

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

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January 31, 2023

Patrick Streeter, Director
Community Development Department
Town of Windsor
9291 Old Redwood Highway #400
P.O. Box 100
Windsor, CA 95492-0100

Dear Patrick Streeter:

RE: Town of Windsor's 6th Cycle (2022-2029) Draft Housing Element

Thank you for submitting the Town of Windsor's (Town) draft housing element update received for review on November 2, 2022, along with revisions received on January 25, 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. Our review was facilitated by a conversation on December 21, 2022, with Kim Voge, City Planner and Cynthia Walsh, Planning consultant. In addition, HCD considered comments from YIMBY Law and Greenbelt Alliance.

The draft housing element addresses most statutory requirements; however, additional revisions are necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

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).)*

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).)

Disproportionate Housing Needs and Displacement: The element must analyze local trends and patterns related to disaster-driven displacement. Based on that analysis, the element may need to add or modify programs.

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. Specifically, the element should include actions with specific commitments, metrics and milestones as appropriate to protect existing residents from displacement housing and address mobility enhancement including new housing choices and affordability in higher opportunity areas (beyond RHNA) to result in an equitable quality of life and affirmatively further fair housing (AFFH) throughout the Town. For example, the element could provide additional detail to Program H-8 (Innovative Housing Options) on how the Town will use findings to promote innovative and alternative housing options.

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).)*

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...(Gov. Code, § 65583, subd. (c)(1).)

Pending and Approved Projects: The element includes the status of approved projects on Table 6.3; however, the element does not include the status of planned pending projects included in Table 6.4. The element must demonstrate the availability and affordability of projects based on rents, sale prices or other mechanisms ensuring affordability (e.g., deed restrictions). Availability should address the status, anticipated completion, any barriers to development and other relevant factors such as build out horizons, phasing, and dropout rates to demonstrate the availability or likelihood of development in the planning period.

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 housing for lower-income households. For parcels anticipated to be consolidated, the element must demonstrate the potential for lot consolidation. For example, analysis describing the Town's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for redevelopment, recent trends of lot consolidation, and information on the owners of each aggregated site. The element includes analysis of one project (Shiloh Terrace Apartments) consisting of three sites, including one smaller than half an acre to create a 4-acre parcel. However, it is unclear how this example relates to the sites identified in the inventory especially sites 1-4 which combined would only create 0.67-acre site.

In addition, the element includes Program H-3 (Lot Consolidation and Small Site Development), to facilitate consolidation of small lots; however, the program should provide additional commitment that will facilitate the development of affordable housing on identified small sites. The program utilizes language such as “consider” appropriate lot consolidation incentives to facilitate mixed use development, but instead should commit to actual outcomes with language like “adopt”, “amend”, “complete” and “establish.” The program could commit to (1) granting density bonuses above state density bonus law (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; and (5) modifying development standards.

Programs: 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.

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).)*

Growth Control: The element states that units affordable to lower-income households are exempt from the growth cap requirements based on an allocation of 1.5 percent growth and that the Town will have a surplus of units after meeting its allocated RHNA; however, the element must evaluate the growth control against SB 330 requirements and whether the growth cap is consistent with 66300 (b)(1)(D)(i) and (ii). Which prohibits establishing or implementing any provision that:

- Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or affected city, as applicable.
 - Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.
4. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

Units at Risk: While the element estimates the costs of producing new rental housing to replace the units that could convert from low-income use, it should also compare replacement cost to the cost of preserving the identified assisted housing developments, including acquisition and rehabilitation costs. The element includes some information on acquisition; however, it is not clear what the estimated costs are for preservation of units at risk.

5. *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, Program H-5 (Inclusionary Housing Ordinance) should be revised to ensure meaningful and specific actions and objectives. In addition, Programs H-26 (Employee/Farmworker Housing), H-27 (Low-Barrier Navigation Centers), and H-29 (Residential Care Facilities) indicate the expected date of completion to be December 2022. If not completed, the element should be revised to update the timelines for implementation.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted to comply with the above requirements.

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 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 must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while 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.

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. If the draft is not found in compliance by April 1, 2023, then Future submittals of the housing element may need to address these statutory requirements. 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>.

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 of Windsor in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Tristan Lanza, of our staff, at tristan.lanza@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager