

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

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January 3, 2023

David Feinstein, Director
Community Development Department
City of Fairfield
1000 Webster Street
Fairfield, CA 94533

Dear David Feinstein:

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

Thank you for submitting the City of Fairfield's (City) draft housing element received for review on October 6, 2022, along with revisions received on December 30, 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. In addition, HCD considered comments from Duane Kromm, Robin Cox and Campaign for Fair Housing Elements and YIMBY Law, pursuant to Government Code section 65585, subdivision (c).

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

1. *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 that could not be accommodated on sites identified in the inventory... (Gov. Code, § 65583, subd. (c)(1).)

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites. To address this requirement, the element evaluates, including recent trends, several factors including an assessed value ratio, existing floor area, age, prior vacancy

rates, location, and other relevant factors. However, the analysis should also discuss the extent existing uses impede additional residential development such as existing leases or contracts or other relevant factors precluding additional development or facilitating redevelopment in the planning period. For example, the element could describe representative sites, existing uses and any factors that may preclude development or encourage redevelopment.

City-Owned sites: The element lists seven City-Owned sites and indicates one site will be available for development while the others are currently being evaluated. Given the uncertainty, the element should discuss the potential steps for developing the remaining six sites, including any known barriers, timing for completing mitigation measures and modify Program 11.2 (City-Owned Land) with a schedule of actions to facilitate development, comply with the Surplus Land Act and particularly identify and make alternative sites with zoning of equivalent capacity and density by a specified date if the sites are not made planned to be made available by a date early in the period.

AB 725: For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above-moderate regional housing needs allocation (RHNA) on sites that allow at least four units of housing (e.g., four plex or greater) (Gov. Code, § 65583.2, subd. (c)(4)). While the element demonstrates meeting these requirements for the moderate-income RHNA, it must still demonstrate meeting these requirements for the above-moderate income RHNA.

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. While the City submitted the sites inventory in the appropriate form, any changes to the inventory should be reflected in the form and the form should be re-submitted as part of adoption. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Programs: As noted above, 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. *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... ..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... ..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).)

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... (Gov. Code, § 65583, subd. (c)(3).)

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The element lists and describes development standards and mentions recent development trends as an indicator that land use controls are not constraints. However, the element should still evaluate impacts on housing costs, supply (number of units), feasibility and ability to achieve maximum densities. For example, the element should discuss whether any recent or pending developments utilized exceptions to zoning standards (e.g., state density bonus law, conditional use, variance, planned development, rezone) to achieve densities. The element should also discuss whether the combination of various bulk standards by zone impede the ability to achieve maximum densities and should also discuss whether past projects have not progressed through the approval process due to land use controls. The City could utilize input from developers to assist in this analysis.

Local Processing and Permit Procedures: The element mentions the minor discretionary, minor development and development review procedures but should also discuss the approval findings or decision-making criteria for each, how those standards are applied or met and any impacts on cost, timing and approval certainty.

Time between Approvals and Building Permit Application: The element must analyze the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the construction of a locality's share of the regional housing need and programs should be added or modified as appropriate.

Programs: As noted above, 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.

3. *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).)*

The element includes many meaningful actions to affirmatively further fair housing (AFFH). However, in many cases, actions do not either geographically target efforts or do not include metrics or numerical targets toward AFFH outcomes. Examples of programs that should include geographic targeting include Programs 1.1 (Affordable Housing Finance), 1.2 (Inclusionary Housing), 2.3 (Diverse Housing), 3.3 (Tenant-based Rental Assistance), 7.1 (Special Needs Housing), 7.2 (Persons with Disabilities and Other Special Needs) and 7.7 (Housing for Military Personnel). Examples of programs that should include metrics include Programs 1.1 (Affordable Housing Finance), 1.2 (Inclusionary Housing), 1.3 (Affordable Homeownership), 2.3 (Diverse Housing), 2.5 (Citywide Densities), 7.1 (Special Needs Housing) and 7.7 (Housing for Military Personnel). Alternatively, Program 10.1 could be revised with aggregated geographic targeting and metrics. Also, in some cases, numerical objectives should be increased (e.g., Programs 5.1 (ADU Incentives) and 6.1 (Zoning in Nonresidential Zones)). Finally, the element should include additional housing mobility and place-based strategies toward community revitalization, particularly in areas of lower income and concentrated poverty.

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.

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, RHNA pursuant to Government Code section 65583, subdivision (c) (1) (A) and Government Code section 65583.2, subdivision (c), 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 any necessary rezones are completed.

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 responsiveness, dedication, and collaboration the City's housing element team provided 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 Irvin Saldana, of our staff, at Irvin.Saldana@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager