



# STAFF REPORT

**TO:** CLAYTON CITY COUNCIL

**FROM:** Kraig Chalem, Senior Planner

**DATE:** January 6, 2026

**SUBJECT: Approve Resolution No. 01-2026 of the City Council of the City of Clayton Authorizing Revision of Resolution No. 06-2023 to Add a Finding Supporting the City's Housing Element Update and Introduce an Ordinance Amending the Clayton Municipal Code to Add Subsection 17.36.079 to Chapter 17.36 (General Regulations) of Title 17 (Zoning) Related to by Right Affordable Housing of Housing Element Opportunity Sites**

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## **RECOMMENDATION**

That the City Council for the City of Clayton conduct a Public Hearing, accept written and spoken testimony, close the public hearing and adopt the attached Resolution No. 01-2026 authorizing revision to City's Housing Element Resolution noting that certain properties characteristics demonstrate that they are identified for redevelopment and are not impediments to additional residential development, and introduce an Ordinance amending the Clayton Municipal Code to add subsection 17.36.079 to Chapter 17.36 of Title 17 to clearly state that developments meeting affordable housing requirements are allowed by right.

## **BACKGROUND**

On January 17, 2023, the Clayton City Council adopted the Housing Element Update (HEU) for the 6th Housing Cycle, approved in December 2022. Following the public hearing, the City Council adopted Resolution No. 06-2023 certifying the Final Environmental Impact Report (EIR) prepared for the project and adopting the update to

## **DISCUSSION**

The City Council adopted the Housing Element on January 17, 2023, within the statutory deadline. After adoption, the City submitted the element to HCD for certification. HCD had many comments and staff followed up.

Staff had thought that all issues had been resolved with HCD. However, as noted above, HCD had two additional comments, which staff seeks to satisfy by essentially amending Resolution No. 06-2023, to incorporate a finding as noted below in the first bullet, and as noted in the second bullet amending the zoning code to satisfy state requirements regarding entitlements.

On December 23, 2025, staff presented the Resolution revision and proposed Ordinance to the Clayton Planning Commission, and the Commissioners recommended that the City

Council review and approve the Resolution and Ordinance as proposed.

Staff recommend the City Council review and approve the revision to City's HEU (Resolution, Attachment 'A'). So, the final revision addresses the following bullet points, and satisfies HCD's requirement for the subsequent certification of City's Housing Element Update:

HCD requires that the City make a finding that certain properties within the City of Clayton have been identified as referenced, likely to redevelop and do not constitute impediments to redevelopment within the planning period; and,

HCD requires that the Clayton Municipal Code reflects a state requirement that a non-vacant site that has been identified as a housing opportunity site in the City's prior housing element and a vacant site that has been included in two or more consecutive housing element planning periods shall be an allowed residential use by right if it at least 20% of the units are deed-restricted affordable units.

To effectuate this proposed change, staff recommends adopting Resolution No. 01-2026 authorizing revision to City's Housing Element Resolution noting that certain properties characteristics demonstrate that they are identified for redevelopment and are not impediments to additional residential development and Ordinance 502 amending Chapter 17.36 (General Requirements) of Title 17 (Zoning) by adding subchapter 17.36.079 (Housing Element Opportunity Sites) as follows:

**“17.36.079 - Housing Element Opportunity Sites.**

Pursuant to Government Code section 65583.2(c), a non-vacant site that has been identified as a housing opportunity site in the City's prior housing element and a vacant site that has been included in two or more consecutive housing element planning periods shall be an allowed residential use by right for housing developments where at least twenty percent of the units are affordable to lower income households. Pursuant to Government Code section 65583.2(i), the development shall comply with all objective development standards, and a proposed subdivision of the property shall be subject to all applicable laws. If applicable, such projects shall be subject to design review.”

### **CEQA**

On January 17, 2023, in accordance with the California Environmental Quality Act (CEQA, Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, section 15000 et seq.), the Clayton City Council certified a Final Environmental Impact Report (EIR; State Clearinghouse No. 2022030086) that analyzed the potential impacts on the environment that could occur with adoption of the Housing Element update and related amendments to land use regulations. The additional finding and the housing-related Zoning amendment as summarized above are within the scope of the project analyzed in the certified EIR.

the Housing Element and the associated Land Use Element and Land Use Diagram amendments. City Council Resolution No. 06-2023 (as well as the Planning Commission Resolution No. 04-2022) recommending adoption of the General Plan amendments.

At its January 16, 2024, meeting, the City Council adopted amendments to Clayton Municipal Code Title 17 (Zoning) to implement certain adopted Housing Element policies. The HEU and zoning amendments were forwarded to the State Housing and Community Development

Agency (HCD) for certification process by the Agency. The correspondence between the City and HCD has been ongoing for that certification, resulting in HCD's requirement for the subject amendments. Subsequently, HCD requires that the City make a finding that certain properties within the City of Clayton have been identified as being likely redeveloped and do not constitute impediments to redevelopment within the planning period. Additionally, HCD requires that the Clayton Municipal Code reflects a state requirement that a non-vacant site that has been identified as a housing opportunity site in the City's prior housing element and a vacant site that has been included in two or more consecutive housing element planning periods shall be an allowed residential use by right if it has at least 20% of the units are deed-restricted affordable units.

### **FISCAL IMPACT**

There are no immediate fiscal impacts associated with the project.

### **ATTACHMENTS**

[Att A - Resolution 20260106](#)

[Att B- Ordinance Amending Title 17-c1.](#)