

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

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November 10, 2022

Nick Zornes, Director
Development Services
City of Los Altos
1 North San Antonio Rd
Los Altos, CA 94022

Dear Nick Zornes:

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

Thank you for submitting the City of Los Altos' (City) draft housing element received for review on August 12, 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. Our review was facilitated by a conversation on October 26, 2022 with yourself, and consultants Jennifer Murillo, Stefano Richichi, David Bergman, and Erik Ramakrishnan. HCD also considered public comments from Anne Paulson pursuant to Government Code section 65585, subdivision (c).

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), including for lower-income households, 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 rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c) (1) (A) and Government Code section 65583.2, subdivision (c) 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 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.

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 cooperation the housing element team provided during the review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Anthony Errichetto, of our staff, at Anthony.errichetto@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF LOS ALTOS

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/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. Review and Revision

the previous element to evaluate the appropriateness, effectiveness, and Review progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As part of the review of programs in the past cycle, the element must provide an evaluation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers, and persons experiencing homelessness).

B. 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).)*

Outreach and Enforcement: The element generally satisfies this requirement; however, annual outreach should be added to the programs section.

Integration and Segregation: To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis to help describes what contributes to the higher concentration of nonwhite residents in the southern part of the City. In addition, the element generally describes local patterns and trends related to integration and segregation but must also analyze the City relative to the rest of the region regarding familial status.

Racial/Ethnic Concentrated Areas of Affluence (RCAA): The element briefly mentions HCD's recent data related to RCAs within the City, but generally should also evaluate

the patterns and changes over time at a local (e.g., neighborhood to neighborhood) and regional level (e.g., city to region).

Disparities in Access to Opportunity: The element provides information on the access to opportunity through the TCAC opportunity maps but must also provide a complete local and regional analysis of patterns and trends for all components of the assessment of fair housing. A comprehensive analysis should include the local and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. It should also analyze persons with disabilities as well as access to transit. Please refer to page 35 of the AFFH guidebook (<https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to the City. Specifically, the element should analyze what contributes to the City's low economic resource score, what contributes to the one area with a higher educational score, include local information to describe what contributes to environmental conditions, and describe the quality of transit access within the City and regionally.

Disproportionate Housing Needs: The element includes some local and county data on cost burdened households (overpayment) and substandard housing. However, the element must relate the concentration of cost burden to other factors and discuss what contributes to the differences within the City and regionally. The element should also discuss whether there are any concentrations of substandard housing within the City and relate those conditions to the region. As well, the discussion regarding displacement should address risk and disproportionate impacts on protected characteristics due to natural disaster.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): While the element includes some AFFH requirements it generally does not address this requirement. The analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies).

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Overpayment: While the element identifies the total number of households overpaying for housing, it must quantify and analyze the number of lower-income households

overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Housing Costs: While the element includes information on sales prices, rental information from the American Community Survey does not fully reflect market conditions and the element should include additional data sources.

3. *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).)*

Progress in Meeting the Regional Housing Needs Allocation (RHNA): The element relies on pipeline projects to meet its RHNA, specifically, the element has identified 587 units that are either pending, approved, or under construction. First, to count these units as progress towards RHNA, the element must demonstrate these units are expected to be constructed during the planning period. To demonstrate the availability of units within the planning period, the element could analyze infrastructure schedules, City's past completion rates on pipeline projects, outreach with project developers, and should describe any expiration dates on entitlements, anticipated timelines for final approvals, and any remaining steps for projects to receive final entitlements. Additionally, given the element's reliance on pipeline projects, the element should include programs that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals, rezoning or identification of additional sites should the applications not be approved).

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. The element should provide additional examples of typical densities of existing or approved projects at similar income levels. Table B-5 on pages B-8 and B-9 should be related to the sites inventory and include affordability levels for the projects listed. In addition, the element appears to assume residential development on sites with zoning that allow 100 percent nonresidential uses. While the element mentions strong market demand for residential uses within nonresidential zones, it must still account for the likelihood of nonresidential uses. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#zoning>.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element generally describes the existing use of nonvacant sites. 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 for each specific parcel. In addition, the element must analyze the extent that existing uses may impede additional residential development, including 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. Finally, the analysis should address public comment related to the identified sites and potential for redevelopment and add or remove sites as appropriate.

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 that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2)). This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period. 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.

Environmental Constraints: While the element generally describes a few environmental conditions within the City (p. C-38), it must describe how these conditions relate to identified sites including environmental constraints within the City that could impact housing development in the planning period such as seismic activity and wildfire threats. The element should also discuss any other known conditions that may impede or preclude development on identified sites in the planning period (e.g., parcel shape, easements, contamination). For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

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/community-development/housing-element/index.shtml#element> 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:

- *Accessory Dwelling Units (ADUs):* The element indicates the City modifies its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU noncompliance issues under a separate cover. As a result, the element should

add a program to update the City's ADU ordinance in order to comply with state law.

- *Emergency Shelters*: The element mentions emergency shelters are permitted in the PUD/C zone; however this zone is not listed in Table C-5 or Table C-6. The element should describe the development standards of the PUD/C zone or other zones that allows emergency shelters by-right (without discretionary action) and should provide an analysis of capacity, including potential for reuse and proximity to transportation and services and any conditions inappropriate for human habitability. The element should also clarify shelters are permitted without discretionary action and discuss available acreage in the overlay zone, including typical parcel sizes and the presence of reuse opportunities. In addition, the element should describe how emergency shelter parking requirements comply with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement. Lastly, the element should clarify the exact total capacity for emergency shelters. For additional information and a sample analysis, see the Building Blocks at http://www.hcd.ca.gov/community-development/housing-element/housing-element-emos/docs/sb2_memo050708.pdf.
- *Single Room Occupancy (SRO) Units*: The element should describe whether the City has any procedures to encourage and facilitate SRO development in the allowable zoning districts.
- *Manufactured Housing*: Manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling would be subject to. The element must demonstrate consistency with this requirement or add or modify programs as appropriate.

4. *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. For example, the analysis must analyze maximum lot coverage, height limits, setbacks in all zones allowing residential uses, particularly higher density. The analyses should 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.

Minimum Unit Sizes: The element mentions minimum unit size requirements that would preclude smaller units (e.g., “affordable by design” apartments), these requirements

should be described and analyzed as a potential constraint, and programs should be added to address identified constraints.

Parking Requirements: The element provides a brief discussion regarding the City's high parking requirements and provides Program 3.A (Prepare a Downtown parking plan and update parking requirements); however the program should provide a specific commitment to study and update parking requirements throughout the entire City to remove all potential constraints. In addition, Program 3.A should commit to revising parking standards for commercial and high-density residential zoning districts including, parking requirements that exceed a sliding scale for commercial and high-density residential zoning districts, covered versus underground parking requirements, and guest parking requirements.

Fees and Exactions: The element must describe all required fees for single family and multifamily housing development (i.e., zoning change, general plan change, lot splits, in lieu fees, impact fees, etc.) and analyze their impact as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing. In addition, the City's fees should be analyzed relative to other jurisdictions in the county, which currently are significantly greater than surrounding jurisdictions, and add a program to address any potential constraints. In addition, the element indicates that fees for multifamily projects are significantly greater than those for single-family projects, an uncommon observation not found in other comparable jurisdictions. Excessive fees for multifamily projects have significant impacts on housing affordability and production. The element should include an evaluation of these fees and add programs to address the constraint as appropriate.

Zoning and Fees Transparency: The element must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City's website and add a program to address these requirements, if necessary.

Local Processing and Permit Procedures: While the element includes information about processing times in Table C-8, it should clarify the typical average time for single family and multifamily processing times. The element should also describe and evaluate the process for a typical development complying with zoning including approval body, number of public hearings, approval findings and any other relevant factors for impacts on housing cost, timing, feasibility and approval certainty. Lastly, the element should clearly describe whether the Planned Development process, including subsequent use permit, is required or optional to applicants. If required, the element should include specific analysis of the impacts of absence of fixed development standards on housing supply (number of units), cost, timing, feasibility, and approval certainty.

C. 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... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact and achieve the goals and objectives of the housing element, programs must have specific commitments and discrete timing (e.g., at least annually, by a specific date). Programs that should be revised include:

- *Program 1.B (Higher Density in CT District):* The program should provide commitments to specific actions and the timeline should occur earlier in the planning period for accountability, tracking, and potential modification.
- *Program 1.C (Housing in OA District):* The timeline for the program should occur earlier in the planning period for more significant impact.
- *Program 1.D (Housing on Church Lands):* The timeline for the program should occur earlier in the planning period for more significant impact.
- *Program 1.E (Update Specific Plan):* The program should provide a specific commitment to remove objective design standards (i.e., “landscape and beautification”). As well, the timeline for the program should occur earlier in the planning period for more significant impact.
- *Program 1.H (City-Owned Sites):* The program should commit to provide specific incentives.
- *Program 1.I (Downtown Lot Consolidation Incentive):* The program should provide a specific commitment to establishing lot consolidation incentives beyond evaluating.
- *Program 2.A (Enhance Inclusionary Housing Requirements):* The program should provide a specific commitment to modifying fees to address constraints.
- *Program 2.C (Affordable Housing Funding):* The program should include outreach to developers to promote incentives. Also clarify whether incentives are currently in place, if not then include timelines for their implementation.
- *Program 3.A (Prepare a Downtown parking plan and update parking requirements):* As mentioned earlier, the program should provide a specific commitment to study and update parking requirements throughout the entire City and address all constraints.
- *Program 3.B (Building Heights in Mixed-Use Zones):* The program should specify how many stories will be allowed. In addition, the program should be revised to address height constraints for the entire City.
- *Program 3.H (Design Review Process Update):* The specific commitments provided in the program are likely insignificant to reducing the design review constraint (i.e., persistence of the planning commission and city council vote during the event of an appeal which is very likely given the elements admissions

to “community resistance to housing (page C-38). In addition, the program should also remove other subjective design review bodies such as the third-party independent architect review. Furthermore, the program must commit to further evaluate midcycle progress and commit to making changes if necessary to address the constraint.

- *Program 4.C (Low Barrier Navigation Centers)*: The timeline for the program should occur earlier in the planning period. because it is a carryover program from the previous planning cycle – no later than 1 year.
- *Program 4.D (Transitional and Supportive Housing)*: The program must specifically commit to comply with AB 2162. In addition, the timeline for the program should occur earlier in the planning period.
- *Program 4.E (Employee/Farmworker Housing)*: The timeline for the program should occur earlier in the planning period because it is a carryover program from the previous planning cycle – no later than 1 year.
- *Program 4.F (Reasonable Accommodations)*: The timeline for the program should occur earlier in the planning period because it is a carryover program from the previous planning cycle – no later than 1 year.

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 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 B3, 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. In addition, the element should be revised, as follows:

- *Prior Identified Sites*: Program 1.G (Rezone Sites from Previous Housing Element) should commit to rezone sites at appropriate densities (e.g., allow at least 30 units per acre).
- *Density Bonus*: The element should include a program to ensure the City will update to meet State Density Bonus Law.
- *SB 9*: The element should include a program to implement SB9 in compliance with State law.

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 B4, 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.

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).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. 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 as appropriate and must address housing mobility enhancement (more choices and affordability across geographies), new housing choices and affordability in higher opportunity and income areas (e.g., missing middle housing types), place-based strategies for community preservation and revitalization and displacement protection. Housing mobility and new opportunities in higher resource areas should not be limited to the RHNA and, instead, target meaningful change in terms of fair housing issues. In addition, the element should be revised as follows:

- *Program 2.D (ADU Streamlining)*: The program should geographically target outreach to single family households.
- *Program 4.J (Alternative Transportation Incentive)*: The program should geographically target actions toward unsafe, lower resource, and underdeveloped infrastructure (i.e., sidewalks, protected bike lanes, etc.).
- *Program 6.C (Housing in Highest Resource Areas)*: The program should also disseminate information on the City website.
- *Program 6.D (Section 8 Vouchers)*: The program should implement geographic targeting as well as track and modify actions as necessary to accomplish a desirable metric.
- *Program 6.E (Anti-Displacement Outreach)*: The timeline for the program should occur earlier in the planning period for more significant impact.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent.. (Gov. Code, § 65583, subd. (c)(7).)*

The element should be revised as follows:

- *Program 2.D (ADU Streamlining):* The program must be modified to include necessary revisions to the City’s ADU ordinance to comply with State law. The program should also provide specific commitments to remove barriers to the review process and clarify what incentives (i.e., processing and fees) will be implemented as well as how often outreach will occur.

D. Public Participation

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

While the element includes a general summary of the public participation process, the element should also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element, including who attended and what feedback was provided. In addition, the element should describe additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households.