



City Council Agenda Report

ITEM NO. 6

DATE: July 31, 2024

FROM: Donald Penman, Interim City Manager

PREPARED BY: Angelica Frausto-Lupo, Community Development Director
Roxanne Diaz, City Attorney

SUBJECT: **CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, ORDERING THAT A MEASURE BE SUBMITTED TO THE VOTERS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 RELATED TO BUILDING HEIGHTS IN ALL ZONING DISTRICTS OF THE CITY IN ORDER TO PROTECT THE CITY'S RESIDENTIAL CHARACTER, PRESERVE LOCAL CONTROL AND INCREASE HOUSING OPPORTUNITIES, INCLUDING AFFORDABLE HOUSING FOR MIDDLE AND WORKING CLASS FAMILIES, INDIVIDUALS AND SENIORS AS NECESSARY TO IMPLEMENT THE 2021-2029 (6TH CYCLE) HOUSING ELEMENT; AND APPROVE AN APPROPRIATION IN THE AMOUNT OF \$5,630**

Recommendation

It is recommended that the City Council adopt the Resolution ordering that the measure be submitted to the voters of the City at the General Municipal Election to be held on November 5, 2024, related to building heights in all zoning districts to implement the 2021-2029 (6th Cycle) Housing Element.

Background

The proposed resolution pertains to the placement of a measure on the November 5, 2024 ballot to address the current 45-foot building height limit adopted by a voter-initiative. This measure is required to be placed on the November 5, 2024 ballot under the terms of a settlement agreement the City entered into with Californians for Homeownership. It is also a requirement set forth in Program 2.n of the 2021-2029 (6th Cycle) Housing Element (Housing Element).

With respect to the voter-initiative, in July 1983 at a special election, the voters at a special municipal election adopted an initiative that established that no commercial, office, manufacturing or residential building in the City of South Pasadena would exceed a height of 45 feet and that no variance or conditional use permit would be granted to allow such buildings to exceed 45 feet. Specifically, the language of the 1983 voter initiative is as follows:

“No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five per

cent (5%) of the required spaces.”

This 1983 voter-initiative was referred to as “Measure 1” and narrowly passed by a vote of 2531 to 2262, a difference of 269 votes. Measure 1 is also referred as the “45-foot height limit.” A copy of Measure 1 is set forth in Attachment 1 to this report.

Since the passage of Measure 1, the State of California’s ongoing housing shortage has worsened and the sentiments of lawmakers in Sacramento regarding housing and the ability of cities to maintain local control over land use has dramatically shifted. Since 2017, over 100 housing laws have gone into effect to: (i) increase and expedite housing production, (ii) substantially limit a city’s ability to maintain local control over land use and (iii) provide more tools to the Department of Housing and Community Development (“HCD”) and the Attorney General’s office to ensure that revisions to local zoning laws effectively comply with these state laws and guidelines.

In the Turner Center for Housing Innovation 2023 California Housing Legislative Round Up published on October 9, 2023, they succinctly and correctly summed up the current situation as follows: “The state legislature has continued its remarkable run over the last several years of providing developers of deed-restricted affordable housing ever more flexibility to exceed or override local zoning, greater certainty on the timing and likelihood of planning approvals, and substantial relief from CEQA review and litigation.” We expect that this will continue with the bills proposed for the 2024 legislative season.

In California, every city is required to adopt a comprehensive, long-term, General Plan for the physical development of law within its jurisdiction. The General Plan must include, among other requirements, a housing element that identifies the existing and future housing needs of the city as determined by the State. The housing element in turn contains the required housing programs and strategies to accommodate a city’s assigned housing needs.

The State assigns each city a total number of housing units that the city must plan for in specific price point categories that the housing should seek to target (i.e. very low income, low income, moderate income, and above moderate income). The assignment is accomplished through the Regional Housing Needs Assessment (“RHNA”) process. In the 2021-2029 housing cycle, after the City appealed its housing allocation, the City’s RHNA housing allocation was 2,067 units. This means that the City is required to plan and create zoning that would allow for the housing units to be built during the planning period. In general, it is the private sector market that will build the housing units taking into consideration various factors such as the economy, interest rates, etc. The City is not required to build units but is required to plan and create the zoning to accommodate the RHNA housing allocation.

Based on input from the City’s residents as part of the General Plan adoption process, future units are planned to be located in existing commercial and mixed-use residential areas and along arterial corridors that have access to services, shopping and public transportation.

Accordingly, the City has increased zoning densities in multi-family zones, adopted the Downtown Specific Plan, Mixed Use Overlay Zone and the Housing Opportunity Zone in an effort to plan for its RHNA obligation as well as provide housing opportunities, including affordable housing, for middle and working class families, individuals and seniors.

The City of South Pasadena began its Housing Element process in early 2020. During the

course of developing the Housing Element, the City was sued on April 12, 2022 by Californians for Homeownership for non-compliance with State Law for failing to have adopted a compliant housing element by October 15, 2021 (*Californians for Homeownership v. City of South Pasadena*), LASC Case Nos. 22STCP01388 & 22STCP01161). On August 15, 2022, the City entered into a settlement agreement with Californians for Homeownership to resolve the lawsuit, and the settlement agreement committed the City to a number of actions, including but not limited to: completing the necessary rezoning to support the Housing Element within 120 days of the adoption of the Housing Element; and addition of a program to seek, through voter approval, the removal of the City's existing 45-foot height limit for at least any parcel identified in the Housing Element for which the base density is anticipated to exceed 50 dwelling units per acre. On August 19, 2022, the Court entered a Stipulated Judgment agreed upon by the parties, which committed the City to adopting a housing element certified by or eligible for certification by HCD no later than May 31, 2023. The settlement agreement and the Stipulated Judgment is referred to collectively as the "Court Order." The Court Order is included as Attachment 2 to this report.

As the City continued drafting of the Housing Element, HCD identified the 45-foot height limit as a potential constraint to housing development in the City, when applied to areas with allowable base residential densities in excess of 50 dwelling units per acre. To address this constraint, Program 2.n. was included and adopted as part of the Housing Element. Program 2.n requires the City to place a ballot measure on the November 2024 election to address the current 45-foot building height limit. The Program, however, does not require the repeal of the height limit city-wide. The Program language states that the City will seek "the repeal of the current height limit of 45 feet as to at least any residential or mixed-use (including residential) project on which the housing element anticipates a base density in excess of 50 units/acre. A copy of Program 2.n is included as Attachment 3 to this report.

Analysis

Overview of Approach

With regard to the approach of what the City is asking the voters to approve, it is clear that the total repeal of the 45-foot height limit is not necessary or requested. Therefore the ordinance that would be adopted by the ballot measure would retain the 45-foot height limit in the Residential Estate Zoning District, Residential Single-Family Zoning District and the Overlay District of Altos de Monterey (which is part of the City's hillside area).

As for the remaining Zoning Districts the ordinance will repeal the 45-foot height limit and the maximum height will be set by ordinance adopted through a public process. In order to implement Program 2.n., the ordinance provides that when establishing the maximum height for any residential or mixed use (including residential) building or structure in any Zoning District with a base density in excess of 50 dwelling units per acre, the height limit shall be adopted by ordinance and set at a height limit to achieve the applicable base density. The City Council will be guided by technical studies and/or technical analysis in determining the appropriate height to achieve the allowed base density. Staff has heard from residents in our meetings about the importance of having technical studies to educate what the appropriate height should be as there is not a one-size fits all approach. This flexible approach meets the requirements of the Housing Element to provide for increased density in some areas, while still protecting against excessive building heights in other areas of the City.

The Zoning Districts that contain a base density in excess of 50 dwelling units per acre include

areas set forth in the Downtown Specific Plan, specifically the Mixed Use Core Zone and the Fair Oaks Corridor Zone, and the Mixed Use Overlay Zone, the Housing Opportunity Overlay Zone, certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas.

It should be noted that in addition to density, the City has taken additional steps to ensure that affordable units will be built. The City adopted an Inclusionary Housing Ordinance that requires any project with ten or more units to dedicate a portion of the units as affordable. Accordingly, if such housing is built, affordable units will be part of the unit-mix. Affordability is also a function of market forces, and having more available units on the market—both affordable and market-rate units—typically results in a more stable leasing environment as well providing options for a variety of housing types. We know that this is important to residents as South Pasadena is a community where young people who grew up here want to come back and raise their own families in the schools and programs they attended as children. Also, seniors have a great desire to stay and retire in the City. Last, the goal of our housing programs is to provide the zoning that will also allow for the creation of housing for our middle and working class families.

It is Staff's position that this approach maximizes the City's ability to retain local control over its zoning and land use in that low-density areas will maintain their current height limits and not exceed 45-feet. This includes areas of the City in the hills that have narrow streets and generally no sidewalks wherein development is likely limited to infill with some opportunities for accessory dwelling units. With respect to the areas that have a base density in excess of 50 dwelling units per acre, many of these areas are near transit and commercial services and contribute towards creating a pedestrian-oriented environment where residents can walk to restaurants and businesses and do not have to depend on a car. The creation of housing in these areas also would encourage the onset of new businesses and create new customers for existing local small businesses, which are one of the hallmarks of the City.

Resolution Placing the Question on the Ballot

In terms of logistics, the Elections Code requires the adoption of the attached Resolution (Attachment 4) in order to place this measure before the voters. The Resolution would cause the following title and question to be submitted to the voters:

South Pasadena Neighborhood Preservation, Local Control

"To protect South Pasadena's single-family neighborhoods' residential character; maintain local control over local land use; improve affordable housing opportunities for middle/working class families/individuals/seniors; retain/attract local businesses; shall an ordinance be adopted retaining existing height limits in single-family residential neighborhoods; restricting multi-unit housing in commercial/mixed use corridors/neighborhoods including Downtown, Huntington Drive, Ostrich Farm with publicly-reviewed height limits necessary to implement South Pasadena's Housing Element?"

The Resolution also permits the filing of written arguments in favor or against the measure. Members of the City Council have priority to file an argument in favor, if designated by the City Council, or any individual voter eligible to vote on the measure, a bona fide association of such citizens or any combination thereof may file in compliance with the Elections Code. There is a deadline that will be set by the City Clerk to submit arguments and furthermore the City Attorney will be ordered to prepare an impartial analysis of the measure within 10 days of

the adoption of the Resolution.

The Community Development staff has developed background and educational material with regard to the land use issues related to the ballot measure. On the City's website is a page dedicated to the ballot measure, [southpasadenaca.gov/ballot measure](http://southpasadenaca.gov/ballot%20measure), which will be updated as necessary through the election date.

Alternatives (if applicable)

There is no alternative as the City is required to place this measure on the ballot to comply with the Court Order and Program 2.n.

Fiscal Impact

The cost for the Los Angeles County Registrar-Recorder/County Clerk to conduct the election for the City of South Pasadena has yet to be determined. The County provided election cost estimates for one Ballot Measure of \$5,629.99 for November 5, 2024. The County estimate is not inclusive of election supplies, advertising, or the estimated total cost of the General Municipal Election and is only an estimate for one Ballot Measure. The City's estimated costs were included in the proposed Fiscal Year 2024-2025 budget under General Ledger account number 101-2020-1022-8170. At this time an appropriation in the amount of \$5,630 (rounded up), is necessary and requested to move forward with the Ballot Measure since this was not a budgeted item in the FY 2023-24 budget.

Key Performance Indicators and Strategic Plan

This item aligns with Strategic Plan priority 5, Plan for Affordable Housing to Comply with State Mandates and Respond to Community Needs.

Commission Review and Recommendation

This Item was not reviewed by a commission or board.

Public Notification

The public was made aware of this item through the posting of the City Council Agenda.

Environmental Analysis

An Initial Study in conformity with 14 CCR 15080(c) and an Environmental Assessment (EA) in conformity with 14 CCR 15140, et seq., were prepared for the preparation and adoption of the City's 2021-2029 Housing Element. On May 30, 2023, the City Council approved and adopted the EA, not only for the Housing Element, but also for implementation of the programs identified therein. Based on the analysis presented in the EA, and as more thoroughly described therein, implementation of the Housing Element would result in the following significant and unavoidable impacts after implementation of feasible mitigation measures: Air Quality (Air Quality Management Plan Consistency, Air Quality Standards Violation; Cumulative Air Quality Impacts); Greenhouse Gas Emissions (GHG Emissions); Noise (Direct and Cumulative Construction and Exterior Traffic Noise Standard Violation); and, Population and Housing (Population Growth). EA Table ES-1 presents a summary of significant environmental impacts identified in Sections 3.1 through 3.16 of the Environmental Assessment; Mitigation Measures that reduce any significant impacts; and the level of significance of each impact after mitigation. Significant irreversible environmental changes and growth-inducing impacts are addressed in Section 5.0, Other CEQA Considerations of the Environmental Assessment.

The Housing Element, and the EA analysis, contemplated implementation of Program 2.n. Therefore, the proposed resolution and ordinance to be submitted to the voters is within the scope of the EA, no further CEQA review is required, and is exempt from the California Environmental Quality Act pursuant to Government Code Section 65759.

Attachment:

[Attachment No. 1 - 1983 Initiative Measure 1.pdf](#)

[Attachment No. 2 - Court Order.pdf](#)

[Attachment No. 3- HE Program 2N.pdf](#)

[Attachment No. 4 - Resolution - Ballot Measure.pdf](#)

RESOLUTION NO. 5642

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN SAID CITY ON JULY 12, 1983, DECLARING THE RESULT THEREOF AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW.

WHEREAS, a special municipal election was held and conducted in the City of South Pasadena, California, on Tuesday, July 12, 1983, as required by law; and

WHEREAS, notice of said election was duly and regularly given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects said election was held and conducted and the votes cast thereat, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, pursuant to Resolution No. 5625 adopted April 20, 1983, the City Clerk of said City canvassed the returns of said election and has certified the results to this City Council, said results are received, attached and made a part hereof as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That there were eight (8) voting precincts established for the purpose of holding said election consisting of consolidations of the regular election precincts in said City as established for the holding of state and county elections.

SECTION 2. That at said special municipal election, the following measure was submitted to the electors of said City and was voted upon, to wit:

No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five per cent (5%) of the required spaces.

YES _____

NO _____

SECTION 3. That the whole number of votes cast in said City (except absent voter ballots) was 4058.

That the whole number of absent voter ballots cast in said City was 735, making a total of 4793 votes cast in said City.

SECTION 4. That the number of votes given at each precinct and the number of votes given in the City for and against the measure were as listed in Exhibit "A" attached.

SECTION 5. The City Clerk shall enter on the records of the City Council of said City, a statement of the result of said election, showing:

- (1) The whole number of votes cast in the city;
- (2) The measure voted upon;
- (3) The number of votes given at each precinct for and against the measure;
- (4) The number of votes given in the city for and against the measure.

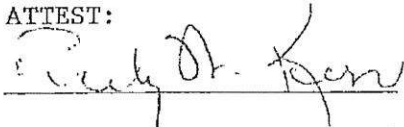
SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of said City; and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council of said City, in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED ON July 19, 1983.



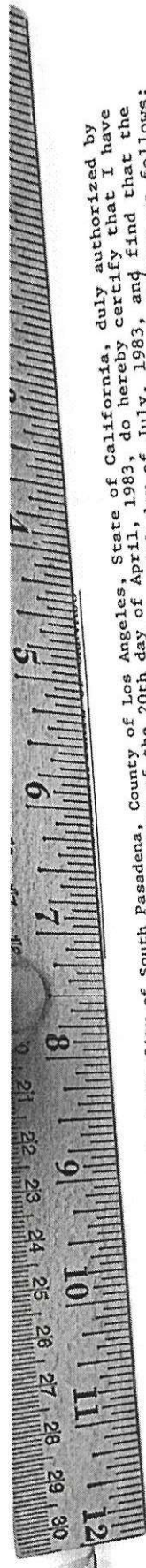
Mayor of the City of
South Pasadena, California

ATTEST:



City Clerk of the City of
South Pasadena, California

Vote: Ayes - Councilmembers Knowles, Margrave, Shaw, Mayor Arnold
Noes - None
Absent - Councilmember Montgomery



I, Ruby W. Kerr, City Clerk of the City of South Pasadena, County of Los Angeles, State of California, duly authorized by Resolution No 5625, adopted by the City Council of said City on the 20th day of April, 1983, do hereby certify that I have canvassed the returns of the Special Municipal Election held in said city on the 12th day of July, 1983, and find that the number of votes given at each precinct and the number of votes given in the City for and against Measure 1 were as follows:

[Signature]
 City Clerk of the City of South Pasadena

Dated July 15, 1983

PRECINCT	YES	NO	TOTAL VOTES CAST AT PRECINCT
1	330	260	590
2	191	186	377
4	377	171	548
9	288	176	464
13	263	248	511
16	277	153	430
19	297	262	559
22	269	310	579
TOTAL	2292	1766	4058
ABSENTEE VOTE	239	496	735
TOTAL VOTES CAST	2531	2262	4793

SETTLEMENT AGREEMENT

(CALIFORNIANS FOR HOMEOWNERSHIP V. CITY OF SOUTH PASADENA,

LASC CASE NOS. 22STCP01388 & 22STCP01161)

This Settlement Agreement (“Agreement”) is made and entered into by and between Californians for Homeownership, a California nonprofit public benefit corporation (“Californians”) and the City of South Pasadena (the “City”) (each a “Party” and collectively the “Parties) on the terms and conditions set forth below.

WHEREAS, Californians filed a verified Petition for Writ of Mandate pursuant to California Code of Civil Procedure Section 1085 as Los Angeles County Superior Court Case No. 22STCP01388, entitled Californians for Homeownership vs. City of South Pasadena (the “Writ Petition”), alleging that the City failed to adopt an update to its housing element within the time required by law;

WHEREAS, Californians filed a verified Petition for Writ of Mandate pursuant to California Code of Civil Procedure Section 1085 as Los Angeles County Superior Court Case No. 22STCP01161, entitled Californians for Homeownership vs. City of South Pasadena (the “CPRA Petition”), alleging that the City failed to adequately respond to a request for public records under the California Public Record Act pursuant to Government Code section 6250, et seq., for documents concerning the City’s compliance with its update to its housing element;

WHEREAS, the City is taking all reasonable steps to adopt its sixth cycle revision of the housing element and obtain certification of same from the California Department of Housing and Community Development (“HCD”), or adopt findings pursuant to Government Code Section 65585, subdivision (f)(2);

WHEREAS, the timeline on which HCD and the Southern California Association of Governments (“SCAG”) allocated the number of housing units the City must accommodate in its sixth revision of the housing element have made it difficult for the City to timely update its housing element;

WHEREAS, the City’s ability to adopt an HCD-certified housing element (or one close enough for the City to adopt findings pursuant to Government Code Section 65585, subdivision (f)(2)) depends, in part, on the response, responsiveness and reasonableness of HCD in reviewing the City’s updated housing element, factors not within the City’s control;

WHEREAS, Government Code Section 65754, subdivision (b), requires any judgment in favor of petitioner, which finds that the housing element does not substantially comply with the requirements of state law, must order the local jurisdiction to bring its housing element into

compliance with those requirements within 120 days and bring its zoning ordinance into consistency with the updated housing element within 120 days after amendment thereof;

WHEREAS, Government Code Section 65759, subdivision (a), provides that, with limited exceptions, CEQA does not apply to any City action necessary to bring its housing element into compliance with a court order or judgment entered under Article 14 of Chapter 3 of Division 1 of Title 7 of the Government Code;

WHEREAS, Government Code Section 65759, subdivision (b), provides that, upon good cause shown, the court can extend the time required for a local jurisdiction to bring its housing element into compliance or extend the time required to bring its zoning ordinance into compliance with the updated housing element by way of two extensions of time, not to exceed a total of 240 days;

WHEREAS, good cause exists to grant the City additional time to meet the requirements of Government Code Section 65754, which additional time is necessary to allow the City to develop a draft housing element that is likely to be certified by HCD and to complete legally appropriate environmental review; and

WHEREAS, the Parties wish to avoid the time and expense of litigation, so as to avoid wasting taxpayer money on unnecessary litigation.

NOW THEREFORE, in consideration of and in exchange for the promises contained herein, the Parties mutually agree as follows:

1. **Payment of Attorney's Fees and Costs.** Within 30 days of entry of the Proposed Judgment attached hereto as Exhibit A, the City shall pay the total sum of \$8,500 to Californians for reimbursement of reasonable attorney's fees and costs of both suits. The check shall be payable to Californians for Homeownership, Inc., and delivered to Matthew P. Gelfand, counsel for Californians, at 525 S. Virgil Ave., Los Angeles, CA 90020. Californians shall furnish to counsel for the City an executed W-9 form at least 10 business days prior to the payment of such fees and costs. If payment is made pursuant to this Paragraph and judgment is entered consistent with Paragraph 2, Californians agrees not to make any further application for costs or fees in connection with the Writ Petition and CPRA Petition unless the City fails to comply with the Judgment.

2. **Entry of Judgment.** Within 3 days from the execution of this Agreement, counsel for the Petitioner shall file with the court a Stipulation for Entry of Proposed Judgment seeking entry of the Proposed Judgment in the Writ Petition attached hereto as Exhibit A. In the event that the Court does not adopt the Proposed Judgment in the form requested by the Parties, the Parties mutually agree to cooperate in good faith to make necessary amendments to the Proposed Judgment, to the extent such amendments can be made without substantively altering the bargain described in this Agreement. To the extent that the Court declines to enter judgment in a manner acceptable to the Parties, the Parties agree that the litigation will proceed, the Parties will mutually

seek the setting of a trial date by the Court, this Agreement will be of no further effect, and the City will not be required to make the payment described in Paragraph 1, without prejudice to Californians seeking reasonable attorney's fees and costs of suit at an appropriate time as provided by law.

3. **Actions Required of the City.** If judgment is entered by the Court consistent with Paragraph 2, the City shall act in the manner specified in the judgment and abide by the following constraints with respect to any future draft sixth cycle housing element it submits to the state Department of Housing and Community Development (HCD) and any housing element it subsequently adopts:

- i. The City will not identify as a site for housing, whether through rezoning or otherwise, the parcels located at any of the following assessor parcel numbers: 5315004066, 5315004083, 5315004084, 5315004085, 5318004012, 5318004019, 5318004023, 5318015017, 5314026937, 5310018901, 5306006904, 5306006025, 5306006024, 5306006053, 5306006048, 5301028051, 5301028055, 5301028034, 5301028900, 5301028054, 5301028052, 5301028049, 5301028053, 5301028050, 5301028035, 5301028036, 5312016015, 5308027008, 5308027020, 5308027017, 5308027018, 5308027019, 5308021902, 5314016064, 5319031901, 5312016900, 5312016901, 5314006039, 5312016014, 5312017043, 5314016075, 5312017044, 5306006905, 5312017042, 5312017049, 5308027016, 5308032902, 5308034901, and 5308033904.
- ii. For any partially or fully City-owned parcel the City identifies as a site for housing, whether through rezoning or otherwise, the City will include in the housing element a program to engage in a request for proposal ("RFP") or similar process, by a date certain of no later than January 1, 2028, to sell the parcel to a housing developer or otherwise ensure its development as housing.
- iii. For every non-vacant site identified as a site for housing in the housing element, including sites identified for rezoning, the City will specifically identify, on a parcel-by-parcel basis, the information that it contends satisfies its obligations under 65583.2(g)(1) (for all non-vacant sites) and 65583.2(g)(2) (for non-vacant sites identified to provide lower-income housing).
- iv. The housing element will contain (1) a program to seek, through voter approval by December 31, 2024, the repeal of the City's 45-foot height limit as to at least any residential or mixed-use (including residential) project on the parcels for which the housing element anticipates a base density in excess of 50 units/acre; and (2) a program to complete a mid-cycle revision of the City's housing element, reducing all for which the housing element anticipates a base density in excess of 50

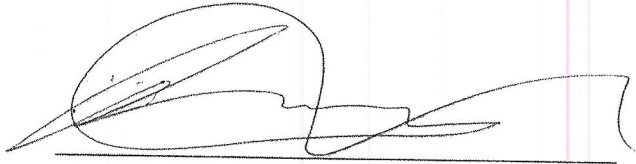
units/acre sites to an assumed maximum density of 50 units/acre, within nine months in the event that the proposal is not approved by the City's voters.

4. **Dismissal of CPRA Petition.** Within three (3) days from the entry of judgment in the Writ Petition, counsel for the Petitioner shall file with the court a dismissal with prejudice of the CPRA Petition, each site bearing their own costs in such action.

5. **Entire Agreement.** This Agreement embodies the entire agreement of the Parties hereto and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement; that they have not executed this Agreement in reliance on any representation, inducement, promise, agreements, warranty, fact or circumstances, not expressly set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

Dated: 8/11/2022



MATTHEW P. GELFAND
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

Dated: _____

ARMINÉ CHAPARYAN
CITY MANAGER, CITY OF SOUTH PASADENA

APPROVED AS TO FORM:

Dated: 8/11/2022



MATTHEW P. GELFAND
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

Dated: _____

ANDREW L. JARED, CITY ATTORNEY
CITY OF SOUTH PASADENA

EXHIBIT A

AUG 19 2022

Sherri R. Carter, Executive Officer/Clerk of Cou
By: J. De Luna, Deputy

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CALIFORNIANS FOR
HOMEOWNERSHIP, INC., a California
nonprofit public benefit corporation,

Petitioner,

v.

CITY OF SOUTH PASADENA,

Respondent.

Case No. 22STCP01388

~~PROPOSED~~ STIPULATED JUDGMENT

Assigned for all purposes to:
Hon. James Chalfant (Dept. 85)

Petition Filed: April 18, 2022

Pursuant to the Stipulation for Entry of a Stipulated Judgment submitted by Petitioner CALIFORNIANS FOR HOMEOWNERSHIP, INC ("Californians") and Respondent CITY OF SOUTH PASADENA (the "City"), and pursuant to the Court's power under Code of Civil Procedure Section 664.6:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in favor of Petitioner and against Respondent based on the following findings:

(1) The City did not adopt the sixth cycle update to its housing element by the October 15, 2021 statutory deadline for doing so;

(2) The timeline on which the California Department of Housing and Community Development ("HCD") and the Southern California Association of Governments ("SCAG") allocated the number of housing units the City must accommodate in its sixth cycle revision of the housing

08/22/2022

1 element has made it difficult for the City to timely update its housing element;

2 (3) Government Code Section 65754, subdivision (b), requires any judgment in favor of a
3 petitioner, which finds that the housing element does not substantially comply with the requirements
4 of state law, must order the local jurisdiction to bring its housing element into compliance with those
5 requirements within 120 days and bring its zoning ordinance into consistency with the updated housing
6 element within 120 days thereafter;

7 (4) Government Code Section 65759, subdivision (a), provides that, with limited exceptions,
8 the California Environmental Quality Act does not apply to any action necessary to bring a city's
9 housing element into compliance with a court order or judgment entered under Article 14 of Chapter 3
10 of Division 1 of Title 7 of the Government Code;

11 (5) Government Code Section 65759, subdivision (b), provides that, upon good cause shown,
12 the court can extend the time required for a local jurisdiction to bring its housing element into
13 compliance by way of two extensions of time, not to exceed a total of 240 days;

14 (6) Good cause exists to grant the City additional time to meet the requirements of Government
15 Code Section 65754, which additional time is necessary to allow the City to develop a draft housing
16 element that is likely to be certified by HCD; and

17 (7) The parties have agreed to the entry of this judgment because they wish to avoid the time
18 and expense of litigation, so as to avoid wasting taxpayer money on unnecessary litigation.

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

20 (1) The City shall abide by the following schedule with respect to its housing element:

- 21 a. The City shall prepare and submit a revised draft housing element to HCD by
22 September 15, 2022 (the "September Draft").
- 23 b. In the event that HCD determines that the September Draft meets the standards of state
24 law and is eligible for certification, or promises certification conditioned on changes
25 agreed to by the City in advance, the City shall adopt its housing element within 30
26 days after notification by HCD.
- 27 c. In the event that HCD determines that the September Draft requires modifications to
28 meet the standards of state law, the City shall prepare and submit a revised draft housing

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element to HCD within 45 days after notification by HCD.

- d. In the event that HCD determines that the subsequent draft meets the standards of state law and is eligible for certification, or promises certification conditioned on changes agreed to by the City in advance, the City shall adopt its housing element within 30 days after notification by HCD.
- e. In the event that HCD determines that the subsequent draft requires modifications to meet the standards of state law, the City shall prepare and submit a revised draft housing element to HCD within 45 days after notification by HCD.
- f. In no event shall the City adopt its updated sixth cycle housing element later than May 31, 2023;

(2) The City shall complete all rezoning of property contemplated in the housing element within 120 days of its adoption of the housing element. For purposes of this section, rezoning of property shall not include any action required to be put the vote of the electorate to consider repeal of the City's 45-foot height limit or any subsequent required action should such measure fail to bring the housing element into compliance;

(3) Consistent with Government Code Section 65759, the City shall be exempt from compliance with CEQA in connection with all of the actions it is required to undertake pursuant to the preceding paragraphs, if it complies with the requirements of Section 65759;

(4) Because the City has not had an adopted sixth cycle housing element, starting on October 15, 2021, the City shall not use the provisions in subdivision (d)(1) or (d)(5) of Government Code Section 65589.5 to disapprove a housing development project that qualifies for approval under subdivision (d) of that section—that is, a project in which either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Health and Safety Code Section 50079.5, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Health and Safety Code Section 50093, or persons and families of middle income, as defined in Government Code Section 65008—or to condition the approval of such a project in a manner that renders it infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards; and

08/22/2022

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(5) The Court shall retain jurisdiction over this action and the Parties thereto until the terms of this Judgment are fulfilled.

Dated: 8/21/2022, 2022

J. C. Chalfant

Respectfully submitted this 15th day of August, 2022
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

JAMES C. CHALFANT

Matthew P. Gelfand
Matthew P. Gelfand

Attorneys for Petitioner CALIFORNIANS FOR HOMEOWNERSHIP, INC.

CITY OF SOUTH PASADENA

Andrew D. Jared
Andrew D. Jared, City Attorney

Attorneys for Petitioner CITY OF SOUTH PASADENA

Signature and name of David W. Blayton, City Attorney for the City of Pasadena, California.



08/22/2022

Program 2.n – Citywide Height Limit Ballot Initiative

Consistent with requirements under state law concerning cities placing measures on the ballot, the City will seek through voter approval in a local election, the repeal of the current height limit of 45 feet as to at

least any residential or mixed-use (including residential) project on which the housing element anticipates a base density in excess of 50 units/acre. Such measure will be brought to the City Council for consideration prior to being placed on the ballot. The measure may either eliminate the height limit for these parcels entirely, or be replaced by a new height limit localized in the areas of increased density to stated density goals. If the height limit is replaced, the new limit will be no less than 84 feet to achieve the densities identified in the DTSP... In addition, the City will facilitate residential projects that may exceed 45 feet by utilizing the existing options for exceptions to the citywide height limit, including state Density Bonus law. (See also Program 3.n.) If the ballot measure is approved, the City will update development standards throughout the DTSP and zoning code to allow for buildings that can achieve the densities identified in the Housing Element. If the ballot measure is not approved by the voters, the City will complete a mid-cycle revision to the housing element, reducing sites for which the housing element anticipates a base density in excess of 50 units/acre; the City will conduct additional rezoning to address the remaining RHNA on sites allowing densities greater than 50 dwelling units per acre. This will include preparing a mid-cycle Housing Element.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA ORDERING THAT A MEASURE BE SUBMITTED TO THE VOTERS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 RELATED TO BUILDING HEIGHTS IN ALL ZONING DISTRICTS OF THE CITY IN ORDER TO PROTECT THE CITY'S RESIDENTIAL CHARACTER, PRESERVE LOCAL CONTROL AND INCREASE HOUSING OPPORTUNITIES, INCLUDING AFFORDABLE HOUSING FOR MIDDLE AND WORKING CLASS FAMILIES, INDIVIDUALS AND SENIORS AS NECESSARY TO IMPLEMENT THE 2021-2029 (6TH CYCLE) HOUSING ELEMENT

WHEREAS, Sections 65300 *et. seq.* of the California Government Code require each city and county to adopt a comprehensive, long-term, General Plan for the physical development of land within its jurisdiction, which must include, among other requirements, a housing element meeting detailed criteria set forth in State law that provides sufficient housing development opportunities to meet existing and projected housing needs for the community;

WHEREAS, Sections 65580 *et. seq.* of the California Government Code require each city and county to periodically prepare and update the housing element of its General Plan;

WHEREAS, the Southern California Association of Government ("SCAG") periodically undertakes a Regional Housing Needs Allocation ("RHNA") process to allocate to the various agencies in the SCAG region the portion of the regional housing needs for which each of the agencies must plan in their respective housing elements. In 2019, the City of South Pasadena (the City) received its RHNA allocation of 2,062 units. The City appealed and received its final RHNA allocation of 2067 units in 2021, and thereafter started to prepare the 2021-2029 (6th Cycle) Housing Element update (hereafter, the "Housing Element" or "2021-2029 Housing Element");

WHEREAS, the City is required by the housing element law to plan for the City's RHNA allocation and the Housing Element contains the necessary programs and strategies to accommodate the RHNA allocation;

WHEREAS, based on input from residents as part of the General Plan adoption process, future units are planned primarily to be located in existing commercial and mixed-use areas and along arterial corridors that have access to shopping, services and public transportation;

WHEREAS, on July 12, 1983, City voters passed a voter-led initiative known as Measure No. 1 with 2,531 voting for the measure and 2,262 voting against the measure ("Measure No. 1"). Measure No. 1 established that in the City "No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45)

feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five percent (5%) of the required spaces.”;

WHEREAS, on April 12, 2022, the City of South Pasadena was sued by Californians for Homeownership for non-compliance with State Law for failing to have adopted a compliant housing element by October 15, 2021 (*Californians for Homeownership v. City of South Pasadena*), LASC Case Nos. 22STCP01388 & 22STCP01161);

WHEREAS, on August 15, 2022, the City entered into a settlement agreement with Californians for Homeownership to resolve the lawsuit, and the settlement agreement committed the City to a number of actions, including but not limited to: completing the necessary rezoning to support the Housing Element within 120 days of the adoption of the Housing Element; and addition of a program to seek, through voter approval, the removal of the City’s existing 45-foot height limit for at least any parcel identified in the Housing Element for which the base density is anticipated to exceed 50 dwelling units per acre;

WHEREAS, on August 19, 2022, the Court entered a Stipulated Judgment agreed upon by the parties, which committed the City to adopting a housing element certified by or eligible for certification by HCD no later than May 31, 2023. The settlement agreement and Stipulated Judgment shall be referred to collectively as the “Court Order”;

WHEREAS, during the 2021-2029 Housing Element process, the California Department of Housing and Community Development (“HCD”) identified the 45-foot height limit, as applied to areas with allowable base residential densities in excess of 50 dwelling units per acre, as a potential constraint to housing development in the City;

WHEREAS, to address the height constraint, Housing Element Program 2.n was included in the Housing Element. Program 2.n requires the City to place a ballot measure on the November 2024 election to address the current 45-foot building height limit;

WHEREAS, Program 2.n provides that the City will seek the repeal of the height limit as to at least any residential or mixed-use (including residential) project on parcels for which the Housing Element anticipates a base density in excess of 50 dwelling unit per acre;

WHEREAS, the City undertook the rezoning required by the Housing Element and Court Order to increase zoning densities in multi-family zones, adopted the Downtown Specific Plan and the Mixed-Use Overlay Zone and implemented the Housing Opportunity Overlay Zone (which includes certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas) in an effort to plan for its RHNA obligation as well as provide housing opportunities, including affordable housing, for middle and working class families, individuals and seniors;

WHEREAS, on June 5, 2024 the South Pasadena City Council called a General Municipal Election to be held in the City on November 5, 2024 and requested that the Los Angeles County Board of Supervisors consolidate said election with the Statewide General Election to be held on the same date, through the adoption of Resolution Nos. 7852 and 7853;

WHEREAS, at the said General Municipal Election, the City Council intends to submit an ordinance for consideration by the voters, relating to building height limits in all Zoning Districts, as required for the implementation of the Housing Element;

WHEREAS, the proposed measure retains the 45-foot height limit in the Residential Estate Zoning District, Residential Single-Family Zoning District and the Overlay District of Altos de Monterey and provides that any building or structure shall not exceed 45 feet;

WHEREAS, the proposed measure to repeal the 45-foot height limit as to residential and mixed-used projects on parcels with base densities in excess of 50 dwelling units per acre is not optional because it is a requirement of the Court Order as well as a requirement of the Housing Element;

WHEREAS, the proposed measure provides that if the voters rescind the height limitation as to properties with residential or mixed-use densities in excess of 50 dwelling units per acre and retain the 45-foot maximum height limit for single-family residential areas of the City, the City will set maximum building heights as appropriate to achieve the allowed density through a public process;

WHEREAS, the proposed measure provides that the City will be guided by technical studies and/or technical analysis in determining the appropriate height to achieve the allowed base density for properties with residential or mixed-use densities in excess of 50 dwelling units per acre;

WHEREAS, the areas that contain a base density in excess of 50 dwelling units per acre include areas set forth in the Downtown Specific Plan, specifically the Mixed Use Core Zone and the Fair Oaks Corridor Zone, the Mixed-Use Overlay Zone, and the Housing Opportunity Overlay Zone, which includes certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas;

WHEREAS, many of these areas are near transit and commercial services and as such, create a pedestrian-oriented environment where residents do not have to depend on an automobile to complete their daily trips;

WHEREAS, the proposed measure will help ensure more affordable housing is available for middle class and working class families, individuals and seniors in areas specifically outlined within the Housing Element;

WHEREAS, the proposed measure will allow for additional housing in downtown South Pasadena which will create new customers for local small businesses and encourage the growth of new businesses, therefore bolstering the local economy;

WHEREAS, should additional housing be constructed, developers will be required to pay fees to support South Pasadena schools and improve parks and infrastructure;

WHEREAS, the City has worked diligently to implement the Housing Element, including undertaking the required rezoning actions and on July 29, 2024, the City received HCD certification that the City's Housing Element substantially complies with housing element law ("July 29th Letter");

WHEREAS, if the proposed measure is not passed by the voters, the City must comply with the Court Order and Program 2.n. to allow for increased density across the City to address the City's RHNA requirements, which would likely include increased residential density in single family areas. Pursuant to the Court Order and Program 2.n, the City would be required to complete the mid-cycle housing element revision within nine (9) months;

WHEREAS, pursuant to Government Code Section 65585, HCD has the authority to review cities' actions, or failures to act, for consistency with an adopted housing element. If HCD finds that an action, or failure to act, does not substantially comply with housing element law, HCD has the authority to revoke its findings and certification of the housing element;

WHEREAS, HCD in its July 29th Letter stated that Program 2.n. "is crucial to substantial compliance with State Housing Element Law";

WHEREAS, if the City is found by HCD noncompliant with Program 2.n, HCD may revoke its certification findings. In such case, cities without a certified housing element are subject to the so called "builder's remedy";

WHEREAS, builder's remedy is a legal provision of the State Housing Accountability Act, which takes away local control by limiting a city's ability to deny or condition a housing project. (Government Code Section 65589.5(d)). The builder's remedy allows developers to propose whatever they want even if the project is inconsistent with a community's character and planning standards, such as the City's General Plan, Zoning Code and any voter adopted land use initiatives like Measure 1, and there would be no caps on building heights or density, and cities' ability to deny projects based on the inconsistencies is severely limited;

WHEREAS, the City desires through this proposed measure to maintain local control over housing projects and prevent developers from filing builder's remedy applications that enable housing projects that bypass elements of the City's current zoning standards;

WHEREAS, the proposed measure will ensure the City maintains local control over land use and planning as well as its community character preventing the utilization of “builder’s remedy” by developers that would be inconsistent with residents’ desires for the community;

WHEREAS, if HCD revokes its certification findings, state law and the courts also have imposed consequences on cities that lack a certified housing element. Those penalties include but are not limited to financial penalties of up to \$100,000 a month, loss of the City’s permitting authority such as not being able to issue any building permits for business remodels, new businesses or bathroom remodels, and loss of access to grant funding;

WHEREAS, cities have pursued lawsuits against housing mandates and have mostly lost, leaving cities with no reasonable legal pathways to fight against state mandates; and

WHEREAS, the November 2024 election is the only opportunity for South Pasadena voters to consider and adopt a measure that allows the City to implement the Housing Element in compliance with state mandates, or risk losing local control over land use planning;

NOW, THEREFORE, the City Council of the City of South Pasadena hereby finds, determines, orders, and resolves as follows:

Section 1. The facts set forth in the recitals of this Resolution are true and correct, and establish the factual basis for the City Council’s adoption of this Resolution.

Section 2. Pursuant to California Elections Code Sections 9222 and 10201, the City Council hereby orders that at the said General Municipal Election, an ordinance be submitted to the voters for consideration. The full text of the proposed ordinance is attached to this Resolution as Exhibit A and incorporated herein by reference. The measure to be submitted to the voters shall be printed on the ballot as follows:

South Pasadena Neighborhood Preservation, Local Control	
To protect South Pasadena’s single-family neighborhoods’ residential character; maintain local control over local land use; improve affordable housing opportunities for middle/working-class families/individuals/seniors; retain/attract local businesses; shall an ordinance be adopted retaining existing height limits in single-family residential neighborhoods; restricting multi-unit housing in commercial/mixed-use corridors/neighborhoods including Downtown, Huntington Drive, Ostrich Farm with publicly-reviewed height limits necessary to implement South Pasadena’s Housing Element?	YES
	NO

Section 3. The proposed ordinance shall only take effect if at least a majority (50% +1) of those voting vote in favor of it.

Section 4. The City Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280.

Section 5. The City Council directs that arguments for and against the measure may be filed in accordance with applicable law, and that all members of the City Council are authorized to file the argument in favor of the measure.

Section 6. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections. All persons qualified and registered to vote in the City of South Pasadena as of the date of such election shall be entitled to vote.

Section 7. Notice of the time and place of holding the General Municipal Election is hereby given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in the time, form and manner as required by law, and to publish a synopsis of the measure as required by law.

Section 8. An Initial Study in conformity with 14 CCR 15080(c) and an Environmental Assessment (EA) in conformity with 14 CCR 15140, et seq., were prepared for the preparation and adoption of the City's 2021-2029 Housing Element. On May 30, 2023, the City Council approved and adopted the EA, not only for the Housing Element, but also for implementation of the programs identified therein. Based on the analysis presented in the EA, and as more thoroughly described therein, implementation of the Housing Element would result in the following significant and unavoidable impacts after implementation of feasible mitigation measures: Air Quality (Air Quality Management Plan Consistency, Air Quality Standards Violation; Cumulative Air Quality Impacts); Greenhouse Gas Emissions (GHG Emissions); Noise (Direct and Cumulative Construction and Exterior Traffic Noise Standard Violation); and, Population and Housing (Population Growth). EA Table ES-1 presents a summary of significant environmental impacts identified in Sections 3.1 through 3.16 of the Environmental Assessment; Mitigation Measures that reduce any significant impacts; and the level of significance of each impact after mitigation. Significant irreversible environmental changes and growth-inducing impacts are addressed in Section 5.0, Other CEQA Considerations of the Environmental Assessment. The Housing Element, and the EA analysis, contemplated implementation of Program 2.n., therefore, the proposed ordinance to be submitted to the voters is within the scope of the EA, no further CEQA review is required, and is exempt from the California Environmental Quality Act pursuant to Government Code Section 65759.

Section 9. The City Clerk is hereby directed to submit a complete certified copy of this Resolution to the Los Angeles County Registrar of Voters and to the Los Angeles County Board of Supervisors forthwith.

Section 10. The Mayor shall sign and the City Clerk shall attest to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 31st day of July, 2024.

Evelyn G. Zneimer, Mayor

ATTEST:

APPROVED AS TO FORM:

Mark Perez, Deputy City Clerk

Roxanne Diaz, City Attorney

I HEREBY CERTIFY the foregoing Resolution No. _____ was duly adopted by the City Council of the City of South Pasadena, California, at a Special City Council meeting held on the 31st day of July, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mark Perez, Deputy City Clerk

EXHIBIT A
ORDINANCE NO. ____

CITY OF SOUTH PASADENA

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF SOUTH PASADENA RELATED TO BUILDING HEIGHTS IN ALL ZONING DISTRICTS OF THE CITY IN ORDER TO PROTECT THE CITY'S RESIDENTIAL CHARACTER, PRESERVE LOCAL CONTROL AND INCREASE HOUSING OPPORTUNITIES, INCLUDING AFFORDABLE HOUSING, FOR MIDDLE AND WORKING CLASS FAMILIES, INDIVIDUALS AND SENIORS IN COMPLIANCE WITH THE UPDATED GENERAL PLAN AND THE 2021-2029 (6TH CYCLE) HOUSING ELEMENT

WHEREAS, Sections 65300 *et. seq.* of the California Government Code require each city and county to adopt a comprehensive, long-term, General Plan for the physical development of land within its jurisdiction, which must include, among other requirements, a housing element meeting detailed criteria set forth in State law that provides sufficient housing development opportunities to meet existing and projected housing needs for the community;

WHEREAS, Sections 65580 *et. seq.* of the California Government Code require each city and county to periodically prepare and update the housing element of its General Plan;

WHEREAS, the Southern California Association of Government (SCAG) periodically undertakes a Regional Housing Needs Allocation (RHNA) process to allocate to the various agencies in the SCAG region the portion of the regional housing needs for which each of the agencies must plan in their respective housing elements. In 2019, the City of South Pasadena (the City) received its RHNA allocation of 2,062 units. The City appealed and received its final RHNA allocation of 2,067 units in 2021, and thereafter started to prepare the 2021-2029 (6th Cycle) Housing Element update (hereafter, the "Housing Element" or "2021-2029 Housing Element");

WHEREAS, on July 12, 1983, City voters passed a voter-led initiative known as Measure No. 1 with 2,531 voting for the measure and 2,262 voting against the measure ("Measure No. 1"). Measure No. 1 established that in the City "No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five percent (5%) of the required spaces.";

WHEREAS, on April 12, 2022, the City of South Pasadena was sued by Californians for Homeownership for non-compliance with State Law for failing to have adopted a compliant housing element by October 15, 2021 (*Californians for Homeownership v. City of South Pasadena*), LASC Case Nos. 22STCP01388 & 22STCP01161);

WHEREAS, on August 15, 2022, the City entered into a settlement agreement with Californians for Homeownership to resolve the lawsuit, and the settlement agreement committed the City to a number of actions, including but not limited to: completing the necessary rezoning to support the Housing Element within 120 days of the adoption of the Housing Element; and addition of a program to seek, through voter approval, the removal of the City's existing 45-foot height limit for at least any parcel identified in the Housing Element for which the base density is anticipated to exceed 50 dwelling units per acre;

WHEREAS, on August 19, 2022, the Court entered a Stipulated Judgment agreed upon by the parties, which committed the City to adopting a housing element certified by or eligible for certification by HCD no later than May 31, 2023. The settlement agreement and Stipulated Judgment shall be referred to collectively as the "Court Order";

WHEREAS, during the 2021-2029 Housing Element process, the California Department of Housing and Community Development ("HCD") identified the 45-foot height limit, as applied to areas with allowable base residential densities in excess of 50 dwelling units per acre, as a potential constraint to housing development in the City;

WHEREAS, to address the height constraint, Housing Element Program 2.n was included in the Housing Element. Program 2.n requires the City to place a ballot measure on the November 2024 election to address the current 45-foot building height limit;

WHEREAS, Program 2.n provides that the City will seek the repeal of the height limit as to at least any residential or mixed-use (including residential) project on parcels for which the Housing Element anticipates a base density in excess of 50 dwelling unit per acre;

WHEREAS, on May 30, 2023, the City Council held a duly noticed Public Hearing to consider the Draft Housing Element, including the Environmental Assessment ("EA") pursuant to Government Code Section 65759. After hearing public testimony, considering the staff report, staff presentation, and Council discussion, in keeping with the Court Order, the City Council (i) approved and adopted the EA, not only for the Housing Element adoption, but also for implementation of the programs identified therein, and (ii) adopted the Housing Element;

WHEREAS, the City has worked diligently to implement the Housing Element, including undertaking the required rezoning actions, and on July 29, 2024, the City received HCD certification that the City's Housing Element substantially complies with housing element law ("July 29th Letter");

WHEREAS, on April 15, 2024, the City Council held a public meeting to discuss a ballot measure to implement Program 2.n and the various approaches regarding such measure;

WHEREAS, the City Council was informed at the April 15, 2024, public meeting that the placement of the ballot measure to repeal the 45-foot height limit at least as to

residential and mixed-used projects on parcels with base densities in excess of 50 dwelling units per acre was not optional because it is a requirement of the Court Order entered into by the City and Californians for Homeownership as well as a requirement of the Housing Element.;

WHEREAS, if the voters rescind the height limitation as to properties with residential or mixed-use densities in excess of 50 dwelling units per acre and retain the 45-foot maximum height limit for single-family residential areas of the City, the City Council will set maximum building heights as appropriate to achieve the allowed density through a public process;

WHEREAS, when establishing the maximum building heights, the City Council shall be guided by technical studies and/or technical analysis in determining the appropriate height to achieve the allowed base density;

WHEREAS, if the voters retain the 45-foot height limit in the single-family residential areas the City Council will continue to have the authority to set height limits less than or equal to 45 feet;

WHEREAS, if the voters maintain the currently adopted 45-foot height limit for areas with allowed residential and mixed-use density in excess of 50 dwelling units per acre, the Court Order and Program 2.n. requires the City to complete a mid-cycle revision to the Housing Element, which would include additional rezoning to address the City's RHNA requirements, which would likely include increased residential density in single family areas. Pursuant to the Californians for Homeownership Court Order, the City would be required to complete the mid-cycle housing element revision within nine (9) months;

WHEREAS, the voters are not being asked to make revisions to the parking provision set forth in Measure 1;

WHEREAS, pursuant to Government Code Section 65585, HCD has the authority to review cities' actions, or failures to act, for consistency with an adopted housing element. If HCD finds that an action, or failure to act, does not substantially comply with housing element law, HCD has the authority to revoke its findings and certification of the housing element;

WHEREAS, HCD in its July 29th Letter stated that Program 2.n. "is crucial to substantial compliance with State Housing Element Law";

WHEREAS, if HCD revokes its certification findings, the City would be open to the so called "builder's remedy," whereby housing development projects that are inconsistent with general plan land use designations and zoning can be proposed, with the City's authority to deny such proposals significantly constrained pursuant to the State Housing Accountability Act (Government Code Section 65589.5(d));

WHEREAS, if HCD revokes its certification findings, state law and the courts also have imposed consequences to cities that lack a certified housing element. Those penalties include but are not limited to financial penalties of up to \$100,000 a month, loss of the City's permitting authority such as not being able to issue any building permits for business remodels, new businesses or bathroom remodels, and loss of access to grant funding; and

WHEREAS, under California law every city has the authority to adopt and amend a zoning code pursuant to a city's general police power, which allows for the orderly division of property within a city's jurisdiction into compatible uses and development standards so as to improve and protect the general welfare;

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SOUTH PASADENA DO ORDAIN AS FOLLOWS:

Section 1. Recitals. The facts set forth in the recitals of this Ordinance are true and correct and incorporated herein as if set forth in full.

Section 2. Purpose. The purpose and intent of this Ordinance is to increase housing opportunities in South Pasadena for renters and owners, including affordable housing for middle and working class families, individuals and seniors; to comply with the Court Order; to implement Program 2.n of the Housing Element; to ensure the City maintains local control over its zoning, planning and building; to create opportunities for local businesses to provide shopping and dining experiences along the commercial and mixed-use areas planned for future housing units; ; and to protect South Pasadena's single-family neighborhoods' residential character.

Section 3. Measure No. 1 adopted at a special municipal election held on July 12, 1983 and is attached hereto as Exhibit A and incorporated herein by reference, is hereby repealed in the manner set forth in Exhibit A.

Section 4. The maximum height of a building or structure in the Residential Estate Zoning District, Residential Single-Family Zoning District and the Overlay District of Altos de Monterey, shall not exceed 45 feet, and the City Council shall set by ordinance, adopted through a public process, allowed heights in these areas that are less than or equal to 45 feet.

Section 5. The maximum height of a building or structure in any Zoning District not referenced in Section 4 above shall be set by City Council ordinance adopted through a public process.

Section 6. In order to comply with the Court Order and implement Program 2.n. of the Housing Element, when establishing the maximum height allowed for a residential or mixed-use (including residential) building or structure in any Zoning District with a base density in excess of 50 dwelling units per acre pursuant to Section 5 above, City Council shall set the height limit by ordinance, adopted through a public process, at a height limit to achieve the applicable base density. As of the Effective

Date of this Ordinance, the areas that contain a base density in excess of 50 du/ac include areas set forth in the Downtown Specific Plan, specifically the Mixed Use Core Zone and the Fair Oaks Corridor Zone, the Mixed-Use Overlay Zone, and the Housing Opportunity Overlay Zone, which includes certain parcels in the Ostrich Farm and Huntington Drive Mixed Use Areas.

Section 7. If any provision of the City Code of the City of South Pasadena (“City Code” but also sometimes referred as the South Pasadena Municipal Code), including the Zoning Code (codified as Chapter 36 of the City Code) in existence as of November 4, 2024 (“November 2024 City Code”) conflicts with any provision contained in this Ordinance, including any ordinance adopted by the City Council as provided for in Sections 4 or 5 herein, the provisions of this Ordinance and any further ordinance adopted by the City Council to implement this Ordinance shall supersede any conflicting provisions of the November 2024 City Code.

Section 8. The City of South Pasadena and its City Council are hereby authorized and directed to amend the General Plan, the City Code, Zoning Code, specific plans, and any other City plans, ordinances and policies affected by this Ordinance, including any ordinance adopted by the City Council as provided for in Sections 4 and 5 herein, as soon as possible and periodically thereafter as necessary and in the manner and time required by any applicable state law, to implement the intent of this Ordinance and ensure consistency between this Ordinance, including any ordinance adopted by the City Council as provided for in Sections 4 or 5 herein, and any other sections of the City’s General Plan, City Code, Zoning Code, specific plans, and any other City plans, ordinances and policies.

Section 9. Effective Date. If a majority of the voters voting at an election on this measure approves this Ordinance, it shall take effect ten (10) calendar days following the City Council’s final certification of the election result, as required by applicable law. Except as provided herein, this Ordinance may be substantively amended or repealed only with the approval of a majority of the voters voting at an election on the proposal.

Section 10. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of South Pasadena hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

Section 11. Environmental Findings. An Initial Study in conformity with 14 CCR 15080(c) and an Environmental Assessment (EA) in conformity with 14 CCR 15140, et seq., were prepared for the preparation and adoption of the City’s 2021-2029 (6th Cycle) Housing Element. Based on the analysis presented in the Environmental

Assessment, and as more thoroughly described therein, implementation of the Housing Element would result in the following significant and unavoidable impacts after implementation of feasible mitigation measures: Air Quality (Air Quality Management Plan Consistency, Air Quality Standards Violation; Cumulative Air Quality Impacts); Greenhouse Gas Emissions (GHG Emissions); Noise (Direct and Cumulative Construction and Exterior Traffic Noise Standard Violation); and, Population and Housing (Population Growth). EA Table ES-1 presents a summary of significant environmental impacts identified in Sections 3.1 through 3.16 of the Environmental Assessment; Mitigation Measures that reduce any significant impacts; and the level of significance of each impact after mitigation. Significant irreversible environmental changes and growth-inducing impacts are addressed in Section 5.0, Other CEQA Considerations of the Environmental Assessment. The Housing Element, and the EA analysis, contemplated implementation of Program 2.n., therefore, this action is within the scope of the EA, no further CEQA review is required, and this measure is exempt from the California Environmental Quality Act pursuant to Government Code Section 65759.

Section 12. Execution. The Mayor is hereby directed to attest to the adoption of this Ordinance by signing where indicated below upon certification by the City Clerk that a majority of those electors voting on this Ordinance have voted in the affirmative.

PASSED, APPROVED and ADOPTED by the voters at the general municipal election November 5, 2024. Election results were certified by the South Pasadena City Council on _____, 2024.

Evelyn G. Zneimer, Mayor

ATTEST:

Mark Perez, Deputy City Clerk

**EXHIBIT A TO ORDINANCE
MEASURE NO. 1**

RESOLUTION NO. 5642

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD IN SAID CITY ON JULY 12, 1983, DECLARING THE RESULT THEREOF AND SUCH OTHER MATTERS AS ARE PROVIDED BY LAW.

WHEREAS, a special municipal election was held and conducted in the City of South Pasadena, California, on Tuesday, July 12, 1983, as required by law; and

WHEREAS, notice of said election was duly and regularly given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects said election was held and conducted and the votes cast thereat, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, pursuant to Resolution No. 5625 adopted April 20, 1983, the City Clerk of said City canvassed the returns of said election and has certified the results to this City Council, said results are received, attached and made a part hereof as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That there were eight (8) voting precincts established for the purpose of holding said election consisting of consolidations of the regular election precincts in said City as established for the holding of state and county elections.

SECTION 2. That at said special municipal election, the following measure was submitted to the electors of said City and was voted upon, to wit:

~~No Commercial, Office, Manufacturing, or Residential building shall be built to a height in excess of forty-five (45) feet and that no variance or conditional use permit shall be granted to exceed this limit. Furthermore, that no parking variance shall be granted to exceed five per cent (5%) of the required spaces.~~

YES _____

NO _____

SECTION 3. That the whole number of votes cast in said City (except absent voter ballots) was 4058.

That the whole number of absent voter ballots cast in said City was 735, making a total of 4793 votes cast in said City.

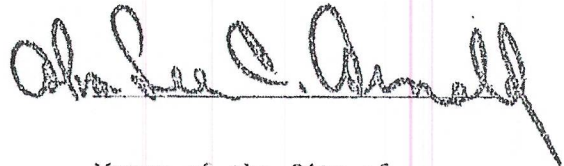
SECTION 4. That the number of votes given at each precinct and the number of votes given in the City for and against the measure were as listed in Exhibit "A" attached.

SECTION 5. The City Clerk shall enter on the records of the City Council of said City, a statement of the result of said election, showing:

- (1) The whole number of votes cast in the city;
- (2) The measure voted upon;
- (3) The number of votes given at each precinct for and against the measure;
- (4) The number of votes given in the city for and against the measure.

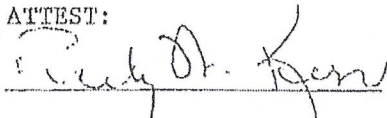
SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of said City; and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council of said City, in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED ON July 19, 1983.



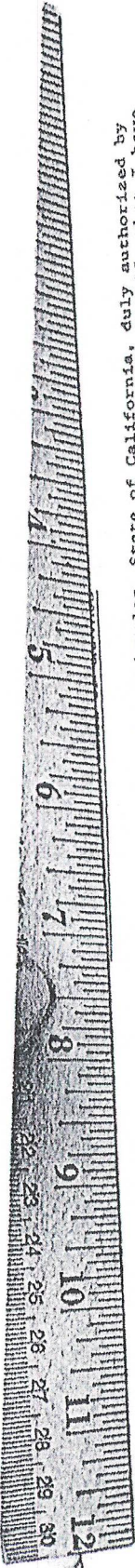
Mayor of the City of
South Pasadena, California

ATTEST:



City Clerk of the City of
South Pasadena, California

Vote: Ayes - Councilmembers Knowles, Margrave, Shaw, Mayor Arnold
Noes - None
Absent - Councilmember Montgomery



I, Ruby W. Kerr, City Clerk of the City of South Pasadena, County of Los Angeles, State of California, duly authorized by Resolution No 5625, adopted by the City Council of said City on the 20th day of April, 1983, do hereby certify that I have canvassed the returns of the Special Municipal Election held in said city on the 12th day of July, 1983, and find that the number of votes given at each precinct and the number of votes given in the City for and against Measure 1 were as follows:

Ruby W. Kerr
 City Clerk of the City of South Pasadena

Dated July 15, 1983

PRECINCT	YES	NO	TOTAL VOTES CAST AT PRECINCT
1	330	260	590
2	191	186	377
4	377	171	548
9	288	176	464
13	263	248	511
16	277	153	430
19	297	262	559
22	269	310	579
TOTAL	2292	1766	4058
ABSENTEE VOTE	239	496	735
TOTAL VOTES CAST	2531	2262	4793