

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

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November 18, 2022

Bob Summerville, City Planner  
Planning Department  
City of Biggs  
465 C St.  
Biggs, CA 95917

Dear Bob Summerville:

**RE: City of Biggs's 6<sup>th</sup> Cycle (2022-2030) Draft Housing Element**

Thank you for submitting the City of Biggs's (City) draft housing element received for review on August 22, 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.

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.

As a reminder, the City's 6th cycle housing element was due June 15, 2022. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (June 15, 2022), Program 2.1.2 (Rezone to Accommodate Low- and Very-Low Income Regional Housing Needs Allocation (RHNA)) to rezone units to accommodate the RHNA must be completed no later than one year from the statutory deadline. 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 rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c) 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 of the City's housing element team 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 Jose Ayala, of our staff, at [Jose.Ayala@hcd.ca.gov](mailto:Jose.Ayala@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF BIGGS

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. 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 summarizes fair housing complaints and outreach capacity, it should also address how the City complies with state and federal fair housing laws, including regulations, lawsuits, and related enforcement actions. For more information, see page 29 of HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Disproportionate Housing Needs, Including Displacement Risk: While the element includes discussion on overpayment and overcrowding, this discussion should also address patterns and characteristics related to housing conditions and persons experiencing homelessness. This analysis should utilize local data and knowledge and other relevant factors and incorporate the most recent point in time count for persons experiencing homelessness. For substandard housing, the element should discuss areas of the City where proportions of housing units needing rehabilitation may be higher than other areas and may utilize local knowledge such as qualitative information from code enforcement staff. For persons experiencing homelessness, the element should discuss protected characteristics (e.g., race, disability) and disproportionate impacts as well as areas of the City with higher need, including proximity to transportation and services. The element should add or modify programs based on the outcomes of this analysis.

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 site inventory (Appendix D) currently lists sites to accommodate the lower-income Regional Housing Needs Allocation (RHNA) using partial numbers (e.g., 5.94 units). The inventory should be revised with whole numbers for the number of units each site could accommodate.

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the housing element describes other evidence the site is adequate to accommodate lower income housing. While the element notes that five parcels will consolidate to accommodate a high-density project, there are no prior trends or program and/or policies in place to support the development of this site. As a result, the element should demonstrate the potential for consolidation. Based on the outcomes of the analysis, the sites inventory should be adjusted as needed and the element should add or modify programs.

Shortfall of Sites: While the element (p. 164) notes that it will rezone sites to accommodate the shortfall of lower income RHNA, the element must list and describe candidate sites for rezoning and meet all requirements pursuant to Government Code section 65583.2. This description should include the parcel number, property size, general plan and zoning designation, vacant or existing uses, number of units that can be realistically accommodated, planned or existing infrastructure, and any site-specific environmental constraints that may exist. Absent this information, HCD cannot establish suitability of sites to accommodate the RHNA.

Accessory Dwelling Units (ADU): The element (p. 187) notes that the City adopted updated ADU standards in April 2022; however, HCD has not received this ordinance for review. HCD reminds the City of its obligations under Government Code section 65852.2, subdivision (h) to send HCD a copy of the ordinance within 60 days of adoption and requests a copy of the ordinance for review.

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 evaluate impacts on the development of identified sites in the planning period.

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](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

### Zoning for a Variety of Housing Types:

- *Emergency Shelters*: While the element provides general information on acreage for emergency shelters, it should also describe and evaluate development standards, proximity to transportation and services and any conditions unfit for human habitation. For example, the element could describe specific sites where emergency shelters are feasible and provide information on their location relative to services.
  - *Permanent Supportive Housing*: The element (p. 197) states the City will comply with AB 2162 provisions “as applicable” but does not provide any indication of how the City implements supportive housing. The element must commit to permit permanent supportive housing without discretionary action pursuant to Government Code section 65651.
  - *Employee Housing*: The element states that “agricultural worker housing centers” are allowed with a Conditional Use Permit (CUP) in the A-G district. However, Health and Safety Code section 17021.6 states that this housing type should not be subject to a conditional use permit, zoning variance, or other discretionary zoning clearance not required of any other agricultural activity in the zone. The element should reconcile this information and add or modify programs as appropriate.
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 lists and includes a generic discussion of development standards but should also evaluate the impacts of these standards on housing cost, supply (number of units), feasibility and ability to achieve maximum densities. This analysis should also specifically clarify if three stories are allowed in higher density multifamily zones. Based on the outcomes of a complete analysis, the element should add or modify programs.

In addition, the element’s Program 2.4.2 (Substandard Lot Development Variance) notes that the minimum lot size requirement in the City precludes the development of smaller sites. While the City acknowledges this constraint, it requires property owners to request a variance, a costly and subjective requirement to develop on smaller sites. This program should be amended to commit to lowering or removing the minimum lot size to encourage residential development on smaller sites.

Local Processing and Permit Procedures: The element mentions general steps of reviewing an application, including building permit review once the City approves a project. However, the element, for a typical single family or multifamily development meeting zoning, should discuss the approval body (e.g., staff, planning commission),

typical number of public hearings if any, approval findings and any other relevant decision-making criteria. The analysis should evaluate approval findings for impacts on approval certainty and timing.

In addition, the element (p. 197) notes the City does not have a written procedure with SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process. As a result, the element should add a program to address these requirements.

Constraints on Housing for Persons with Disabilities: The element must include an analysis of potential constraints on housing for persons with disabilities, as follows:

- *Group Homes for Seven or More Persons:* The element describes group homes for seven or more persons are allowed in higher density zones, subject to a (CUP). Both the CUP and exclusion of these uses from other residential zones are constraints and the element should include a program to amend zoning to allow these uses in all residential zones with permit procedures and standards that are objective to facilitate approval certainty similar to other residential uses.
  - *Definition of Family:* The City's definition of a family (p. 185) appears to limit the number of persons and relationship by blood, marriage or adoption. These provisions act as a constraint on housing for persons with disabilities and the element should include a program to address the constraint by removing or modifying the definition.
4. *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).)*

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 the effectiveness of strategies to these special housing needs groups, then determine the magnitude of housing needs to better formulate policies and programs.

## **B. Housing Programs**

1. *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 A2, 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 site 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:

- Program 2.1.2 (Rezone to Accommodate Low- and Very-Low Income RHNA) should be revised to include an identification of acreage, zones, allowable densities, anticipated number of units and a minimum density of 16 units per acre. In addition, candidate sites for rezone must be listed and meet all requirements pursuant to Government Code section 65583.2.
- Also, given the element relies on annexation to accommodate the RHNA, the element should include a program with a schedule of actions toward completion of the annexation and to take alternative measures with specified dates if the annexation is not complete early in the planning period.

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-income (ELI) and special needs households. The program(s) could commit to at least annual outreach with affordable developers to identify development opportunities, priority processing, granting fee waivers or deferrals, modifying development standards and granting concessions and incentives (beyond State Density Bonus Law) and assisting, supporting, or pursuing funding applications.

In addition, the element should include programs to address the needs of farmworkers and persons experiencing homelessness. For example, for farmworkers, the element could commit to proactive actions to coordinate with non-profit developers, employers, and other related organizations, to explore funding and incentives and to identify specific development opportunities.

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 Finding A3, the element requires a complete analysis of potential 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, as noted on page 192, the element must include a program to establish a reasonable accommodation procedure to address constraints on 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 A1, 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 significantly seek to overcome contributing factors to fair housing issues and should facilitate meaningful change to address AFFH requirements. Furthermore, programs should include specific commitment, discrete timing, geographic targeting and metrics or numeric outcomes. As appropriate, programs 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.

### **C. 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 includes quantified objectives by income group for new construction and rehabilitation but should also include quantified conservation objectives. Conservation objectives are not limited to at-risk preservation and may include outcomes anticipated under Programs 1.1.1 (Housing Inspections), 4.1.1 (Energy Assistance) and 4.1.2 (Weatherization).