

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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January 19, 2023

Amy Chen, Director  
Community and Economic Development Department  
City of East Palo Alto  
1960 Tate Street  
East Palo Alto, CA 94303

Dear Amy Chen:

**RE: City of East Palo Alto's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of East Palo Alto's (City) draft housing element received for review on October 21, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on January 12, 2023 with yourself, Karen Camacho, Elena Lee, and Hanson Hom. In addition, HCD considered comments from YIMBY Law as well as YIMBY Law and Greenbelt Alliance pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that

represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the dedication of the housing element team provided during the course of our review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Anthony Errichetto, of our staff, at [Anthony.Errichetto@hcd.ca.gov](mailto:Anthony.Errichetto@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF EAST PALO ALTO

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

### **A. Review and Revision**

*Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)*

As part of the evaluation of programs in the past cycle, the element must analyze the appropriateness of goals, objectives, and policies including a description of how the goals, policies, and programs of the updated element incorporate what has been learned from the results of the previous element. In addition, the element must analyze the cumulative impact and effectiveness of the previous housing element's programs to address the housing needs of all special need populations (i.e., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

### **B. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

Enforcement and Outreach: While the element describes the City's outreach, it must describe the process to refer fair housing complaints. In addition, the element must include a fair housing program to address the identified lack of fair housing information on the City's website.

Integration and Segregation: While the element addresses most of the requirements, it should analyze the local concentrations of familial status geographically within the City. It should analyze what contributes to the identified disparities in the area bordering Menlo Park with high concentrations of poverty and lower access to opportunity.

Disparities in Access to Opportunity: While the element includes some data, additional information is required. The element should analyze what contributes to the lower access

to jobs and high unemployment rate within the City. It should also describe whether access to jobs is equal throughout the City and whether protected classes have access to jobs. In addition, the element must analyze access to transit geographically throughout the City as well as regionally.

Disproportionate Housing Needs including Displacement: The element must analyze geographic concentrations of cost burden, overcrowding, and substandard housing within the City, as well as what contributes to the high concentration of disproportionate needs. In addition, the element should expand the analysis on displacement risk within the City and provide a regional analysis (City compared to the broader region).

Affirmatively Furthering Fair Housing (AFFH) and Identified Sites: While the element analyzes the identified sites for each fair housing factor, the maps indicate that sites are concentrated by income level. The element should identify what actions the City is taking to address the potential concentration of sites for lower income in certain areas and it should analyze how the identified sites contribute to or mitigate fair housing issues.

Contributing Factors: The element identifies many contributing factors to fair housing issues. In addition, the element must prioritize these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

- 2. Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

Extremely Low-Income (ELI) Households: The element must identify and analyze the number of existing ELI households by tenure. In addition, the element must also identify the total number of projected ELI households. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of the regional housing need allocation (RHNA) for very low-income households qualify as ELI households.

- 3. Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Overpayment: While the element identifies the total number of households overpaying for housing, it also must identify and analyze the total number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Housing Stock Condition: The element identifies the number of substandard housing units within the City. However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.

Housing Costs: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge) to better reflect local market conditions. For example, the element may utilize data from Zillow and Apartments.com.

4. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Progress in Meeting the RHNA: The City's RHNA may be reduced by the number of new units built since June 30, 2022; however, the element must demonstrate their affordability based on actual sales price, rent level, or other mechanisms ensuring affordability (e.g., deed restrictions). The element should also demonstrate their availability in the planning period. The availability or likelihood the units will be built in the planning period should account for any barriers to development, phasing, anticipated build out horizons, market conditions and other relevant factors. Furthermore, Tables 5.2 (high probability projects) and 5.3 (lower probability projects) should clarify whether what is listed are projects or sites and whether the unit counts are based on project applications submitted to the City. Table 5.2, if considered projects, must also clarify how affordability is determined and provide the status of each development. In addition, if the units listed in Table 5.1.B are sites (p. 5-3), the element should clarify what the approved densities are based on since many of the assumed densities are much higher than what zoning allows. Lastly, the element states that some projects listed to meet the RHNA have the potential of being sold. The element should describe whether the sale of the projects would affect likelihood of development during the planning period.

Sites Inventory: While the element identifies sufficient capacity for lower-income and above-moderate income households, there is an identified shortfall of sites to accommodate moderate income households. The element must identify sufficient capacity for all income levels or rezone as needed.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element should also analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of 100 percent nonresidential development and adjust residential capacity assumptions as appropriate. For example, the element could describe performance standards or evaluate all trends in the pertinent zones, how often residential occurs and

adjust residential calculations as appropriate. In addition, the element should assess the realistic capacity assumptions of 755 Schembri Lane and East Bayshore properties which have a higher assumption than what is described as owner interest.

Zoning for Lower-Income Households: The element must demonstrate zoning appropriate to accommodate housing for lower-income households. For sites with zoning meeting specified densities or default densities (30 units per acre in East Palo Alto), no analysis is required. Otherwise, the element must include analysis based on statutory factors. While the element identifies densities of at least 30 units per acre for many of the sites to accommodate housing for lower-income households, other sites do not meet the default density. As a result, if relying on densities less than 30 units per acre to accommodate the lower-income RHNA, an analysis must be included to demonstrate how the zoning encourages the development of units affordable for lower-income households. Please see HCD's Building Blocks for more information.

Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate the regional housing need for households of all incomes. A complete analysis should describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

SB 9 Sites: The element identifies SB 9 as a strategy to accommodate the part of the City's need of moderate income RHNA. For example, the analysis should include experience, trends and market conditions that allow lot splits. The analysis must also include a nonvacant sites analysis demonstrating the likelihood of redevelopment and the existing use will not constitute as an impediment for additional residential use. The analysis should describe how the City determined eligible properties, whether the assumed lots will have turnover, if the properties are easy to subdivide, and the condition of the existing structures. The analysis should also describe interest from property owners as well as experience. The analysis should provide support for the assumption of eligible properties being developed within the planning period. Based on the outcomes of this analysis, the element should add or modify programs to establish zoning and development

standards early in the planning period and implement incentives to encourage and facilitate development as well as monitor development every two years with and identify additional sites within six months if assumptions are not being met. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9.

City-Owned Sites: The element must include additional discussion on the City-Owned site identified to accommodate the RHNA. Specifically, the analysis should address general plan designations, allowable densities, support for residential capacity assumptions, existing uses and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element must include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). Finally, the housing element must include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

Publicly-Owned Sites and School Sites: The element identifies a senior center, a County-Owned site, and a Ravenswood School District site. The element should provide additional discussion on each of the sites and address general plan designations, allowable densities, support for residential capacity assumptions, existing uses, whether lot splits are needed, and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element must include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). The element must provide additional support and describe whether the City has contacted the owners regarding feasibility of development on these sites and whether they will be available during the planning period.

AB 725: For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above moderate RHNA on sites that allow at least four units of housing (e.g., four plex or greater). (Gov. Code, § 65583.2, subd. (c)(4).)

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period. For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook at [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf)

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, the element must include a replacement housing program for units affordable to lower-income households Pursuant to Government Code section 65583.2, subdivision (g). Absent a replacement housing program, these sites are not adequate sites

to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section 65915, subdivision (c) (3).

Small and Large Sites: Sites smaller than half an acre or greater than ten acres are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size and affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element must provide analysis of past trends or present other evidence to demonstrate the suitability of these sites. For example, the analysis could describe the City's role or track record in facilitating past lot consolidation, common ownership, policies, or incentives offered or proposed to encourage and facilitate lot consolidation or other conditions rendering parcels suitable and ready-for-lot consolidation. For example, the element must describe feasibility of the waterfront site, the City-Owned site less than half an acre, as well as the numerous aggregated small parcels.

Accessory Dwelling Units (ADU): ADUs may be counted toward the RHNA based on past permitted units and other relevant factors. In the element, the City projects 125 ADUs will be constructed over the planning period, averaging 16 units per year. This projection was based on figures provided based on past ADU annual permit figures of 8, 10, and 29 for 2019, 2020, and 2021, respectively. However, Annual Progress Reports submitted by the City showed building permit figures of 0, 8, and 10 for 2018, 2019, and 2020, respectively. The element should reconcile these numbers and adjust assumptions as appropriate. Further, programs should commit to additional incentives and strategies, frequent monitoring (every other year) for production and affordability, and specific commitment to adopt alternative measures such as rezoning or amending the element within a specific time (e.g., six months) as needed.

Availability of Infrastructure: While the element analyzes the capacity of water and sewer to accommodate the City's RHNA, capacity was identified as a constraint. The element must include a program to address capacity throughout the planning period. In addition, the element must include an analysis of access and availability of dry utilities to support sites identified in the inventory.

For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a cover memo describing the City's housing element, including the City's housing needs and regional housing need.

Environmental Constraints: On page 3-24, the element began discussing environmental conditions, but the analysis must fully describe how environmental conditions relate to identified sites including any other known environmental constraints within the City that could preclude or impact housing development in the planning period. In addition, the element should include a program to address the water moratorium and describe actions being taken to resolve the restrictions with the East Palo Alto Sanitary District.



Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element should describe the development standards of the industrial transition zone that allows emergency shelters by-right. In addition, the element should analyze proximity to transportation and services for these sites, hazardous conditions, and any conditions inappropriate for human habitability, as well as total capacity. Lastly, the element must describe how emergency shelter parking requirements comply with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement.
- *By-Right Permanent Supportive Housing*: Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.
- *Single Room Occupancy (SRO) Units*: The element must clarify which zoning districts SROs are allowed in and whether the jurisdiction has a procedure to encourage and facilitate SRO development in the allowable zones. Programs should be added or modified as necessary.
- *Housing for Farmworkers*: The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone.
- *Manufactured and Mobile Housing*: Manufactured and mobile homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling would be subject to. The element must demonstrate consistency with this requirement or add or modify programs as appropriate.
- *Accessory Dwelling Units (ADU)*: The element indicates the City modified its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.

5. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. While the element lists development standards, it must also analyze them for constraints. The analysis should specifically address requirements related to parking standards (p. 4-10) and clarify whether parking spaces for each zone are for all unit types and/or bedroom sizes. It should also analyze open space requirements (common and private), and the 30-foot rear setback in the BRC and Four Corners Zones. The element must also describe whether 100 percent residential and/or commercial uses are allowed in mixed-use zones. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities. The element must include a program to address all identified constraints.

Fees and Exaction: While the element includes a link to fees on the City's website, it should also list the typical permitting fees exacted in Table 3.7 (p. 3-16). In addition, the element should further clarify what planning fees are exacted (e.g., rezoning, general plan amendments, subdivisions, etc.). Fees should be compared with surrounding and/or similar jurisdictions and analyzed for potential constraints on a variety of housing types.

Local Processing and Permit Procedures: While the element includes information about processing times, it should also describe the procedures for a typical single family and multifamily development. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate. In addition, the element should clarify whether the listed processing times for each approval are for both single family and multifamily developments. Lastly, the element should analyze the difference in the total processing times for single and multifamily developments as a constraint, as multifamily developments take up to four times as long to approve as single-family developments and add programs as appropriate.

Design Review: The element must describe and analyze the design review guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate

this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

On/Off-Site Improvements: The element must analyze whether subdivision level improvement requirements (e.g., curbing requirements, street widths, circulation improvements) impose potential constraints on housing supply and affordability.

Zoning and Development Standards Transparency: The element must clarify compliance with new transparency requirements for posting all zoning, development standards and inclusionary requirements on the City's website and add a program to address these requirements, if necessary.

Building Codes and Enforcement: The element must describe and analyze which building code (e.g., 2022) is enforced, any local amendments to the building code, and building code enforcement for their impacts on housing supply and affordability. In addition, the element should explain how municipal codes are enforced (e.g., proactive, reactive, combination) and whether any resources are provided to the public.

Other Local Ordinances: While the element briefly mentions the City's inclusionary ordinance, it requires 20 percent of units at varying levels of affordability. The element must analyze whether this is a constraint and add programs as needed.

Constraints on Housing for Persons with Disabilities: While the element describes the City's reasonable accommodation procedure, it must list and analyze findings of approval for constraints. In addition, the element lists additional requirements for residential care facilities for five or more residents including spacing from other residential care facilities "currently seven hundred and fifty feet (750) for facilities that house ten persons or more, and 500 feet for facilities that house 6-10 residents." These spacing requirements are a constraint and must be revised in a program. Zoning and standards should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations. Zoning code regulations that isolate and regulate various types of housing for persons with disabilities may pose a constraint on housing choice for persons with disabilities. The element should include specific analysis of these and any other constraints for impacts on housing for persons with disabilities and add or modify programs as appropriate.

- 6. An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Approval Times: The element must estimate the length of time between receiving approval for housing development and submittal of application for building permits. While the element states it is difficult to estimate, it must include an estimated time between project approval and building permit. The analysis must address any hinderances on housing development and programs should be added as appropriate to address constraints.

7. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Elderly: While the element analyzes the special housing needs of the elderly, it must also quantify the total number of elderly living in the City.

Persons Experiencing Homelessness: While the element analyzes the special housing needs of the unhoused, it must also include and discuss the most recent Point in Time (PIT) count of the number of persons experiencing homelessness within the City.

8. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

While Table 2.12.1 (p. 2-32) lists the jurisdiction's inventory of at-risk units, it should provide the year affordability will expire for every development listed. In addition, the element must analyze the risk of conversion to market rate for these properties.

### **C. Housing Programs**

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- All programs should identify responsible agencies and officials.
- While the element includes a program to assist extremely low-income households, it must commit to specific actions toward housing outcomes.
- *Fee Reduction Program*: The program should include actions beyond study feasibility and desirability of reducing fees.
- *Outreach Material Program*: The program should include proactive outreach.
- *Available Rehabilitation/Repair Funding Program*: The program should specify how often the City will apply for funding.
- *Pursue State Grant Funds Program*: The program should specify how often the city will apply for funds.

- *RBD Specific Plan Update Fee Waivers Program*: The program should include an implementing action or backup option if fee waivers aren't implemented.
  - *Parking Reductions Program*: The program should clarify what type of transportation demand management program and reductions will be included and whether it will apply to the entire City. It should also include proactive outreach.
  - *First-Time Homebuyer Program*: The program should include proactive outreach to residents.
  - *Preservation Program*: The program for at-risk properties should include actions to ensure owners comply with State Preservation Notice Law as well as include proactive outreach to owners.
  - *Doorway Program*: The program should include proactive outreach.
  - *Assistance to Low-Income Homeowners with Home Repair Needs*: The program should go beyond researching public sources. It should also include proactive outreach or assistance to owners.
  - *Direct Emergency Financial Assistance Program*: The program should include proactive outreach.
  - *Anti-Displacement Program*: The program should include proactive outreach to residents.
  - *Sewer District Program*: The program should clarify whether there is sufficient capacity to meet the City's RHNA or identify actions needed to improve system.
  - *Water System Master Plan Program*: The program should clarify whether the first phase provides enough water to meet RHNA or identify additional actions to ensure sufficient capacity.
  - *Program for Homelessness*: The program should go beyond considering funding and include implementing actions.
  - *Larger Affordable Units*: The program should clarify how the City will incentivize larger affordable units and what actions will be implemented.
  - *Encourage Deed-Restricted ADUs for ELI Program*: The program should include specific actions on how the City will encourage deed-restricted ADUs for ELI households.
2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B4, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Shortfall of Sites: The element describes a shortfall of sites and indicates rezoning will occur to accommodate the RHNA. The element must specifically commit to acreage, allowable densities and anticipated units. In addition, if necessary, to accommodate the housing needs of lower-income households, the program should specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i).

Overlay Zone Program: The program must identify whether there will be a back-up option if council denies the overlay zone. In addition, the timing includes SB 2 funding and should be adjusted to expenditure deadlines for the grant (December 31, 2023).

Adopt By-Right Zoning for Ravenswood 4 Corners Specific Plan Program; Senior Center Program; Gateway 101 Retail Site Program: The programs must clarify whether the rezoning is needed to meet the City's RHNA. For your information, if any zoning amendment or rezoning is necessary in the planning period to accommodate a shortfall of adequate sites or unaccommodated need for lower-income households, the zoning must permit multifamily uses without discretionary action and address several other requirements pursuant to Government Code section 65583, subdivision (c), paragraph (1) and section 65583.2, subdivisions (h) and (i). Specifically, if adoption does not occur by January 31, 2023 or if the zoning is necessary after January 31, 2023, then sites must address the requirements described above.

RBD Specific Plan Density Bonus/Relaxed Zoning Program: The program should include a specific implementing action beyond study.

Land Swap with County Program: The program must clarify whether the site is needed to meet the City's RHNA. It must also clarify whether rezoning is needed and comply with Government Code section 65583, subdivision (c)(1) and section 65583.2, subdivisions (h) and (i). In addition, if land is not swapped, the program should include back-up actions to identify additional sites within three years of the start of the planning period.

- Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B5 and B6, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised as follows:

Persons with Disabilities: While the element includes Goal 7, it must also include a program with specific implementation to assist persons with disabilities, including reasonable accommodation.

Updating Development Code for Inconsistencies with General Plan: This program is vague about what actions will be taken and what constraints will be mitigated. The program

should be revised to include specific actions and timing for implementation to address identified constraints.

Objective Development standards: The program should clarify what type of developments will have objective standards and whether it applies to single family and multifamily.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community preservation and revitalization and displacement protection.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

“Next Phase” Streamlining for ADUs and SB9 Program: The program must specify what actions are included to streamline approval as well as clarify what will be implemented.

ADU Preapproved Designs: The program should include specific implementation actions beyond revisiting feasibility.

#### **D. Quantified Objectives**

*Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)*

The element generally did not address this requirement. The element must include quantified objectives for construction, rehabilitation, and conservation by income group, including ELI households. Please see the Building Blocks for additional information.

#### **E. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

While the element describes the public participation process and how all economic segments of the community were reached, it must describe how public input was or will be considered and incorporated in the element.

**F. Consistency with General Plan**

*The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)*

While the element discusses how internal consistency will be achieved with other elements of the general plan as part of the housing element update, it should also discuss how internal consistency will be maintained throughout the planning period.