are available. With the 5th Housing Element Cycle the City identified the following potential sites for housing development:

- Sakioka Lot 2 – up to 660 units up to 80 du/acre
- Argotech – 9.1-acre site was allowed up to 20/du/acre. A project with 177 market rate units has been developed on this site.
- Urban Plan Areas – the Housing Element refers to 103 acres that could be developed with up to 20 du/acre.

Annual Housing Progress Report

Per State Government Code Section 65400, by April of each year cities are required to submit an annual housing progress report to HCD. The following is an excerpt of the 2018 annual housing report (included in the General Plan Annual Update) that was transmitted to HCD. The table shows the total number of units built in 2018 and the City's progress toward meeting its RHNA (1,277 housing units have been built in the City). However, those units have not been in the lower income categories. It is expected that with construction of an apartment project at the former location of Costa Mesa Motor Inn that includes nine very-low income units, the City will surpass its RHNA. With the 5th Housing Element Cycle many cities including Costa Mesa were allocated an extremely low number of units. In comparison, the City's 4th Housing Element Cycle allocation was 1,682 units inclusive of 353 very low-income units.

Income Level		RHNA Allocation by Income Level	2013	2014	2015	2016	2017	2018	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	1								**1**
	Non-Deed Restricted									
Low	Deed Restricted	1							2	
	Non-Deed Restricted							2		
Moderate	Deed Restricted									
	Non-Deed Restricted									
Above Moderate			22	50	93	115	260	735	1275	
Total RHNA		**2**	***** Note:*** *Units in this table reflect units that have been finaled in the reporting year to be consistent with previous reporting years.*							
Total Units			**22**	**50**	**93**	**115**	**260**	**737**	**1277**	**1**

ISSUES:

6th Housing Element Cycle and Regional Housing Needs Assessment (RHNA)

RHNA Process Overview

The 6th Housing Element Cycle will cover the planning period between October 2021 and October 2029. The RHNA is a state-mandated prerequisite to development of the Housing Element. The RHNA quantifies the housing need for each jurisdiction during each specified Housing Element Cycle.

Costa Mesa is located in the region overseen by the Southern California Association of Governments (SCAG), which is the nation's largest metropolitan planning organization (MPO), representing six counties, 191 cities and more than 19 million residents.

For each eight-year Housing Element planning period, a regional determination for housing needs is provided by the State Department of Housing and Community Development (HCD) for the entire SCAG region. SCAG is responsible for allocating the regional RHNA to all of its member jurisdictions on a fair-share basis. To develop a methodology to allocate the regional RHNA, SCAG must survey all jurisdictions regarding local planning factors (also known as “AB 2158 factors”). These factors include planning factors and constraints for each jurisdiction such as the jobs-to-housing relationship, infrastructure limitations outside a jurisdiction’s control, county policies to preserve agricultural or open space, and high housing costs. New for the upcoming 6th Housing Element Cycle, SCAG must also survey jurisdictions regarding information on barriers to providing fair housing. Per Assembly 1771 (Bloom), a fifth objective has been added to RHNA objectives. SCAG is required to survey information referred to as “Assessment of Fair Housing” to be completed by any city or

county that would address fair housing and social justice as part of housing elements or as required by HUD grants.

Once SCAG completes its fair-share RHNA allocations, each jurisdiction is then required to update its General Plan Housing Element and to demonstrate through sites and zoning analysis how it will accommodate the future housing need and how it can meet its local RHNA allocation. Housing Elements are reviewed by HCD, which determines and certifies whether a city's Housing Element is in compliance with state housing law.

The timeline for the 6th Cycle Housing Element process is as follows:

Feb. 2019 – September 2019	• Local surveys • Draft RHNA methodology • HCD release of preliminary RHNA numbers allows for a 30-day appeal by COGs
Oct. 2019 – Dec. 2019	HCD review of proposed RHNA methodology Final methodology adopted
Feb. 2020 – July 2020	Distribution of Draft RHNA
July 2020	RHNA appeal hearings
August 2020	Final draft RHNA allocation
October 2020	Adoption of final RHNA Allocation
October 2021 (estimated)	Housing Elements due to HCD

Source: SCAG
http://www.scag.ca.gov/programs/Pages/Housing.aspx

Status of RHNA Process

On August 3, 2019, SCAG released for public review three draft methodologies to distribute the regional RHNA on a fair-share basis to all member jurisdictions. On September 12, 2019, City staff provided SCAG with an eight-page comment letter in response to the draft methodologies (Attachment 1).

On August 22, 2019, HCD provided SCAG with the regional RHNA of 1,344,740 total units for the six-county SCAG region. This number reflects the number of housing units the region must plan for in the 6th Housing Element Cycle covering the period between October 2021 and October 2029.

This number is very high relative to previous RHNAs and will present a major challenge to many cities in the SCAG region. On September 18, 2019, SCAG submitted an appeal of the regional RHNA figure to HCD requesting a reduction of the regional RHNA. The letter is available at this link: http://www.scag.ca.gov/programs/Documents/RHNA/SCAG-Objection-Letter-RHNA-Regional-Determination.pdf

Specifically, HCD's RHNA for the SCAG region is broken down into four income categories as follows:

Income Category	Percent	Housing Unit Need
Very-Low	26.1%	350,998
Low	15.3%	206,338
Moderate	16.7%	225,152
Above-Moderate	41.8%	562,252
Total	**100.0%**	**1,344,740**

After release of the regional numbers, SCAG recommended three options based on different methodologies including accessibility to jobs and high volume transit. Costa Mesa could have been allocated one of the following numbers that range from 2,803 to 9,302.

Option 1 - 5,881 units (VL 2,097, L 1,613, M 1,728)
Option 2 – 9,302 units (VL 2,196, L 1,410, M 1,649)
Option 3 – 2,803 units (VL 662, L 425, M 497)*

On September 23, 2019, SCAG staff released a fourth "staff-recommended" methodology that will be brought forward to the SCAG RHNA subcommittee on October 7. According to the tool released by SCAG on October 3, the staff-recommended methodology will allocate a total of 4,323 units to Costa Mesa consisting of 1082 very low, 660 low, 769 moderate and 1,811 above moderate income units.

TOTAL RHNA FOR COSTA MESA CITY	4323	*Percent of total RHNA:*
Very-low income (<50% of AMI)	1082	*25.0%*
Low income (50-80% of AMI)	660	*15.3%*
Moderate income (80-120% of AMI)	769	*17.8%*
Above moderate income (>120% of AMI)	1811	*41.9%*

Staff believes it is important that Costa Mesa receive the lowest mandated allocation possible in order to both maintain local control and to avoid state penalties against cities that do not meet their numbers. The City can voluntarily exceed the RHNA, but the state continues to consider/pass strict measures to

address the state's housing shortfall, some of which could potentially penalize the City for failing to meet its RHNA by reducing funding in other areas (such as transportation), or costly litigation against the City.

The following are upcoming important dates in the RHNA process. Staff is monitoring and attending all of these meetings.

- RHNA Subcommittee Meeting (Recommend Preferred Methodology)
  Monday, October 7, 2019
  10:00 a.m. – 12:00 p.m.
- Community, Economic and Human Development (CEHD) Committee Special Meeting (Recommend Preferred Methodology)
  Monday, October 21, 2019
  10:00 a.m. - 12:00 p.m.

- Regional Council Regular Meeting (Approve Methodology)
  Thursday, November 7, 2019
  12:15 p.m. - 2:00 p.m.

Housing Element: Issues and Challenges

6th Housing Element Cycle

The City's final RHNA allocation is still unknown, but the City must begin to prepare for the likely need to address a significantly higher figure than in previous cycles. Since the process to update the Housing Element has an aggressive schedule, staff believes the City Council should begin to consider a hierarchy of issues to address potential RHNA scenarios such as up-zoning and rezoning, an update to the Accessory Dwelling Unit (ADU) ordinance and whether to consider new tools to incentivize affordable housing such as an inclusionary housing ordinance, among other options.

The 6th Housing Element Cycle covers the housing element planning period of October 2021 through October 2029. Major milestones for jurisdictions include the development of the RHNA methodology, distribution of the draft RHNA allocation, a RHNA allocation appeals process, and the adoption of the final RHNA allocation in the third quarter of 2020. The 6th Housing Element Cycle is due to HCD in October 2021. The following is a link to RHNA fact sheet:

http://www.scag.ca.gov/Documents/RHNA-2017factsheet.pdf

Housing Element Update Process

The Housing Element process will take an average of 8-12 months to complete. The City will need to budget for and retain a consultant that will prepare the Housing Element update as well as the required CEQA document. The process also requires public outreach and workshops that should be included in the schedule. If the final RHNA numbers remain high as expected, a General Plan

Amendment and a Code Amendment to up-zone and/or rezone properties, along with additional public outreach, may be needed.

Adopting a Housing Element requires a General Plan Amendment and is subject to at least one public hearing each by the Planning Commission and the City Council. The adopted General Plan update is required to be submitted to HCD for certification; the City's adopted Housing Element is due to HCD by October 2021. Following the adoption, the City will need to follow up with Zoning Code and other policy amendments related to implementation of programs and policies outlined in the Housing Element.

Potential Need to Add Additional Residential Land and/or Density

Given the anticipated higher RHNA allocation and to meet the requirements of state Housing Element law at it relates to the need to identify adequate sites to house the low and very low income component of the RHNA (which requires vacant sites be zoned at a minimum density of 30 dwelling units per acre to so satisfy the siting requirements for low and very low income housing), the City may need to identify areas to rezone at a minimum density of 30 dwelling units per acre. Staff will need to complete further analysis, but there may be adequate sites within the City to meet the moderate and above moderate components of the RHNA; however, additional rezoning may be required should there be insufficient opportunities to address the allocation for all income categories. In addition to new residential development, per recent state legislation, accessory dwelling units (ADUs) can be counted toward the RHNA on a 1-to-1 basis, including the affordable components where the City can show such units are rented within applicable affordability limits.

With new housing legislation (SB 167, AB 678, AB 1515, AB 879 and AB 72 passed in 2017 and 2018), cities are under more pressure to follow state requirements in terms of Housing Element updates and annual reporting of progress toward meeting local RHNA allocations due to the linkage of performance under state housing law and certain state funds and potential penalties for non-compliance. To update the Housing Element and meet its RHNA obligations, the City will first need to identify sites where housing could be developed at a minimum density of 30 dwelling units per acre. Furthermore, the City will need to adopt policies and programs to ensure that these sites are available to developers and are encouraged to be developed. The following discusses the process that the City will need to follow to complete the 6th Housing Element Cycle.

Options to Consider

In developing the required Housing Element, the City Council will likely need to consider several options to address the RHNA, such as, establishing streamlined authorization for up-zoning or rezoning certain areas, and/or creating overlays to allow and incentivize housing development. Other options, such as provisions for ADUs and density bonuses, which are currently in effect, may also need to be refined as tools to meet RHNA requirements.

It should be noted that the City is obligated to provide zoning and incentive opportunities for housing development, but is not itself required to produce housing - actual construction is left to the marketplace. To stay compliant the City must annualy submit the housing production progress to HCD.

Challenges

Measure Y: Measure Y may present challenges in developing a Housing Element that can be certified by the State, although the state-required Housing Element update is exempt from Measure Y.

Measure Y could be an impediment to developers because of the time and uncertainty involved with ballot approval. If approved by the City Council, the proposed One Metro West project with 1,057 units will be subject to Measure Y. The project is a large development and the applicant has committed additional funding to meet this requirement. However, for smaller projects, this opportunity may not be available, thereby making it difficult for the City to complete a certifiable Housing Element and suffer resultant penalties.

Potential Strategies to Provide Adequate Housing Sites

Should it be necessary to meet the RHNA, there are a number of strategies available to the City to add housing opportunities. These include, among others, such items as the continued use of the Urban Plan and Residential Incentive Overlays along with potential revisions to these plans, as well as other potential opportunity sites such as One Metro West and Sakioka Lot 2, many of which are already zoned at sufficient densities to satisfy low and very low income siting requirements. Similar to the proposed One Metro West project, the City could also consider allowing additional residential uses north of the I-405 and within the Airport Industrial Center.

Fairview Developmental Center: The site is currently permitted for up to 582 residential units with a mix of 250 of single family (6 dwelling units per acre on a minimum of 50 acres) and 332 multiple family units (40 dwelling units per acre). Without changing the amount of land allocated to residential uses, additional units could be accommodated at this site through converting some of the single family acreage to 30-40 dwelling units per acre. Other options could also be considered to create additional dwelling units at this site.

ADUs: If pending legislation (described later in this report) is enacted, the City will need to update its ADU ordinance to require no minimum lot size and exempt parking for conversions and ADUs within one-half mile of a transit stop, which could have the potential to add significant number of ADUs throughout the City. HCD has recently allowed counting ADU units toward meeting RHNA, if the City can demonstrate through lease agreements that the units are rented at affordable rates.

Density Bonus: The City's density bonus requirements are consistent with the state law that allows an increase in the maximum density, if a developer meets certain minimum criteria by providing affordable housing.

Potential Affordable Housing Policies

Inclusionary Housing Ordinance: In order to development programs to achieve the lower income RHNA, the City Council may wish to begin exploring an inclusionary housing ordinance. Such a program could require new residential development to provide a certain percentage of affordable units or, as an alternative, to pay an in-lieu fee that the City could use to develop affordable units, likely in conjunction with an affordable housing developer.

Other Neighboring Cities' Approaches to Affordable Housing

City of Santa Ana: The City of Santa Ana requires a minimum of 15 percent of the total number of units in a for-sale project to be sold or rented to low-income households. If a new residential project consists of rental units, then a minimum of 15 percent of the units shall be rented to low-income Households, or 10-percent rented to very low-income households.

City of Irvine: The City of Irvine requires that new residential projects provide a minimum of 15 percent affordable units (5 percent very low, 5 percent low, and 5 percent moderate income). Developers also have the option to meet the inclusionary housing requirement through the payment of an in-lieu fee. The in-lieu fee is intended to allow the City to leverage the funds with an affordable housing developer to develop the equivalent of the 15 percent inclusionary requirement.

Additionally, the City of Irvine has formed a land trust to address affordability. The Irvine Community Land Trust (ICLT) teams up with experienced organizations on each community it develops. These partners provide a number of services ranging from property development and financing to resident services. The City of Irvine supports the ICLT by providing funding for and land for affordable housing development. By 2023, it will have transferred a total of 17 acres.

City of Newport Beach: The City of Newport Beach requires that all new residential development projects include the following percentages of the total number of dwelling units within the residential development:

- 9 percent very low-income households
- 15 percent low-income households

The affordability requirement only applies to newly-created residential units. In the event that the residential development project includes the demolition or conversion of existing residential units, the affordability requirement only applies to the additional units created.

City of Huntington Beach: The City of Huntington Beach requires a minimum of 10 percent of all new residential construction be affordable housing units with any fractional amount allowed to be paid with an equivalent in-lieu fee.

Funding Options for Affordable Housing Development

The City could use federal, state and local funding for affordable housing development. With an inclusionary housing requirement and collection of in-lieu fees, the City can set aside funding for affordable housing development. Other potential funding sources include: the newly-created Orange County Housing Finance Trust, CDBG and Home Funds and SB 2 Funds. Staff will continue to explore other potential sources.

Pending State Housing Legislation

Senate Bill 13 (pending) would modify the current ADU requirements as follows:

- Allows ADUs as a conversion of attached garages, storage areas, or similar uses. Replacement parking could not be required if a garage, carport, or covered parking structure is demolished in conjunction with the construction or conversion of an ADU.
- A maximum size less than 850 square feet for an ADU with one or less bedrooms or up to 1,000 square feet for one bedroom.
- Delays the requirement for owner occupancy of the site for five years.
- Reduces the application approval timeframe to 60 days.
- Provides for a tiered schedule of impact fees based on the size of the ADU as follows: a) Zero fees for an ADU of less than 750 square feet; and b) Proportional to the size of the primary dwelling unit for an ADU of 750 square feet or more.
- Requires HCD to review and submit findings to the local agency as to whether it complies with ADU law. If HCD finds it does not, the local agency shall consider HCD's findings and may either change the ordinance to comply or make findings as to why the ordinance complies despite HCD's findings.
- Requires a local agency to delay enforcement for five years of a violation of any building standard, if correction is not necessary to protect health and safety, for all ADUs built before January 1, 2020 and those built thereafter in jurisdictions that, at the time the ADU was built, were not in compliance with the state's ADU statutes.
- No parking requirements for ADUs within half mile of a public transit and defines public transit as including bus stops with fixed routes.
- Allows counting ADUs to be included as identifying adequate sites for affordable housing.

Other enrolled (but not yet approved) legislation also may revise ADU laws. For example:

- AB 68 – additionally prohibits cities from establishing lot coverage and lot size requirements that would prohibit the installation of at least 800 square foot ADUs with rear and side-yard setbacks of four feet.

- AB 69 – Requires the Department of Housing and Community Development (HCD) to submit standards for ADUs and Junior ADUs.
- AB 670 – Requires common interest developments (e.g., homeowners associations) to allow certain ADUs despite their covenants, conditions and regulations ("CC&R's").
- AB 671 – Requires cities to incentivize the development of ADUs in the housing element
- AB 881 – ADU bill similar to SB 68 and SB 13.

There are a number of additional housing bills that have been enrolled, but not yet approved:

- SB 5 – Creates state operated housing fund to allocate $200-$250 million annually for affordable housing, transit-oriented development, high density infill, local community engagement efforts, and certain construction work to protect against the impacts of climate change
- AB 330 – Streamlines approval of emergency shelters.
- AB 1483 – Revises housing reporting requirements.
- AB 1763 – Expands the density bonus law to add incentives and concessions for projects that are 100% affordable. Expands incentives/concessions for additional types of affordable projects. For example, sometimes prohibits a city from imposing any parking requirements on certain low-income rental or special needs housing developments.

ALTERNATIVES:

No alternatives were considered for this study session.

FISCAL REVIEW:

There are no costs associated with this study session. Future actions necessary to develop and adopt the required Housing Element will results in direct costs to the City (consultant to prepare the Housing Element) and the potential for other costs, such as costs related to additional services necessary to serve additional housing. These issues will be considered and addressed in conjunction with future actions.

LEGAL REVIEW:

This report has been reviewed and approved as to form by the City Attorney's Office.

COUNCIL GOALS AND PRIORITIES:

The study session addresses City Council Goals 4(c) and 4(d) as they relate to anticipating and planning for the new RHNA and the required Housing Element update in a manner that will take into consideration protection of traditional suburban neighborhoods.

CONCLUSION/ SUMMARY:

The City is required to complete an update to its Housing Element by October 2021. The required update must include programs and sites to meet the RHNA requirements. Staff is providing this information in advance of the final RHNA allocation to provide the City Council with an early opportunity to begin to consider options to address the forthcoming RHNA and to provide staff with direction to study and return to the Council with additional information in advance of preparation of the required Housing Element update.

_____
MINOO ASHABI, AIA
Principal Planner

_____
BARRY CURTIS, AICP
Director of Economic and Development Services

_____
KIMBERLY HALL BARLOW
City Attorney

Attachment: 1- City's Comment Letter to SCAG