



Revision to ASR and/or Attachments

Date: December 9, 2024
To: Clerk of the Board of Supervisors
CC: County Executive Office *M. Aguirre*
From: Nicole Walsh, Senior Assistant County Counsel *Nicole Walsh*
Re: ASR Control #: 24-000949, Meeting Date December 17, 2024, Item No. # 33

Subject: **ADOPT GENERAL PLAN AMENDMENT H20-01 (6TH CYCLE HOUSING ELEMENT)**

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 Date: 2024.12.11 07:37:21 -0800

Explanation:

Since submission of the Housing Element for review and adoption by the Board, the Ninth Circuit Court of Appeals, on December 4, 2024, ruled on a case relevant to a portion of Program 8 in the County’s Draft Housing Element. The case, *The Ohio House, LLC v. City of Costa Mesa, et al. (Ohio House)* Ninth Circuit Court of Appeals Case No. 22-56181 (December 4, 2024), which is certified for publication, upholds the City of Costa Mesa’s Group/Sober Living Homes ordinances against facial challenges under the Federal Fair Housing Act, the California Fair Employment and Housing Act, and the California Planning and Zoning Law, alleging that the City’s ordinances were discriminatory against the disabled.

The County had, at the direction of the Department of Housing and Community Development (HCD), included in Program 8, a program to address and significantly alter, the County’s Group Home/Sober Living Home Ordinance. To secure a substantial compliance letter, HCD specifically required the following text be included in the County’s draft Housing Element as part of Program 8:

“The County will revise the ordinances to allow all group and sober living homes as principally permitted uses in all mixed-use and multifamily zoning districts and to assure that any group home or sober living facility that operates as a single housekeeping unit are permitted in any zoning district. The definition of single housekeeping unit will be revised to eliminate the requirement that the residential activities occur on a nonprofit basis and that the residents share lease agreements or ownership. In addition, the standards for group and sober living homes in single family residential areas shall be objective and not unnecessarily constrain approval of group and sober living homes in that zoning district.”

The County was required to implement this program by July 2025. Given the ruling in *Ohio House*, County Counsel and OC Development Services Recommend removing

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this language in Program 8 and replacing it with new language as set forth in the new attachment and Recommended Action.

Revised Recommended Action(s)

Revise Recommended Action No. 3 and add new Recommended Actions Nos. 4 and 5 as follows:

1. Find that Final Negative Declaration No. IP 22-0133 approved by the Board of Supervisors on September 27, 2022, and Addendum No. 1 to Negative Declaration No. IP 22-0133 approved by the Board of Supervisors on June 25, 2024 (Attachment A), prepared for Housing-Related Updates to the County of Orange General Plan and Comprehensive Zoning Code, adequately address the effects of the Housing-Related Updates, reflect the independent judgment of the County of Orange as lead agency and are approved for the proposed project based on the following additional findings:
 - a. That the circumstances of the project are substantially the same and Negative Declaration No. IP 22-0133 and Addendum No. 1 to Negative Declaration No. IP 22-0133 adequately address the effects of the proposed project; no substantial changes have been made in the project.
 - b. No substantial changes have occurred in the circumstances under which the project is being undertaken; and no new information of substantial importance to the project which was not known or could not have been known when the Negative Declaration No. IP 23-0133 and Addendum No. 1 to Negative Declaration No. IP 22-0133 were adopted has become known.
2. Conduct the public hearing.
3. Consider the matter, and adopt Resolution (Attachment B) to adopt General Plan Amendment H20-01 (6th Cycle Housing Element).
4. *Direct Staff, prior to submission of the Housing Element to the Department of Housing and Community Development, to revise the Housing Element by striking language reflected in the redlines shown in Attachment B: ~~Given HCDs guidance on County ordinances relating to Group and Sober Living Homes, the County will revise the ordinances to allow all group and sober living homes as principally permitted uses in all mixed-use and multi-family zoning districts and to assure that any group home or sober living facility that operates as a single-housekeeping unit are permitted in any zoning district. The definition of single-housekeeping unit will be revised to eliminate the requirement that the residential activities occur on a nonprofit basis and that the residents share lease agreements or ownership. In addition, the standards for group and sober living homes in single family residential areas shall be objective and not unnecessarily constrain approval of group and sober living homes in that zoning district.~~*

*Stricken language will be replaced with new language as follows: "The County will review and may modify the group and sober living home ordinances in light of the decision in *The Ohio House v. City of Costa Mesa, et al. Ninth Circuit Court of Appeals Case No. 22-56181 (December 4, 2024)* and any subsequent relevant cases."*

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~~The County will revise the ordinances to allow all group and sober living homes as principally permitted uses in all mixed-use and multi-family zoning districts and to assure that any group home or sober living facility that operates as a single housekeeping unit are permitted in any zoning district. The definition of single housekeeping unit will be revised to eliminate the requirement that the residential activities occur on a nonprofit basis and that the residents share lease agreements or ownership. In addition, the standards for group and sober living homes in single-family residential areas shall be objective and not unnecessarily constrain approval of group and sober living homes in that zoning district.~~

5. *Adopt Resolution (Attachment B) to adopt General Plan Amendment H20-01 (6th Cycle Housing Element) with the revisions directed herein.*

Make modifications to the:

- Subject Background Information Summary Financial Impact
 Revised Attachments (attach revised attachment(s) and redlined copy(s)) New

Attachment:

Attachment B - Board of Supervisors Resolution and Exhibits – General Plan Amendment H20-01 (Housing Element)