

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

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May 19, 2022

Sean Moss, Planning Manager
Planning Division
Community Development Department
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Sean Moss:

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

Thank you for submitting the City of El Cerrito's (City) revised draft housing element received for review on March 20, 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.

The revised draft element addresses many statutory requirements; however, revisions will be 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.

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. 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 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 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 cooperation the City's housing element team provided during the review and update. 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 Connor Finney at Connor.Finney@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF EL CERRITO

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. 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).)*

Fair Housing Enforcement and Capacity: While the element includes additional information regarding fair housing enforcement and outreach, it must still discuss how the City complies with existing fair housing laws and regulations, any past fair housing lawsuits, consent decrees or other related legal matters.

Racially Concentrated Areas of Affluence (RCAA): The element now mentions that large portions of the City are RCAAs but should include specific analysis of patterns and trends for RCAAs within the City. As noted in the prior review, the analysis should at least address trends, conditions, comparisons to other neighborhoods, effectiveness or absence of past strategies, local data and knowledge and other relevant factors related to equitable quality of life. The element must add or modify meaningful programs based on the outcomes of this analysis, including actions to improve housing mobility within the City.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element includes some discussion of the number of sites by concentrations of socio-economic characteristics. However, this approach to whether identified sites AFFH should account for where the sites are located. The analysis should address the number of units by all income groups, and location (e.g., neighborhood, planning area, census tract), discuss any isolation of the regional housing need allocation (RHNA) by income group and evaluate the magnitude of the impact on existing concentrations of socio-economic characteristics by area.

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element should re-assess contributing factors and prioritize those factors then formulate appropriate policies and 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).)*

Progress toward the RHNA: While the element now discusses the status of planned and approved projects, as found in the prior review, it should also address 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.

Finally, given the element has identified a large portion of the RHNA through pipeline planned and approved projects, the element should include programs with actions that commit to facilitating development and monitoring approvals of the projects, including the number of units and affordability. Actions could include coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals, monitoring of project progress and alternative actions if development does not progress as anticipated, including rezoning or identification of additional sites, if necessary.

Publicly-Owned Sites: As found in the prior review, the element must include additional discussion on the availability of the Del Norte BART Station site for development in the planning period. While the element now discusses that development of the site will occur based on the model of the El Cerrito Plaza Station, however, it should still analyze the availability of the site in the planning period. Specifically, the analysis should address existing uses, any known conditions that preclude or could promote development in the planning period, status, and potential schedule for development. Based on this analysis, the element should add or modify programs.

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 (Emergency Shelters): For your information, Chapter 654, Statutes of 2022 (AB 2339), adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. 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>.

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: As found in the prior review, the element should analyze land use controls for impacts on development. In response, the element generally states since multifamily uses exist, there are no constraints on development. However, the mere existence of a use does not demonstrate its development was not constrained. For example, the development could have necessitated exceptions or cost could have been impacted. The element must still include an analysis and the analysis should address multifamily development standards, including heights, floor area ratios, parking and day planes. Based on the outcomes of this analysis, the element should add or modify programs to address identified constraints. Please see HCD's prior review for additional information.

Local Processing and Permit Procedures: While the element describes some permit times for recent projects, it should still list and evaluate processing times for various permit types. In addition, the element now explains that the City is not subject to Government Code section 65913.4 (SB 35). However, the City may be subject to these requirements in the future and as a result, the element should still clarify whether the City has a written procedure to implement streamlining provisions and add or modify programs if necessary.

On/Off-Site Improvements: The element now explains that the City's improvement requirements are similar to other cities and, as a result, do not constrain development. However, similarity to other cities does not demonstrate there are no constraints on development. For example, nearby cities could also have constraining requirements. The element must still describe describes typical on- and off-site improvements and analyze the cost impacts on development and add or modify programs if necessary.

Other Ordinances: The element now describes the amount of in lieu fees and a recent economic feasibility study regarding an inclusionary requirement. However, the element should still evaluate the inclusionary requirement, including types of options and incentives, including relationship to State Density Bonus Law, offered to encourage and facilitate compliance with the inclusionary requirements.

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.

In addition, while Program H-2.E (Develop on BART Lands) now includes some actions to facilitate development in the planning period, it should also commit to alternative actions with timing if steps are not completed as anticipated to facilitate development in the planning period. In addition, numerical objectives should reflect both identified BART sites.

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

As noted in Finding A3, the element requires a complete analysis of potential governmental and non-governmental 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, Program H-2.H (Zoning Amendments for Special Needs Housing) should also commit to allow group homes for seven or more persons similar to other residential uses of the same type in the same zone.

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. 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 commitments, milestones, geographic targeting, and metrics or numerical targets and, as appropriate, 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. Particularly, the element must include significant and

meaningful action to enhance housing mobility. HCD will send examples under separate cover.

C. Public Participation

The local government 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 program shall describe this effort. (Government Code 65583(c)(7))

As noted in the prior review, moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts.