

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

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April 26, 2023

Heidi Scoble, Planning Director  
Town of San Anselmo  
525 San Anselmo Ave.  
San Anselmo, CA 94960

Dear Heidi Scoble,

**RE: Town of San Anselmo's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the Town of San Anselmo (Town) draft housing element received for review on January 26, 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.

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

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the Town 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 Town 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 Town 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 Town 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 is committed to assisting the Town in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Fidel Herrera, of our staff, at [Fidel.Herrera@hcd.ca.gov](mailto:Fidel.Herrera@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long, sweeping horizontal stroke extending to the right.

Melinda Coy  
Proactive Housing Accountability Chief

Enclosure

## APPENDIX TOWN OF SAN ANSELMO

The following changes are necessary to bring the Town'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. Housing Needs Resources and Constraints**

1. *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).)*

Projected Extremely Low-Income (ELI) Households: While the element quantifies the existing housing needs of ELI households, it must still quantify projected ELI housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of very low-income households qualify as ELI households.

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).)*

Approved/Pending Sites: The housing element relies on approved/pending projects to accommodate the Town's regional housing need for lower-income households. The element should describe the status of the project, including any necessary approvals or steps prior to development, development agreements, conditions, or requirements such as phasing or timing requirements that impact development in the planning period; and the affordability of the project's units based on anticipated rents, sales prices or other mechanisms (e.g., financing, affordability restrictions) ensuring their affordability.

Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes in general the existing use of each nonvacant site for example "commercial improved, single-family improved, single-family unimproved or exemption improved." This alone is not adequate to demonstrate the potential for redevelopment in the planning period.

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. 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 Town 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.

In addition, if nonvacant sites accommodate 50 percent or more of the lower-income need, the housing element must describe “substantial evidence” that the existing use does not constitute an impediment for additional residential use on the site. 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 Regional Housing Needs Allocation (RHNA).

Realistic Capacity: The element provides assumptions of realistic capacity of 70 percent on nonvacant sites; however, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in the Town, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element includes two project examples on page 130 to demonstrate realistic capacity; however, it is unclear if the two examples represent a trend for all developments at similar affordability levels in the Town. In addition, site 53 on Table 6.8, page 128 calculates realistic capacity at 115 percent of the maximum dwelling units per acre. The element should provide support for this assumption or revise the element as necessary.

Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and other dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the Town’s regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).)

Environmental Constraints: The element should describe any known environmental constraints to the development of housing within the Town. Also, describe mitigation measures, if any, to the environmental constraints.

Replacement Housing Requirements: The sites inventory includes nonvacant sites that include single-family units. The element must identify whether the units are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with

existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

#### Zoning for a Variety of Housing Types:

- *Manufactured Housing:* Page 92 of the element states that manufactured housing is subject to the same standards and regulations that apply to other single-family homes. However, Per Table 4.4 manufactured homes are not allowed in the same zones where single-family homes are allowed. The housing element must demonstrate the Town's zoning code allows and permits manufactured housing in the same manner and in the same zone as a conventional or stick-built structures are permitted.
- *Emergency Shelter:* While housing element law does allow a jurisdiction to limit the number of beds or persons permitted to be served nightly by a facility, standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. The element must analyze the 17-bed limit as a potential constraint for the development of emergency shelters. Chapter 654, Statutes of 2022 (AB 2339), adds additional specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. While the element includes Program 7.5d to study potential residential zones to allow emergency shelters, this program in of itself does not satisfy these requirements, future submittals of the housing element may need to address these statutory requirements. For example, the program should identify the zones the town is considering and the potential capacity for emergency shelters in those zones. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the Town must submit an electronic version of the sites inventory with its adopted housing element to [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov). Please note, the Town 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/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The Town can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

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 (e.g., multifamily rental housing, mobilehomes, transitional housing). The analysis must also 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. While Program 5.3.a commits to establish an Affordable Housing Overlay District in the Zoning Code to incentivize the development of affordable housing by allowing greater building height, the element should clarify if three stories is allowed in multifamily zones.

Fees and Exaction: The element provides a cumulative analysis of fees on various housing types but should also list all the various planning and impact fees to better evaluate the impacts on housing development costs.

Processing and Permit Procedure: The element states that design review is required for multifamily residential projects and to construct new single-family residences. The element includes the findings for approval on page 102; however, the following findings should be analyzed as potential constraints on approval certainty and should include a program(s) to address or remove the identified constraints:

- Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area;
- Provides for protection against noise, odors, and other factors which may make the environment less desirable;
- Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment, or orderly development in such area;
- Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel;
- Will not unreasonably impair access to light and air of structures on neighboring properties;

Housing for Persons with Disabilities: The element notes group homes for seven or more persons are only permitted subject to a Conditional Use Permit. The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty. Secondly, it appears based on Table 4.4, page 91 that residential care facilities for six or fewer are not treated the same as single family. The element should ensure that residential care facilities for six or fewer are treated the same as single-family units and should include programs as necessary. Finally, the element states the Town has a reasonable accommodation procedure and lists the findings of approval; however, finding number five, “whether the requested reasonable accommodation would

adversely impact surrounding properties or uses” should be analyzed as a potential constraint on approval certainty and consistency with HUD guidance related to reasonable accommodation and should include a program(s) to address or remove the identified constraints.

Priority Water and Sewer: For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction’s website pursuant to Government Code section 65940.1(a)(1).

SB 35 Streamlined Ministerial Approval Process: The element states that the Town has not adopted specific SB 35 regulations in the zoning code and follows State requirements to provide ministerial review of projects that meet SB 35 eligibility criteria. However, the element should add a program to identify and analyze written procedures for the SB 35 Streamlined Ministerial Approval Process.

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).)*

Seniors: While the element includes a quantification of the senior population, it must also analyze their special housing needs. For a complete analysis, the element should discuss challenges faced by the senior population, the existing resources to meet those needs (availability senior housing units, # of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

Persons with Developmental Disabilities: While the element includes a quantification of persons with developmental disabilities, it must also include a qualitative description of the need (including a description of the potential housing problems faced by the special needs group), a description of any existing resources or programs, and an assessment of unmet needs.

## **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 sites inventory and analysis, the Town 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:

Rezone Program for Adequate Sites: The element appears to rely on rezoning of sites (Program 5.7) to accommodate the regional housing need, including for lower-income households; however, rezoning programs to accommodate the RHNA must identify the shortfall of sites, minimum acreage to be rezoned, candidate sites for rezoning and completion dates. Rezoning programs to accommodate the RHNA for lower-income households must meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). Examples include nondiscretionary approval, requiring minimum densities, permitting at least 16 units per site and residential performance standards.

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 specific actions to assist in the development of ELI households and persons with special needs including farmworkers, homeless, and persons with disabilities, including developmental. The element includes several programs for lower income but should also include extremely low income and special needs.

Affordable Housing Overlay Zone: The element appears to rely on Program 5.3 to establish an Affordable Housing Overlay District in the Zoning Code to incentivize the development of affordable housing by allowing greater building height, density, and floor area ratio and by reducing parking requirements for multifamily and mixed-use developments that provide a specified percent of units as affordable to low and very low-income households. The element should also specify where the overlay will be applied, describe the permitting procedures that will apply to the residential development in the overlay and describe incentives to encourage and facilitate the development of housing affordable to lower-income households. In addition, the element should list and evaluate the objective design and development standards that will be applied.

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 Town 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).)*

While Table 7.37 Affirmatively Furthering Fair Housing Implementation Matrix includes contributing factors, and geographic targeting, the Program actions do not include metrics. Table 7.37 should be revised to include metrics with clear commitments.

In addition, 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; and, as appropriate must address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas; place-based strategies for community preservation and revitalization and displacement protection. The element acknowledges that Racially Concentrated Areas of Affluence (RCAA) exists within the Town, and that the Town is predominantly in the high resource category according to TCAC/HCD Opportunity Maps and is predominantly higher income, the Town must include a significant and robust suite of actions (not limited to the RHNA) to promote housing mobility and improve new housing opportunities throughout the Town for existing residents and the broader region.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

While the element includes Programs 6.1 and 6.2 to promote the construction and affordability of Accessory Dwelling Units, the programs should include metrics and geographic area.

## **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 must include quantified objectives estimating the number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period. This requirement could be addressed by utilizing a matrix like the one illustrated below:

| <b>Income</b>   | <b>New Construction</b> | <b>Rehabilitation</b> | <b>Conservation/<br/>Preservation</b> |
|-----------------|-------------------------|-----------------------|---------------------------------------|
| Extremely Low-  |                         |                       |                                       |
| Very Low-       |                         |                       |                                       |
| Low-            |                         |                       |                                       |
| Moderate-       |                         |                       |                                       |
| Above Moderate- |                         |                       |                                       |
| <b>TOTAL</b>    |                         |                       |                                       |