

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

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January 31, 2024

Alyssa Kroeger, Housing Program Manager
Community Development Department
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Dear Alyssa Kroeger:

RE: City of Pacific Grove's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Pacific Grove's draft housing element received for review on November 2, 2023, along with revisions received on January 26, 2024. Pursuant to Government Code section 65585, 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 10, 2024, with you, Joe Sidor, Robert Perrault, Veronica Tam, and Mary Wagner. In addition, HCD considered comments from LandWatch and David Kellogg pursuant to Government Code section 65585, subdivision (c).

The draft element, with revisions, addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Gov. Code, § 65580 et seq). 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 (December 15, 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 Affordable Housing and Sustainable Communities program, 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 will meet 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 effort and cooperation the City's housing element team provided during the 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 Mao Lee, of our staff, at Mao.Lee@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF PACIFIC GROVE

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 also provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness). Programs should be revised as appropriate to reflect the results of this evaluation.

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).)*

Fair Housing Enforcement and Outreach: While the element describes the City as having not been found in violation of fair housing laws, it should also describe how the City proactively complies with existing fair housing laws and regulations. For additional information, please see pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.

Disparities in Access to Opportunity: The element reports data on disparities in access to education, economic, and environmental opportunities. However, the element should also address disparities in access to transportation opportunities, including accessibility and combined transportation and housing costs experienced by protected groups. Please refer to page 35 of the AFFH guidebook (link: https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf).

Disproportionate Housing Needs (Substandard Housing Conditions): While the element included some data regarding housing conditions, it must also identify any concentrations of substandard housing units or concentrations of older units in need of rehabilitation at the local level.

Disproportionate Housing Needs (Homeless): The element included data on the number of homeless individuals in the City but should also describe any concentrations of homeless individuals in the City. The analysis should also include proximity to transit and services.

Identified Sites and AFFH: While the element provides some analysis regarding how sites AFFH, it should quantify the number of units by income category and location in the City. For example, the element can describe the data by neighborhood. Then, the element should evaluate the impacts of identified sites on existing patterns, including addressing any isolation of the regional housing need allocation (RHNA) by income group, lack of identified sites by income groups in any areas of the City and whether the identification of sites improves or exacerbates existing patterns of socio-economic characteristics.

Contributing Factors to Fair Housing Issues: Upon a complete analysis of AFFH, the element should re-assess and prioritize contributing factors to fair housing issues.

2. *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).)*

Sites Inventory: The element identifies sites in the inventory with the same address with different anticipated developments (Sites 7 and 8). The element should provide additional information on whether these are the same or different parcels.

Realistic Capacity: The element mentions an assumption of 70 percent of maximum allowable densities to calculate residential capacity on identified sites and includes a few examples of recent developments. However, it is unclear how the City determined this number absent a reference to Table 2-3. Therefore, the element should include additional and clear supporting information on typical densities of existing or approved residential developments at a similar affordability level. For example, the element could clearly list other recent projects, the zone, acreage, built density, allowable density, level of affordability and presence of exceptions such as a density bonus. In addition, the element must look at the total development (residential and nonresidential) when factoring the realistic capacity for zones that allow for nonresidential uses.

As mentioned above, the element assumes 70 percent of maximum allowable density on sites; however, the element lists various sites that are assumed to redevelop at 100 percent the maximum allowable density without a clear analysis of how this was determined. The element must first establish a realistic capacity assumption for sites, then apply this assumption to sites to determine whether there are sufficient suitable

sites for the planning period. Upon a complete analysis, the element may need to add or modify programs to offset a shortfall of suitable sites to meet the RHNA.

Suitability of Nonvacant Sites: The element identified nonvacant sites to accommodate the regional housing need for households of all incomes (p. 2-6). However, 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, while the element included some analysis demonstrating the potential redevelopment of nonvacant sites, additional information is required to address this finding. Specifically, the description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element needs to also analyze the extent that existing uses may impede additional residential development. For example, the element includes prior redevelopment trends in Table 2-3 but must also relate those trends to sites identified in the inventory. For example, the element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. The element could also consider indicators such as age and condition of the existing structure expressed developer interest, low improvement to land value ratio, and other factors.

Lastly, 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.

Small Sites: The element identified Site #1 as a 0.39-acre site consisting of five parcels and Site #2 as a 0.46-acre consisting of six parcels (p. 2-11). Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. While the element includes some discussion on lot consolidation, it should also provide specific examples with the

densities, affordability, and if applicable, circumstances leading to lot consolidation or subdivision. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. Programs should be revised accordingly based on the outcomes of a complete analysis.

Publicly-Owned Sites: The element identified Site 11 as a 1.16-acre site consisting of three parcels, two under the same ownership (p. 2-14). The site consists of the Light House Four Cinema (0.28 acres) and an adjacent large surface parking lot owned by the City (0.88 acres). The element should include additional and clear supporting information on where development would occur, whether in the City's site or both the City and Cinema sites.

Religious Institution Sites: The element identifies Site 51 as a 5.76-acre site, consisting of one parcel (p. 2-27). The site is owned by First United Methodist Church and only 10 percent of the site is occupied by existing church structures, giving the potential for housing to be developed on remaining areas of the site. The element should include supporting information that there is discussion with the Church regarding development.

Accessory Dwelling Units (ADU): The element projected 272 ADUs over the planning period or approximately 34 ADUs per year over the eight-year planning period. The element also noted permitting 9 ADUs in 2018, 4 in 2019, 20 in 2020, 40 in 2021, and 43 in 2022, for an average of 27 ADUs per year (page 2-2). These trends are inconsistent with HCD records (5 ADUs reported in 2018, 1 in 2019, 20 in 2020, and 40 in 2021) and do not support an assumption of 34 ADUs per year. To support assumptions for ADUs in the planning period, the element should reduce the number of ADUs assumed per year and reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate. Further, programs should commit to additional incentives and strategies beyond zoning incentives for deed restricted ADUs.

In addition, the element relies on the number of ADU permit approvals as information to inform the potential for ADUs in the planning period. However, the element should also describe the number of ADUs that are built and compare to the number of ADUs permitted as supporting information on ADU potential.

Availability of Infrastructure: While the element included programs to maintain and augment the existing water supply (p. 1-61), it should also discuss whether there is sufficient total water and sewer capacity (existing and planned) to accommodate the RHNA during the planning period.

Environmental Constraints: While the element generally described potential environmental constraints (p. 1-62), it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period (e.g., shape, contamination, easements, conditions, compatibility, etc.).

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 for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element indicated that emergency shelters are conditionally permitted in the C-2 zone (p. 1-48). However, the element must also describe and analyze the development standards of the C-2 zone and analyze concentrations of homeless individuals and proximity to transportation and services for these sites, hazardous conditions, and any conditions inappropriate for human habitability. The element must also analyze whether there is sufficient and suitable capacity in the C-2 zone to accommodate emergency shelters.

3. *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. The analysis should specifically address requirements related to parking, heights, lot coverage and limits on allowable densities. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

On/Off-Site Improvements: While the element described necessary improvements such as road construction, installation of sewer, water, and other utilities (p. 1-57). However, the element must also analyze their impact and cost as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at: <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks>.

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 their enforcement for impacts on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/codes-and-enforcement-and-onsite-offsite-improvement-standards>.

Historic Preservation: While the element describes the general process for historic preservation review, the element should also state whether any sites listed in the inventory are subject to historic preservation review. In addition, the element should

discuss any impacts on approval certainty, timing, and ability to achieve maximum densities, as appropriate.

Site Plan Review Committee: The element described the purpose of the Site Plan Review Committee (SPRC) is to encourage well-designed multi-family residential, commercial, and industrial development. However, the element must specifically discuss the impacts on approval certainty, timing, and density.

Housing for Persons with Disabilities (Large Residential Care Facilities (Seven or more persons)): While the element revised Program 12 (Zoning Code Amendments) to permit large residential facilities with a Conditional Use Permit (CUP) based on objective standards, the element must also allow large residential care facilities in all zones that allow residential uses. Currently, the element limits this housing type to multifamily zones.

State Density Bonus Law (SDBL): The element should describe the City's ordinance to implement SDBL (Gov. Code, § 65915), evaluate compliance and, if necessary, add or modify programs to revise the ordinance.

Other Locally Adopted Ordinances: Upon receipt of public comments, it appears that sites located within the O District (Open Space) and the U District (Unclassified) are subject to voter approval if they are to be rezoned, creating a potential constraint for the availability of these sites for the planning period. While the element includes Program 5 (Adequate Sites for RHNA and Monitoring of No Net Loss) to rezone these sites, the element does not analyze the voter approval requirement for rezoning as a constraint. The element must provide this analysis and add or modify programs to address the identified constraint such as a schedule of actions for receiving necessary approvals, as necessary.

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 achieve a beneficial impact during the planning period, programs should include, where appropriate, specific commitment toward housing outcomes and discrete timing (e.g., at least annually). Programs should be revised as follows:

- *Program 9 (Accessory Dwelling Units)*: The Program should include discrete timing for when pre-approved plans will go online on the City's website and given reliance, should also add additional actions to promote ADUs.

- *Program 11 (Sewer System Capacity):* The Program should list out capital improvement plan actions specific to additional sewer capacity, with appropriate timing.
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 B2, 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:

- *Publicly-Owned Sites:* The element identified City-owned sites to accommodate a portion of the RHNA. The element should include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of City-Owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.
 - *Program 8 (Lot Consolidation):* The Program should list which incentives will be considered to facilitate the consolidation of small lots and add a mid-term evaluation of the effectiveness of those incentives, including completing alternative actions by a specified date if necessary.
3. *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 B3, 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.

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 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, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high-opportunity areas, place-based strategies for community preservation and revitalization, and displacement protection.

In addition, promoting housing mobility removes barriers to higher opportunity areas and strategically enhances access to housing choices and affordability to promote more inclusive neighborhoods, cities, and regions. Among other factors, the City is wholly the highest resource community in contrast to the rest of the region. As a result, the element should include significant and robust actions with numerical targets (not limited to the RHNA) to promote housing mobility and increase housing choices and affordability throughout the City. Examples include promoting more housing choices and affordability in lower density areas, religious institutional sites and enhancing ADUs and junior accessory dwelling units (JADU) and home sharing strategies.

D. Coastal Zone Requirements

Coastal localities shall document the number of low- and moderate-income units converted or demolished, and the number of replacement units provided. (Gov. Code, § 65588, subd. (d).)

The element does not meet the statutory requirements. To determine whether the City's affordable housing stock in the coastal zone is being protected and provided as required by Government Code section 65588, the element must be revised to include the following:

1. The number of new housing units approved for construction within the coastal zone since January 1982.
2. The number of housing units for persons and families of low- and moderate-income required to be provided in new housing developments either within the coastal zone or within three miles.
3. The number of existing residential dwelling units occupied by low- and moderate-income households either within the coastal zone or three miles of the coastal zone that have been authorized to be demolished or converted since January 1982.
4. The number of residential dwelling units for low- and moderate-income households that have been required for replacement.