

DIXON PLANNING COMMISSION

RESOLUTION NO. 2023-005

A RESOLUTION OF THE DIXON PLANNING COMMISSION RECOMMENDING TO THE DIXON CITY COUNCIL SUSPENSION OF MEASURE B, THE CITY OF DIXON'S RESIDENTIAL GROWTH IMPLEMENTATION PLAN, FOR THE TERM OF THE 6TH HOUSING ELEMENT CYCLE, IN ACCORDANCE WITH STATE LAW PROHIBITING ENFORCEMENT OF SUCH MEASURES

WHEREAS, in 1986, City of Dixon ("City") voters approved Measure B, a residential growth control initiative, which was later reaffirmed by voters in 1996; and

WHEREAS, Measure B is codified in Dixon Municipal Code ("DMC") Chapter 18.48. Measure B caps annual building permits at three percent (3%) of the total units existing in the prior calendar year; and

WHEREAS, in 2019, the State Legislature adopted Senate Bill No. 330, which included the Housing Crisis Act ("HCA") (codified at Government Code section 66300 et seq.), and states that, "In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years"; and

WHEREAS, to assist in the achievement of State housing goals, the HCA prohibits a city or county from establishing a new, or enforcing an existing, growth-control measure, that would limit the number of approvals or permits, or cap the number of housing units, that can be approved or built within a given time period (Gov. Code, § 66300(b)(1)(D)); and

WHEREAS, the HCA provides an exception allowing enforcement of an existing growth control measure, if that jurisdiction and the growth control measure meet certain criteria provided in Government Code section 66300(b)(1)(E); and

WHEREAS, Government Code section 65580 et seq. ("Housing Element Law") requires cities to update their Housing Elements on a regular basis every eight (8) years. Housing Elements identified as part of 6th Cycle Housing Elements, including for the City, must be adopted by January 31, 2023; and

WHEREAS, the City's Housing Element must contain programs and policies that demonstrate the City can attain its assigned Regional Housing Needs Allocation for the Housing Element Planning Period; and

WHEREAS, the City commenced updating its 6th Cycle Housing Element (2023-2031) in 2021; and

WHEREAS, pursuant to State Law, the Draft 2023-2031 Housing Element was submitted to HCD on September 27, 2022, for the prescribed 90-day review; and

WHEREAS, on December 6, 2022, HCD contacted the City with questions and concerns about the Draft Housing Element, and based upon those questions and concerns, City staff revised the Draft Housing Element on December 14, 2022, to include additional information and data and posted the document publicly. On December 21, 2022, the City resubmitted the revised Draft Housing Element to HCD; and

WHEREAS, on December 21, 2022, the City received a letter from HCD providing its formal comments and findings regarding the Draft Housing Element; and

WHEREAS, comment #3 from HCD's December 21, 2022, letter stated: *"Currently, Measure B, a voter approved growth management initiative, limits annual residential growth in the City to a number of dwelling units that is no more than three percent of the total number of housing units as of December 31st of the prior calendar year. The Housing Crisis Act of 2019 (SB 330, 2019) was signed by Governor Newsom on October 9, 2019, and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, §66300) generally prohibits a locality from enacting a development policy, standard or condition that reduces intensity, imposes moratoriums, enforces subjective design standards or implements any provision that limits approvals or caps population. These provisions remain in effect until January 1, 2030. Specifically, Government Code section 66300, subdivision (b)(1)(D), with limited exception, does not allow affected jurisdictions to adopt new or enforce existing limits on the number of land-use approvals or permits. The City should evaluate consistency with these requirements and if necessary, immediately void or suspend the annual growth cap. In addition, the element should also suspend the implementation of Program 3.1.1 until after January 1, 2030."*; and

WHEREAS, in response to the December 21, 2022, letter received from HCD, City staff reviewed the provisions of the HCA and Measure B to determine if continued enforcement of Measure B would violate the HCA; and

WHEREAS, Dixon does not meet one of the two (2) requirements specified in the HCA, which would allow continued implementation of a growth control measure, such as Measure B. Any such measure must be adopted prior to January 1, 2005, and the city must be located in a "predominantly agricultural county". Although Measure B was enacted by voters prior to January 1, 2005, Solano County does not meet the definition of "predominately agricultural county," as defined by Government Code Section 66300 (b)(1)(E); and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA") and the CEQA Guidelines (Title 14 California Code of Regulations section 15000 et seq.), an Environmental Impact Report was prepared for the Dixon General Plan 2040, which determined that the adoption of the General Plan 2040 may have potentially significant impacts to the environment; and

WHEREAS, on May 18, 2021, the City Council adopted Resolution No. 21-098 certifying the Final Environmental Impact Report for the General Plan 2040 (*State Clearinghouse No. 2018112035*), including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program; and

WHEREAS, the City has prepared an Addendum to the General Plan 2040 Environmental Impact Report related to the Housing Element Update ("Addendum"), which determines that none of the conditions described in CEQA Guidelines section 15162 will occur;

and through separate Resolution, recommended adoption of the Addendum to the Dixon General Plan 2040 FEIR; and

WHEREAS, on January 23, 2023, the City published a revised Draft Housing Element which contained revisions in response to all of HCD's December 21, 2022 comments and findings. The City then noticed a public hearing before the Planning Commission to recommend adoption of the 6th Cycle Housing Element; and

WHEREAS, on February 14, 2023, the Planning Commission conducted a duly and properly noticed public hearing, reviewed the Addendum, the Housing Element and Suspension to Measure B and all pertinent maps, documents and exhibits, including HCD's findings, the City's response to HCD's findings, the staff report and all attachments, including an oral presentation at the meeting, and opened and closed the public hearing, accepting all oral and written public comments. Due to an issue with the agenda, the Commission unanimously voted (6-0-1, Commissioner Diaz absent) to continue the matter to their next meeting (March 14, 2023), to allow staff to correct the agenda; and

WHEREAS, on March 14, 2023, the Dixon Planning Commission, following notification in the prescribed manner, conducted a continued public hearing at which the Planning Commission considered the Project, received public testimony and evidence, and received a staff report and presentation on Draft Housing Element and determined the Housing Element to be consistent with State Law and General Plan 2040 and determined that Measure B should be suspended to be consistent with State law; and

WHEREAS, through separate Resolution, the City considered adoption of the 2023-2031 Housing Element; and .

WHEREAS, the staff report and supporting materials accompanying this Resolution are found to be true, are adopted as facts and findings, and are incorporated by reference in this Resolution.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby finds that, based on substantial evidence in the record:

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. The Addendum to the General Plan 2040 EIR prepared for the 2023-2031 Dixon Housing Element has been completed in compliance with CEQA and the CEQA Guidelines.
 - a. The Addendum to the General Plan EIR was presented to the Planning Commission, which independently reviewed and considered the Addendum, and the Planning Commission has exercised its independent judgment in making its recommended findings and determinations set forth herein, to the City Council.
 - b. Based on the evidence submitted and as demonstrated by the analysis and findings included in the Addendum, none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent environmental impact report have occurred.

3. Measure B provisions specifying limits on annual housing approvals or permits are in conflict with the HCA statute adopted by the State of California, and such provisions are preempted and unenforceable to the extent that Measure B and its implementing regulations are in conflict with the provisions of the HCA.

BE IT FURTHER RESOLVED, the Planning Commission hereby recommends to the City Council that Measure B be suspended through the term of the 6th Cycle Dixon Housing Element ("Housing Element Planning Period"), subject to the following findings and directions concerning enforcement of Measure B:

- a. The purpose of this Resolution is to bring the City into compliance with the HCA as part of its 6th Cycle Housing Element Update.
- b. As provided in the HCA, pursuant to Government Code section 66300(b)(1)(D), for the duration of the Housing Element Planning Period, the City shall not take any action implementing or enforcing any provision of Measure B that does any of the following:
 - a. Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within any portion of the City.
 - b. Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.
 - c. Limits the population of the City.
- c. Measure B currently caps new dwelling units at three percent (3%) of the total housing units existing in the prior calendar year. (DMC, § 18.48.010(A).) In accordance with the HCA and for the duration of the Housing Element Planning Period, City officers and employees shall not take any action, as would otherwise be required by Measure B, that would limit or cap the number of new housing units that are approved, granted building permits, or constructed in any given time period.
- d. Certain development applicants within the City may have previously received a residential development allotment pursuant to Measure B, which limits the number of approvals or new building permits that the development applicant may receive for a given time period. For the duration of the Housing Element Planning Period, development applicants who have previously received a residential development allotment pursuant to Measure B shall not be subject to any limits, as provided by Measure B ordinances and regulations, on the number of units that can be approved or constructed in a given time period.
- e. For the duration of the Housing Element Planning Period while enforcement of portions of Measure B are suspended, the Community Development Director may continue to track and maintain records relating to Measure B residential development allotments.
- f. As of the date of this Resolution, the HCA (referring to Chapter 12 of the Government Code containing Government Code sections 66300-63001) is set to expire as of January 1, 2034. (Gov. Code, § 66301(b).) In conjunction with the City's next Housing Element Update, the Community Development Director shall undertake a review and evaluation of any continuing conflicts between Measure B and State Law.

BE IT FURTHER RESOLVED, the Planning Commission recommends that the City Council direct the Community Development Director, in conjunction with transmittal of the adopted Housing Element to HCD, to transmit a copy of the final City Council Resolution suspending Measure B to HCD.

ADOPTED at a regular meeting of the Planning Commission of the City of Dixon, State of California, on the 14th day of March 2023:

AYES: Cooley, Davis, Koster, Caldwell

NOES: None

ABSENT: Diaz, Hernandez-Covello, Medrano



JACK CALDWELL, CHAIR
DIXON PLANNING COMMISSION

Attest:


for: _____
BRANDI ALEXANDER
DEPUTY CLERK/SECRETARY