

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

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November 14, 2022

Ellen Clark, Director
Community Development Department
City of Pleasanton
200 Old Bernal Avenue
Pleasanton, CA 94566

Dear Ellen Clark:

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

Thank you for submitting the City of Pleasanton's (City) draft housing element received for review on September 14, 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 September 14, 2022 with you and the City's housing element team. In addition, HCD considered comments from East Bay for Everyone, Greenbelt Alliance, Genesis, Campaign for Fair Housing Elements, YIMBY Law, Jocelyn Combs, and Zach Ackerman 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, including for lower-income households, shall be completed no later than one year from the statutory deadline. 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 rezones to accommodate a shortfall of sites 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 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 hard work and dedication the City's 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 Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF PLEASANTON

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/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/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 review of programs in the past cycle, the element must also provide an evaluation 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).)*

Patterns and Trends: While the element reports general information and data, it must analyze this data for trends over time, patterns across census tracts, and coincidence with other components of the assessment of fair housing. Additionally, the element must evaluate patterns on a regional basis, comparing the City within the Tri-Valley subregion and Alameda County or bay area region as a whole. This analysis should particularly emphasize disparities in income compared to the region and include appropriate programmatic responses to encourage housing mobility and promote new affordable housing opportunities throughout the City, regardless of the regional housing need allocation (RHNA).

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element includes some discussion regarding sites and the assessment factors of the fair housing section. However, this approach to whether identified sites affirmatively further fair housing must also account for the location of identified sites by income group. A full analysis should

address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). In addition, the analysis should be supported by local data and knowledge and other relevant factors. The element should also discuss whether the distribution of sites improves or exacerbates conditions, including any isolation of the RHNA. If sites exacerbate conditions or isolate the RHNA, the element should identify further program actions that will be taken to promote inclusive communities and equitable quality of life throughout the community (e.g., housing mobility and new housing choices and affordability in higher resource or higher income areas).

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).)*

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).)

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).)

Extremely Low-Income (ELI) Households: While the element quantifies existing and projected ELI households, it must also analyze their housing needs. The analysis of ELI housing needs could consider tenure, overpayment, resources and the effectiveness of strategies and the magnitude of housing need. To assist the analysis, see the enclosed data and sample analysis at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

Overpayment: While the element identifies the total number of households overpaying for housing (pp. A-59 to A-67), it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Special Housing Needs: While the element reports data on households and persons with special housing needs, the element must also describe the resources available and effectiveness of strategies to these special housing needs groups, then determine the magnitude of housing needs to better formulate policies and programs.

3. *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).)*

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. The analysis shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. For example, the element lists various factors (e.g., age of structure, development capacity through density and FAR) utilized to indicate the potential for redevelopment in the planning period; however, it should support the validity of these factors. To support these factors, the element should evaluate development trends or recent experience in redevelopment relative to the factors. For example, the element could utilize Table B-9 (Development on Nonvacant Sites in the Tri-Valley) and list the values of the factors for prior uses.

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. 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.

Finally, the housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

Large Sites: While the element states large sites will only use ten acres of buildable acreage to accommodate lower-income RHNA, it must still provide analysis regarding the development of housing for lower-income households on large sites where the acreage of the parcel exceeds ten acres. Absent sufficient evidence that sites of equivalent size with affordability were successfully developed during the planning prior planning period or other evidence that demonstrates the suitability of these sites, the large sites are deemed inadequate to accommodate housing for lower-income households. For example, the element should describe the characteristics of anticipated development on identified large sites, including opportunities and timing for specific-plan development, further subdivision, parceling, site planning or other methods to facilitate appropriately sized sites that encourage the development of housing affordable to lower-income households. Based on the outcomes of this analysis, the element should add or modify programs.

Environmental Constraints: While the element provides information on general environmental constraints, it should also relate those constraints to identified sites, including a discussion of any other known conditions (e.g., shape, easements, contamination) and impacts on development in the planning period.

Infrastructure: The element includes some discussion on water and sewer providers in the City (pp. C-41 to C-43). However, it must also clarify whether sufficient total water and sewer capacity (existing and planned) can accommodate the regional housing need and include programs if necessary.

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/community-development/housing-element/index.shtml#element> 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): Parking requirements for emergency shelters should only be the number of spaces necessary for staff working in the shelter and no more than other uses in the same zones. The element indicates one space per four shelter beds plus one parking space for each employee then concludes the standards is similar to hotel uses. However, a standard of one space per four beds is more than what is necessary to accommodate staff. As a result, the element should add or modify programs to revise parking requirements for emergency shelters in compliance with state law.

4. *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).)*

An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and 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).)

Land Use Controls: While the element describes development standards and some land use controls, it must also analyze those land use controls for impacts on housing supply (number of units), costs, financial feasibility, timing, approval certainty and ability to achieve maximum densities without exceptions (e.g., conditional use permits, variance, planned development).

In addition, the element concludes development standards are not an impediment to residential development as the use of the Planned Unit Development (PUD) process

allows for standards to be created on a case-by-case basis. However, the element should address development standards, specifically parking, use of mid-point density, and heights, for impacts on cost, supply, housing choice, approval and project certainty, and financial feasibility, and include programs to address identified constraints.

Fees and Exaction: While the element describes required fees for single family and multifamily housing development, it must also analyze their impact as potential constraints on housing supply, cost and feasibility. For example, the element (p. C-35) concludes that fees account for a portion of total development costs for a multifamily project but should also evaluate the impacts to support this conclusion, including the impact of fees individually and cumulatively. Excessive fees for housing developments have significant impacts on housing cost, feasibility and production; especially when considering various housing types. The element should include an evaluation of these fees and add programs to address this constraint.

Local Processing and Permit Procedures: The element generally describes the Planned Unit Development (PUD) process but must analyze this process for impacts on supply, cost, financial feasibility, timing and approval certainty. For example, the analysis should clearly state whether the Planned Development process is mandatory or optional, whether the burden of establishing zoning and development standards typically rests with the City or developers, particularly on identified sites, any absence of fixed development standards, any additional legislative approvals and any other requirements or mechanisms that may act as a constraint. While the element's Program 6.1 commits to adopting objective design and development standards, the element should describe how this process is currently implemented, the effect on approval timelines, and the effect on approval certainty.

On/Off-Site Improvements: While the element identifies some improvement requirements, such as minimum street widths the element must also analyze their impact as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

Constraints on Housing for Persons with Disabilities: The element must evaluate constraints on housing for persons with disabilities, as follows:

- ***Reasonable Accommodation:*** The element indicates a reasonable accommodation request must not fundamentally require an alteration to City programs or laws, including but not limited to land use and zoning, and findings related to impacts on surrounding uses. However, reasonable accommodation is intended as an exception process to zoning, development standards and any other land use controls to provide access to housing for persons with disabilities. The element must include a program to amend the reasonable accommodation process and remove constraints to establish an appropriate process.
- ***Definition of Family:*** The element should fully describe and evaluate the definition of family for potential constraints on housing for persons with disabilities.

Approval Time and Requests Lesser Densities: The element must include analysis of requests to develop housing at densities below those identified, the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially. The element must address any hinderance on the development of housing and include programs as appropriate.

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 have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines (e.g., at least annually or by January 2025), including for Programs 1.5 (Assist in Development of Lower- and Extremely-Lower Income Housing), 1.6 (High-Density Housing Outreach), 1.7 (Kiewit and Stoneridge Site Development), 2.1 (Inclusionary Zoning Ordinance), 2.2 (Lower-Income Housing Fees), 2.3 (Fees Nexus Study), 2.7 (Density Bonus Zoning Amendments), 2.8 (Rental Housing Assistance), 3.1 (Manufactured Housing Zoning Amendment), 3.5 (Housing Rehabilitation), 4.4 (Housing Infrastructure), 5.1 (Regional Homeless Coordination), 5.6 (Zoning Code Amendments), and 6.1 (Objective Design and Development Standards).

In addition, while Program 1.8 commits to monitoring Accessory Dwelling Unit (ADU) production halfway through the planning period, this monitoring timeline should be adjusted to every two years and include alternative actions by a specified time (e.g., within six months) if ADUs are not meeting assumptions in the sites inventory, including, but not limited to, additional rezoning.

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 B3, 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, Program 5.6 (Zoning for Special Needs Housing) currently commits to allow transitional and supportive in all zones allowing residential uses and not subject to any special requirements consistent with AB 2162. However, this program conflates two unique requirements. First, the program must commit to permit transitional and supportive in all zones allowing residential then, second and separately, the program should commit to permit permanent supportive housing without discretionary action pursuant to Government Code section 65651.

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 B4, the element requires a complete analysis of potential governmental and non-governmental 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, Program 5.6 (Zoning for Special Needs Housing) commits to allow residential care facilities for seven or more persons subject to conformance with objective standards to ensure no negative impacts on neighborhoods. However, the program should also commit to allow these uses in all residential zones, objectively similar to other residential uses and not constrain housing for persons with disabilities.

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 include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. 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 commitments, milestones, geographic targeting, and metrics and given that most of the City is considered a higher-resource community, the element should focus on programs that enhance housing mobility and encourage the development of more affordable housing choices in an inclusive manner throughout the City.