



CITY OF HUNTINGTON BEACH

City Council Meeting – Council Member Items Report

To: City Council

From: Gracey Van Der Mark, Mayor
Pat Burns, Mayor Pro Tem
Casey McKeon, Council Member

Date: July 2, 2024

Subject: **PROPOSED CHARTER AMENDMENT – ENVIRONMENTAL PROTECTIONS
FOR GENERAL PLAN AMENDMENTS**

ISSUE STATEMENT

The City Council has a duty to protect the City's environment and typically does so by complying with the State's environmental laws set forth in the California Environmental Quality Act (CEQA). As we have seen with recent State mandates for high-density housing, the State of California is imposing a draconian development policy on our City that demonstrates a disregard for our precious environment, natural resources, quality of life, and even for CEQA.

The environmental review of the City's proposed 2023 Housing Element update revealed that the State's high-density housing quota of 13,368 new units, which translates to 41,000 new units at a 20% inclusionary rate of development, would present several "significant and unavoidable" negative impacts to our environment. Those impacts include permanent reduction in our groundwater supply, permanent increase in greenhouse gases and air pollutants, permanent noise pollution, increased traffic and congestion, and threats to our local wildlife and natural undeveloped regions such as wetlands and large parks. The official Environmental Review document is attached to this item as Exhibit A.

Further, as part of the City's Housing Element update, the State expects the City Council to adopt a Statement of Overriding Considerations that essentially states that "the benefits of the State's proposed high-density housing of 13,368 new units outweighs the known significant and unavoidable negative impacts to the City's environment." The proposed Statement of Overriding Considerations that identifies the harm to our environment is attached to this item as Exhibit B.

In April 2023, the City Council was unable to make or adopt this Statement of Overriding Considerations and made clear on the record their unwillingness to "sell out" the City's environment in favor of the State's misguided and onerous high-density development demands. The people of Huntington Beach should have a voice in whether the exchange of the City's current pristine environmental conditions for the State's high-density housing mandates is acceptable. Further, the residents of Huntington

Beach should decide if they are willing to live with the long-term permanent negative impacts to the City's environment that are presented by the State's high-density development scheme.

The City has Constitutional rights under Article XI, Section 5 of the California Constitution for local control, just as the City Charter currently sets forth in its Preamble and Sections 103 and 104, that local control, known as "home rule," applies to municipal affairs. For decades, and even now, California law has recognized that a Charter City's planning and zoning of its land is a local, "municipal affair," beyond the reach of State interference and control. This concept was reaffirmed in a recent decision in the *City of Redondo Beach, et al., v. Rob Bonta*, in his capacity as California Attorney General, Case No. 22STCP1143 (2024), where the State was stopped from imposing its zoning policies on Charter Cities and the State's SB 9 was declared unconstitutional as applied to Charter Cities.

The City Charter Preamble states "We, the people of the City of Huntington Beach, State of California believe fiscal responsibility and the prudent stewardship of public funds is essential for confidence in government, that ethics and integrity are the foundation of public trust and that just governance is built upon these values. Through the enactment of this Charter as the fundamental law of the City of Huntington Beach under the Constitution of the State of California, we do hereby exercise the privilege of retaining for ourselves, the benefits of local government, by enacting the laws, rules, regulations and procedures set forth herein pertaining to the governance and operation of our City. It is incumbent upon those who govern and make decisions for and on behalf of the City of Huntington Beach to legally, as well as morally, abide by the provisions of this Charter, in its strictest sense, to ensure the continued success and well-being of our fair City."

Huntington Beach City Charter Section 103 states "The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California."

Huntington Beach City Charter Section 104 states "The general grant of power to the City under this Charter shall be construed broadly in favor of the City. The specific provisions enumerated in this Charter are intended to be and shall be interpreted as limitations upon the general grant of power and shall be construed narrowly. If any provisions of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter and the application of such provision to other persons or circumstances, shall not be affected thereby."

RECOMMENDED ACTION

Place on the November 2024 Ballot a proposed Charter Amendment stating that "No City initiated general plan amendment or zoning change may be approved by the City where the related environmental review (EIR) finds the same proposed general plan update or zoning change presents "significant and unavoidable" negative impacts to the environment, without first receiving approval by a vote of the people." The proposed

Charter Amendment should include language to the effect of "City Planning and Zoning is a local, "municipal affair," beyond the reach of State control or interference; and City Planning and Zoning is a local activity reserved for the City and its people, and not the State."

Direct staff to bring back a proposed November 2024 ballot initiative within thirty (30) days for City Council approval.

ENVIRONMENTAL STATUS

This action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has not potential for resulting in physical change to the environment, directly or indirectly.

STRATEGIC PLAN GOAL

Goal 5 - Housing, Strategy A - Take action to maintain local control of land-use planning.

ATTACHMENTS

1. Exhibit A – Environmental Review (EIR)
2. Exhibit B – Statement of Overriding Conditions