

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

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March 2, 2023

Lilly Whalen, Director
Community Development Department
City of Pinole
2131 Pear Street
Pinole, CA 94564

Dear Lilly Whalen,

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

Thank you for submitting the City of Pinole (City) draft housing element update received for review on December 2, 2022, along with revisions received February 17, 2023.

Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. HCD considered comments from YIMBY Law, CarLa and 350 Contra Costa, pursuant to Government Code section 65585, subdivision (c), as well as conversations facilitated by City Staff on January 30 and February 28, 2023.

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.

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.

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), including for lower-income households, shall 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 all necessary rezones are completed pursuant to Government Code section 65583, subdivision (c)(1)(A) and Government Code section 65583.2, subdivision (c).

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>.

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 Connor Finney, of our staff, at Connor.Finney@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF PINOLE

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

A. Housing Needs Resources and Constraints

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).)*

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).

2. *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).)*

Disproportionate Housing Needs, Including Displacement Risk: The element includes some general information on persons experiencing homelessness and housing conditions but should also evaluate those needs, impacts and patterns within the City, such as areas of higher need. For homelessness, the element should examine patterns of need or areas with higher concentrations of persons experiencing homelessness, including access to transportation and services. For housing conditions, the element should discuss any areas of potentially higher needs of rehabilitation and replacement. The element should utilize local data and knowledge such as service providers and code enforcement officials to assist this analysis.

Local Data and Knowledge: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers, City staff and related local and county planning documents and should include an analysis of the history of exclusionary zoning in the City as well as how it contributes to existing patterns of segregation.

Affirmatively Furthering Fair Housing (AFFH) and Sites Inventory: The element must analyze how the identified sites contribute to or mitigate fair housing issues. An analysis should address all of the income categories of identified sites with respect to location, the number of 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). If sites exacerbate conditions or isolates the RHNA by income group, the element should identify further program actions (not limited to the RHNA) that will be taken to promote equitable quality of life throughout the community (e.g., housing mobility and new opportunities in higher resource areas).

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element must re-assess and prioritize contributing factors to fair housing issues.

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).)*

Progress toward the Regional Housing Needs Allocation (RHNA): The housing element appears to rely on approved and pending projects to accommodate a portion the City's regional housing need for lower-income households. While the housing element includes the number of units for each project by income group, it should also demonstrate the affordability, specifically for moderate income units. The element should utilize anticipated or actual rents, sales prices, or other mechanisms (e.g., financing, affordability restrictions) ensuring their affordability.

Suitability of Nonvacant Sites: The element should analyze the extent that existing uses may impede additional residential development. For example, the element could describe examples (City or comparable areas) of 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 should also consider indicators such as age and condition of the existing structure, existing versus allowable floor area, low improvement to land value ratio, as well as acreage of properties and support the validity of those assumptions based on recent trends or other information.

Zoning for a Variety of Housing Types:

- Emergency Shelters: For your information, if applicable, the element may need to address new requirements related to capacity and other factors for emergency shelters. For more information, including timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

- *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.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov. Please note, the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-download-tool> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

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)).*

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints and evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing. Specifically, the element should analyze heights and setbacks and add or modify programs as necessary.

Parking Requirements: The element must analyze the parking requirements (pp. III-7) for multifamily residential dwellings for its impact as a potential constraint on housing and include a program to address identified constraints. For additional information, see the *Building Blocks* at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/land-use-controls>.

Building Codes: The element should identify any local amendments to building codes analyze impacts on housing costs.

Processing and Permit Procedures: The element must describe and analyze permit processing procedures as potential constraints on housing supply, cost, timing, feasibility and approval certainty, particularly for residential development affordable to lower-income households. The element should discuss what processes are discretionary versus ministerial and clarify whether design review is discretionary. Further, design review processes should be analyzed for impacts on the number of units and denial of projects as well as disparities in processing times between single

family and multifamily housing projects. Further, the element should analyze the total average permit processing time between single family and multifamily housing.

Housing for Persons with Disabilities: The element describes the City's definition of family utilized in zoning then concludes its not a constraint but should include analysis to support this conclusion or consider other conclusions. For example, the family definition appears to require a single lease agreement which may be an impediment to housing for persons with disabilities. In addition, the element should describe and analyze which zones permit group homes (regardless of licensing) for six or fewer and seven or more persons and the accompanying permit procedures. An analysis should address any exclusion of group homes from residential zones and permit procedures such as conditional use permits which may act as a constraint on housing for persons with disabilities.

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).)*

Approval Time and Requests for Lesser Densities: The element must address requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for housing development and submittal of application for building permits. The analysis must address any hinderances on housing development and programs should be added as appropriate.

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 A3, 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.

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).)*

Assist in Development Programs: The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-, very low-, low-, and moderate-income households, including specific actions to assist housing for persons with special needs (e.g., farmworkers, elderly, homeless and persons disabilities, including developmental).

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 A4 and A5, 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 A2, 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 commitment, metrics, milestones, and geographic targeting 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.

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).)*

While the element includes Program H2-4: Accessory Dwelling Units (ADUs), which includes a commitment to create a public outreach program to encourage ADU development, it does not include a timeline of when or how often the outreach will occur. The Program should be revised to include a timeline which sets forth a schedule of actions during the planning period.

C. 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 includes a general summary of the public participation process. The element could describe the efforts to circulate the housing element among lower- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.