

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



November 28, 2022

Timothea Tway, Director
Community Development Department
City of Beverly Hills
455 North Rexford Drive, First Floor
Beverly Hills, CA 90210

Dear Timothea Tway:

RE: City of Beverly Hills' 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Beverly Hills' (City) housing element which was adopted October 12, 2021 and received for review on September 29, 2022. The September 29, 2022, revisions are allowed pursuant to Resolution 21-R-13370. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Californians for Homeownership pursuant to Government Code section 65585, subdivision (c).

The adopted housing element with draft revisions addresses many statutory requirements described in HCD's January 14, 2022 letter; however, additional revisions are necessary to fully 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. During the housing element revision 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 meets 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 and your team 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 Chelsea Lee, of our staff, at Chelsea.Lee@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 BEVERLY HILLS

The following changes are necessary to bring the County'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/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/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

A. Housing Needs, Resources, and Constraints

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).)*

Realistic Capacity: The element did not address HCD's previous finding. The element must include an estimate of the number of units that can be accommodated on each site in the inventory based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. As an example, the element could identify sites in the inventory by zones and relate the characteristics of individual parcels in the inventory to its past track record of recently approved projects by zone to establish its realistic capacity methodology. For sites zoned for nonresidential uses, e.g., commercial and mixed-use zones, the element must describe how the estimated number of residential units for each site was determined. In addition, the estimate must also account for land use controls such as allowing 100 percent nonresidential uses.

Suitability of Nonvacant Sites: While the element now includes additional discussion in Appendix C of the criteria that the City utilized to remove additional parcels in the sites inventory that were unlikely to be redeveloped, it must still support the potential for additional residential development on the sites remaining in the inventory. This is especially significant given that the sites inventory includes parcels that seem to have viable businesses including medical uses, Class A and B office buildings, and stores including a Starbucks, Neiman Marcus, and CVS with little to no analysis on the likelihood of these uses discontinuing during the planning period. Please see HCD's prior review for additional information. The element should 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. While the element includes past experiences

converting existing uses to higher density residential development, it must relate those trends to the sites identified in the inventory. 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.

Accessory Dwelling Units (ADUs): In response to HCD's prior review, the element now includes additional information that states 19 ADUs have been permitted in 2021 (pgs. C-13-14). Even with this additional data, it is not clear if the City's assumed production level of 150 ADUs will be achievable during the planning period. To further supplement its assumptions, the City may consider adding trends for 2022, in addition to its programs. The City may consider including trends for 2022 to further supplement its ADU assumptions in addition to including actions in Program 10.4 (Accessory Dwelling Units) that aggressively promote and incentivize ADU construction. Further, the City must still reconcile ADU figures with HCD records.

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, 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).)*

Constraints on Persons with Disabilities:

Family Definition: The element continues to not address this finding. Please see HCD's prior review for additional information.

Group Homes: The element continues to not address this finding. Please see HCD's prior review for additional information.

3. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the 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).)*

Developed Densities and Permit Times: In response to HCD's prior review, the element now includes revisions in Program 12.3 (Efficient Development Permit Review) to acknowledge that some projects have been approved with lower densities. However, the element must be revised to include the analysis as described in the City's comment matrix to HCD.

B. Housing Programs

1. *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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

In response to HCD's prior review, the element now includes satisfactory revisions to Programs 10.3 (Housing Trust Fund) and 10.4 (Accessory Dwelling Units). However, additional revisions are required to address HCD's finding for Program 9.3 (Home Repair and Improvement). Specifically, the element cites that The Handyworker Program was discontinued, but should be revised to clarify what actions the City will initiate to "encourage" the reestablishment of the program given that it is intended to provide funding for scheduled accessibility improvements by 2025, and include other actions if funding from this program is not actualized in the planning period.

2. *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 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 A1, 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.

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 A2 and 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 add programs and address and remove or mitigate any identified constraints. In addition, while the element included program commitments to Program 12.1 (Development Standards), additional revisions are required to fully address HCD's finding. Specifically, Program 12.1 indicates that the City will "consider an ordinance to streamline the approval process to allow Director-level approvals for Architectural Review of multi-family housing projects with affordable housing..." but this does not demonstrate a specific commitment to address constraints related to permit processing procedures. The program should be amended to include specific and measurable actions to demonstrate a beneficial impact during the planning period. Moreover, the action to "review the mixed-use overlay zone regulations by 2026 to assess how these regulations have been utilized by projects..." should be revised to an earlier timeframe for implementation so as to result in beneficial impacts during the planning period.

4. *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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)

In response to HCD's prior review, the element now includes several revisions to Appendix A related to public outreach, contributing factors, other relevant factors, local data and knowledge, and housing mobility and new housing choice strategies. However, additional information is required to fully address this finding. As an example, many of the program actions listed on pages A-46-50 and in Program 11.1 (Affirmatively Further Fair Housing (AFFH)) are limited to conducting outreach, does not include geographic targeting for program metrics and milestones, and includes language such as "study," "continue," or "maintain" that does not result in tangible outcomes that will overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. Additionally, the element, among other things, must still include an analysis at the local and regional level that assesses data, trends, and patterns for each of the fair housing areas (outreach and enforcement, R/ECAPs and RCAAs, access to opportunity, segregation and integration, and disproportionate housing needs and displacement risk). In addition, the element must also include an analysis demonstrating whether sites identified to meet the Regional Housing Needs Allocation (RHNA) are distributed throughout the community in a manner that affirmatively furthers fair housing. For more information, please visit <https://www.hcd.ca.gov/affirmatively-furthering-fair-housing>. To assist with the analysis, HCD will also send a sample under separate cover.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary,*

all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)

In response to HCD's prior review, the element now includes additional information in Appendix A on the expiring affordability covenant for the Beverly Hills Senior Housing project (pgs. A-23-24). However, these revisions do not otherwise address HCD's finding. Program 9.7 (Monitoring Affordable Housing and Residential Displacement) should be revised to clarify that the City intends to maintain the affordability of the project regardless of the expiration of the covenant.