

Attachment: Response to HCD Comments on City of El Cerrito Draft Housing Element, June 2023

On May 19, 2023, the City of El Cerrito received a comment letter from the California Department of Housing and Community Development (HCD) on the Draft Housing Element. The City reviewed these comments, revised the document, and prepared the Revised HCD Review Draft Housing Element. To help the reader track revisions, this attachment to the Housing Element outlines the comments from HCD's letter with responses from the City describing how and where comments were addressed in the Housing Element.

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).)*

HCD Comment 1: 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.

Response 1: Expanded discussion of fair housing enforcement capacity on page 3-10.

HCD Comment 2: 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.

Response 2: Added further analysis of RCAAs and reference to programs on page 3-38 and 3-39.

HCD Comment 3: 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.

Response 3: Added to the Assessment of Sites Inventory and Fair Housing section, beginning on page 3-76 (Summary Analysis of Sites Inventory), to quantify, evaluate, and summarize the sites inventory capacity relative to fair

housing indicators by census tract.

HCD Comment 4: 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.

Response 4: Assigned a priority level to the contributing factors the City intends to take meaningful actions to address during the Housing Element period and expanded references to programs.

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).)

HCD Comment 5: 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.

Response 5: Added additional information on page 4-2 of the Sites Inventory Chapter describing how the City works with applicants to facilitate development post-entitlement, and added new Program H-1.F to facilitate and monitor pipeline projects:

Program H-1.F. Facilitate Development of Pipeline Projects

The City shall work with applicants of pipeline projects counted in the Housing Element sites inventory to facilitate development. The City shall coordinate with applicants to expedite remaining entitlements and support funding applications. The City shall monitor the progress made on these sites in the inventory and if entitlements expire, the City shall remove them from the approved project list, reclassify them as vacant/non-vacant opportunity sites, and recalculate the capacity on the sites according to the methodology used in the sites inventory chapter. If determined that the City no longer has sufficient capacity to meet the RHNA, the City will take action to identify additional sites, which may require rezoning another parcel to allow for increased density.

- ❑ **Objective:** 1,712 units, including 79 very low-, 415 low-, 611 moderate-, and 607 above moderate-income units
- ❑ **Timeframe:** Throughout the planning period
- ❑ **Responsible Department or Agency:** Community Development Department

HCD Comment 6: 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.

Response 6: The discussion of the Del Norte BART Station on page 4-12 has been updated to reflect more recent information obtained through conversations with BART and more specific assumptions about existing uses on the site.

HCD Comment 7: 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.

Response 7: Noted. The final electronic sites inventory spreadsheet will be provided with the adopted Housing Element.

HCD Comment 8: 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>.

Response 8: Added analysis of compliance with AB 2339 on page 5-15 of the Constraints Chapter.

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).)

HCD Comment 9: 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.

Response 9: Expanded discussion of land use controls on page 5-6 of the Constraints Chapter and added the following new program:

Program H-1.H. Monitor Land Use Controls

The City shall monitor the development review process to identify whether or not applicants are asking for exceptions or costs are being impacted by specific development standards or other land use controls in the Zoning Code and San Pablo Avenue Specific Plan. If certain standards or regulations are identified as a constraint, the City will take action to remedy the issue by removing or modifying the land use control or development standards, as appropriate and feasible.

- Objective:** Facilitate development by ensuring development standards do not constrain project feasibility
- Timeframe:** Monitor land use controls as development applications are reviewed. As part of the annual progress report in March/April of each year, consider whether or not land use controls are a constraint to development and if a constraint is identified, take action within 6 months to remedy the issue.
- Responsible Department or Agency:** Community Development Department

HCD Comment 10: 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.

Response 10: Expanded discussion on page 5-30 of the Constraints Chapter about processing times and on page 5-32 about SB 35, and added the following program to develop written procedure for SB 35 streamlining provisions:

Program H-1.G. SB 35 Ministerial Approval Procedure

The City shall establish a written procedure for a streamlined ministerial approval process in compliance with Senate Bill 35 and implement the approval process if and when HCD determines it applies to El Cerrito.

- **Objective:** Compliance with State law
- **Timeframe:** Establish written procedure by June 2024; implement the ministerial approval process immediately upon determination by HCD that El Cerrito is subject to streamlined ministerial approval.
- **Responsible Department or Agency:** Community Development Department

HCD Comment 11: 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 typical on- and off-site improvements and analyze the cost impacts on development and add or modify programs if necessary.

Response 11: Expanded discussion on page 5-31 of the Constraints Chapter

HCD Comment 12: 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.

Response 12: Added discussion on page 5-13 of the Constraints chapter explaining that inclusionary units are eligible for state density bonus.

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).)*

HCD Comment 13: 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.

Response 13: Comment noted. No changes to the capacity of the sites inventory were made in response to HCD comments.

HCD Comment 14: 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.

Response 14: Program H-2.E was expanded to include additional actions to facilitate development at both stations, numerical targets for both stations, and a commitment to alternative actions if the steps outlined in the program are not completed as anticipated.

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).)*

HCD Comment 15: 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.

Response 15: As described above, two new programs were added in response to HCD comments on the Constraints chapter: Program H-1.G (SB 35 Ministerial Approval Procedure) and H-1.H (Monitor Land Use Controls).

HCD Comment 16: 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.

Response 16: Added the underlined language to Program H-2.H:

- Review and amend the zoning ordinance to allow group homes, including those with 6 or fewer persons and those with more than six persons, in all zones allowing residential uses objectively and with approval certainty similar to other residential uses of the same type in the same zone consistent with State law and the City's obligation to affirmatively further fair housing.
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).)*

HCD Comment 17: 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.

Response 17: To address housing mobility, missing middle, and diversify the housing stock in concentrated areas of affluence, the following programs were modified and added to the Housing Element:

- **Program H-1.E. Zoning for Innovative Housing Types (MODIFIED)**
The City shall evaluate current zoning standards and adopt zoning modifications and/or incentives to encourage innovative housing types, including tiny homes, efficiency units, and missing middle housing types. The City shall evaluate ways to mitigate fire risk considerations in the hillside area to facilitate more housing variety in the city's existing single-family neighborhoods as a way to expand housing opportunity in high resource areas and racially concentrated areas of affluence. The City shall engage the public in this process, including targeted outreach to lower-income households and stakeholder interviews.
- **Program H-4.E. Home Match Contra Costa (NEW)**
The City shall participate in the Home Match Contra Costa County program to match homeowners and home seekers to create long-term shared living arrangements. The City shall publicize the program throughout the city with a concerted effort to increase participation in high resource single-family neighborhoods as a way to increase housing mobility in concentrated areas of affluence.
 - Objective:** Provide services to match people who have an extra room or separate unit available to facilitate housing mobility in high resource, single-family neighborhoods in concentrated areas of affluence
 - Timeframe:** Launch Home Match program by 2027. Ensure that 100 percent of residents requesting information about the Home Match program are connected with relevant materials and resources.
 - Responsible Department or Agency:** Affordable Housing Division

C. Public Participation

1. *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))*

HCD Comment 18: 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.

Response 18: Added the following new program:

- **Program H-4.F. Community Engagement and Capacity Building**

The City shall work to increase awareness and build capacity amongst the community by targeting public outreach and community engagement efforts to reach residents with the greatest need. The City shall look for opportunities to expand its outreach and public education on available housing services and programs to reach vulnerable and at-risk households by offering information in other languages, conducting targeted social media and e-blast efforts, combining information on resources, getting feedback from residents, and partnering with local service providers and religious facilities to disseminate information.

- Objective:** Build capacity and awareness of housing programs and services
- Timeframe:** Develop outreach strategies in 2025
- Responsible Department or Agency:** Community Development Department