

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

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July 21, 2023

Trudi Ryan, Director
Community Development Department
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Dear Trudi Ryan:

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

Thank you for submitting the City of Sunnyvale's (City) revised draft housing element update that was received for review on May 24, 2023 along with revisions received on July 10, 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 June 15, 2023 with you, Ryan Dyson, Housing Specialist; Jenny Carloni, Housing Officer; and your consultant, Chelsey Payne. In addition, HCD considered comments from several stakeholders, pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements described in HCD's October 6, 2022 review; however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). 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 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.

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 you, Ryan Dyson, Housing Specialist; and Jenny Carloni, Housing Officer provided in preparation of the City's housing element and looks forward to receiving the City's adopted housing element. If you have any questions or need additional technical assistance, please contact Shawn Danino, of our staff, at shawn.danino@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SUNNYVALE

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/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. *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).)*

Affirmatively Furthering Fair Housing (AFFH) and Identified Sites: While the element discusses the isolation of the regional housing need allocation (RHNA), including programs to the circumstances, it should quantify the RHNA by area or lack of RHNA by area or location and evaluate impacts or lack of impacts to better formulate an appropriate policy response. For example, the element was revised to explain the timeline for the Moffett Park Specific Plan area as well as some discussion of "built out areas". However, while information was provided regarding the number of units by planning area, it should analyze why areas like the Downtown Specific Plan are expected to include only 224 units, versus the 4,815 units credited in the Moffett Park Specific Plan. In addition, the element was revised to clarify the Downtown Specific Plan's maximum allowable housing per block, with densities as low as 7 to 16 dwelling units per acre. The element should analyze these maximum allocations for impacts. Based on the outcomes of this analysis, the element should add or modify programs.

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).)*

Realistic Capacity: The element revised several parts of its realistic capacity assumptions and analysis, including information on the phasing guidelines for the Moffett Park Specific Plan Area. However, the element still must analyze how commercial requirements will affect realistic capacity in the City's mixed use zones. In addition, the element should adjust its assumptions of 105 dwelling units per acre in the Moffett Plan Specific Plan area, given this requirement. Minimum densities may be

utilized to address this requirement without any further analysis. The element should also provide evidence to support the assumption that 50 percent of units in the Moffett Park Specific Plan will be available to lower-income households.

In addition, as noted in the prior review, the element should support or adjust realistic residential capacity assumptions in the Downtown Specific Plan and El Camino Real Specific Plan. For the Downtown Specific Plan, the element should support the assumption of 100 percent of maximum base densities based on land use controls and recent trends by affordability. This analysis may utilize minimum density policies (Policy H-1.4) to address this requirement without further analysis.

Finally, the element was revised to cite 95 percent of maximum densities as realistic in the Lawrence Station Area Plan, 80 percent in the El Camino Real Specific Plan. However, it still must analyze the land use controls including, but not limited to, open space requirements and parking minimums to ensure that maximum densities are feasible in these zones.

Suitability of Nonvacant Sites: The element was revised to include analysis related to the potential for additional development on nonvacant sites based on several factors (e.g., improvement to land ratio, age of structure) and provided analysis on existing uses as well as market demand. However, the element should still support the validity of factors based on recent trends in development and prior uses.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2)). 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 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. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types (Single Room Occupancies (SRO)): The element was revised to describe the parking requirements for Single Room Occupancies (p. 6-27). However, given that this housing typology is designed to be naturally affordable, the requirement of 1 parking space per SRO unit over 250 square feet may be a constraint. The element should evaluate parking and other development standards as potential constraints and modify Program H23 (Zoning Amendments) as appropriate to modify or establish development standards that encourage and facilitate SROs. In addition, the element could consider additional zones in Specific Plan areas, particularly the El Camino Real Specific Plan area, for this naturally affordable housing typology.

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 was revised to describe some of its development standards in broad terms (p. 6-7 to 6-14). However, the analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to floor area ratios, open space, setbacks, height limits, parking and limits on allowable densities. For example, the requirement of 1.5 parking spaces per studio apartment in the Downtown Specific Plan should be analyzed for its impact on housing choice and affordability. In addition, while the City's open space requirements were described in more detail by zone, it may consider exploring strategies such as parklets and public open space that prevent these requirements from raising housing costs and can be used as shared amenities across the community. The analysis should still address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Fees and Exactions: The element was revised to discuss its sense of place fees and how park dedication fees are calculated (p. 6-31). However, given the total number and magnitude of the fees being applied to residential development, the element should include a cumulative analysis of its total fees for different housing typologies (e.g., single-family vs. multifamily development) and modify policies and programs as needed. In addition, the element was revised to include a table with park dedication by project type (Table 6-21), and it is unclear why single-family homes outside of subdivisions are exempt from these requirements. Finally, pursuant to public comments, the City should analyze its \$72,560 park in lieu fee applied to all multifamily units. For additional information and a sample analysis and tables, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml>.

Processing and Permit Procedures: The element was revised to provide further analysis of its permit processing procedures and added Program H20 to develop a Plan Review Permit, described as a 'non-discretionary permit type'. However, on the June 15, 2023 call, it was confirmed that Plan Review Permits still require a Planning Commission hearing. This requirement should be analyzed for impacts on housing cost, timing and approval certainty, including describing the steps, typical timing and any other relevant factors. In addition, the element should clarify which housing typologies will be subject to the Plan Review Permit and which housing typologies are subject to the Objective design Standards outlined in Program H43.

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 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. *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 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.

In addition, the following programs should be revised:

- Program H17 (Commercial Requirement) was revised to 'implement a program to address the commercial requirement' on 100 percent affordable housing sites in the El Camino Real Specific Plan. However, the Program should specifically commit to remove or reduce the commercial requirement across all housing development in the Specific Plan area.
- Program H18 (Private Open Space) was revised to 'collaborate with developers and stakeholders to review and modify usable open space requirements' in the R4 and R5 zone. However, given the total square footage required for open space, the element should be revised to make a specific commitment to significantly reduce open space requirements across several residential zones including R-2, R-3, and parts of the Downtown Specific Plan and the Lawrence Area Station Specific Plan, and clarify these standards will not constrain missing middle housing.

- Program H19 (Park Dedication Requirements) was revised to broadly discuss reduced park dedication lieu fees for Dual Urban Opportunity (DUO) lot splits. However, the element should expand the scope of fee reductions beyond DUO lot splits to other units, including but not limited to, multifamily units.
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).)*

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. Programs to AFFH should go beyond status quo actions, include specific commitment, timing, geographic targeting and metrics or numerical targets and should, as appropriate, address housing mobility, encourage new housing choices in higher resource areas, improve place-based strategies toward community revitalization and protect existing residents from displacement. For example, the element should include significant housing mobility and place-based strategies to promote inclusive communities and equitable quality of life.

C. Public Participation

Local governments shall make a diligent effort to achieve public participation oof all segments of the community in the development of the Housing Element and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

Pursuant to public comments received from Holland and Knight, the City should clarify what additional steps are needed to approve projects at 1154 and 1170 Sonora Court , credited with 227 units in the sites inventory, as well as analyze its compliance with State Density Bonus Law, the frequency of meetings and hearings required to obtain a development agreement, and clarify what additional steps are needed to approve the City's application for State Density Bonus Law.