

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

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October 18, 2022

Debbie Chamberlain, Director  
Community Development Department  
City of San Ramon  
7000 Bollinger Canyon Road  
San Ramon, CA 94583

Dear Debbie Chamberlain:

**RE: City of San Ramon's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of San Ramon's (City) draft housing element update received for review on July 20, 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. In addition, HCD considered comments from East Bay for Everyone, South Bay YIMBY, Greenbelt Alliance and YIMBY Law, Ralph Ballart and TransForm 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.

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.

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 sites available from prior planning periods 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).

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.

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, of our staff, at [Connor.Finney@hcd.ca.gov](mailto:Connor.Finney@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 SAN RAMON

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: The housing element must include a summary of fair housing enforcement and outreach capacity. The analysis must address how the City complies with state and federal fair housing laws, including regulations, lawsuits, and related enforcement actions. For more information, see HCD's affirmatively furthering fair housing (AFFH) Guidance Memo at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Local to Regional Patterns of Income and Concentrated Areas of Affluence (RCAA): The element briefly mentions a concentrated area of affluence (p. H.E-47) and that the City has a much smaller proportion of lower-income households compared to the County and Bay Area region (p. H.E-35). However, the element should include specific analysis of these areas to guide an appropriate policy response. The analysis should at least address evaluating trends, conditions, comparisons to other neighborhoods and cities beyond the I-680 corridor, 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.

Local Data and Knowledge: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers, City staff and related local and County planning documents.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the City. For instance, the element can analyze historical land use, zoning and barriers to housing choices, investment practices, seeking investment

or lack of seeking investment to promote affordability and inclusion, information about redlining/greenlining, restrictive covenants and other discriminatory practices, land use related lawsuits, local initiatives, demographic trends, or other information that complements the state and federal data.

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

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

*Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Extremely Low-Income (ELI) Households: The element does include some data on the number of existing and projected ELI households, but it must also analyze their housing needs. The analysis should evaluate tenure, overpayment, resources, and strategies available and the gap and magnitude of housing needs to better formulate policies and programs.

Analysis of Special Needs Population: While the element quantifies the City's special needs populations, it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, # of large units, # of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps. This analysis should also address elderly by tenure (renters and owners).

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).)*

Entitled Projects: While the element may utilize pending, approved or under construction projects toward the Regional Housing Needs Allocation (RHNA), it must also demonstrate their affordability and availability in the planning period. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). Availability should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors.

Realistic Capacity: Where zoning allows 100 percent nonresidential uses, the calculation of residential capacity should account for the likelihood of 100 percent

nonresidential development. For example, the element could analyze all development activity in nonresidential zones allowing 100 percent nonresidential uses, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. This analysis may incorporate any proposed policies such as residential performance standards, prohibition of commercial uses and should clarify that all zones allow residential uses, particularly 100 percent residential uses.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites. While the element includes parcel by parcel descriptions intended to demonstrate potential for redevelopment, it should complement these descriptions with a discussion of existing uses and recent trends or expressed interest to support various factors (e.g., age, improvement to land value, lot coverage) utilized to identify nonvacant sites.

- *Existing Uses*: The element must address the extent existing uses impede additional development such as market demand for the existing use and existing leases, contracts or other conditions that would perpetuate the existing use or prevent additional residential development. For example, many sites are parking lots, offices, San Ramon Visitor Conference Center, and similar uses. The element could generally describe these typologies and whether the existing uses impede additional development. Finally, the City should consider and address public comments regarding the potential of redevelopment on some identified sites.
- *Recent Trends*: Many sites utilize factors such as age, improvement to land value and lot coverage to demonstrate the potential for redevelopment. The element should evaluate recent trends or expressed interest in redevelopment to support the validity of these factors. For example, the element could list recent redevelopment or expressed interest in redevelopment by the existing use and factors then evaluate the similarities to identified sites.

In addition, if relying 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.

AB 725: For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above moderate RHNA on sites that allow at least four units of housing (e.g., four plex or greater) (Gov. Code, § 65583.2, subd. (c)(4)).

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov). HCD has not received a copy of the electronic inventory. Please note, the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory.

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](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

### Zoning for a Variety of Housing Types

- Emergency Shelters: The element mentions emergency shelters are permitted in the Thorough Fare Commercial district with capacity to accommodate the need for emergency shelters but should also discuss proximity to transportation and services and any conditions inappropriate for human habitability. The analysis should also list and evaluate development standards and add or modify programs if necessary.
- Accessory Dwelling Units (ADU): After a cursory review of the City's ordinance, HCD discovered some areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should modify Program 16 (ADU) to update the City's ADU ordinance and comply with state law.

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).)*

*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... (Gov. Code, § 65583, subd. (a)(6).)*

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. While the element lists various development standards, it should also evaluate those development standards for impacts on housing supply (number of units), cost, feasibility, and the ability to achieve maximum densities.

In addition, the element should include a discussion of compliance with State Density Bonus Law. (Gov. Code, § 65915.), including whether the City has an ordinance and implementing mechanisms such as application requirements, granting of density bonuses, concession and incentives, waivers and modifications and parking reductions. Based on the outcomes of this discussion, the element should add or modify programs if necessary.

Building Codes: The element should identify and evaluate any local amendments to the building code for impacts on housing costs.

Local Processing and Permit Procedures: While the element mentions typical timeframes and that developments are subject to various reviews; it should also describe the procedures for a typical single family and multifamily development complying with zoning. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should evaluate approval findings for impacts on approval certainty and timing.

In addition, the element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program to address these requirements, if necessary.

Constraints on Housing for Persons with Disabilities: The element indicates group homes for seven or more persons are allowed in all residential zones and subject to a conditional use permit (CUP). The element also indicates these uses are subject to parking requirements of one space per three beds plus guest and employee parking. The element should analyze the CUP and parking requirements for impacts on housing for persons with disabilities including approval certainty, objectivity, feasibility, timing and cost and add or modify programs to address the constraint.

Other Local Ordinances: The element must analyze any locally adopted ordinances that directly impact the cost and supply of residential development (e.g., inclusionary requirements, short term rentals, growth controls). While the element (p. H.3-2) explains Measure G is primarily a growth management requirement related to the Urban Growth Boundary, coordinating infrastructure and promoting infill development, it also explains that any general plan amendment is subject to four fifths voting requirements (p. H.E-92). The element should analyze the impacts of requiring a four-fifths vote for any general plan amendment on housing supply, cost, timing and feasibility and add or modify programs as appropriate to address identified constraints.

Potential Nongovernmental Constraints: The element must be revised to identify the price of land (vacant or nonvacant) and analyze requests to develop housing at densities below those anticipated in the sites inventory, including hinderance on the construction of a locality's share of the regional housing need. The element notes projects are often approved below the maximum allowable densities but should also discuss requests of densities below the realistic capacity assumptions in the sites inventory.

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

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with specific commitment and discrete timelines (e.g., at least annually or month and year). Examples include:

- *Program 1 (Neighborhood Preservation)*: The Program should commit to how often outreach will be conducted in targeted areas and consider additional outreach methods, beyond updating a website.
- *Program 2 (City Rehabilitation Grants)*: The Program should commit to annually explore and pursue additional funding.
- *Program 6 (Housing Choice Vouchers)*: The Program should commit to how often the City will work with fair housing service providers to educate the community on source of income protections (SB 329 and SB 222).
- *Program 5 (Preservation of Existing Affordable Housing Stock)*: The Program could commit to proactively work with non-profit and public agencies early in the planning period to develop a strategy, seek funding and other resources to preserve at-risk units and support tenants.
- *Program 9 (Below Market Rate Home Ownership Program)*: The Program should commit to how often the City will promote the availability of the program and consider distribution at a broader regional level.
- *Program 10 (Affordable and Special Needs Housing Development)*: The Program commits to annual outreach at community events and seeking grants to defray outreach costs. However, the Program should also specifically commit to annually contact affordable housing developers to identify development opportunities, including assisting with funding or supporting funding applications, for lower-income households, including extremely low-income and special needs households.
- *Program 21 (Regional Partnerships for Affordable Housing)*: The Program could commit to support and assist with pursuing funding such as past efforts related to the Homeless Emergency Aid Program (HEAP) as noted on page H.C-12.

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 A3, 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:



- *Concurrent Rezoning*: HCD understands the City will be completing rezoning prior to the start of the planning period (January 31, 2023) to accommodate the RHNA, including for lower-income households. Please be aware, if rezoning is not completed by January 31, 2023, the element must include a program(s) to rezone sites with appropriate zoning and development standards pursuant to Government Code section 65583, subdivision (c)(1), and meet all the requirements of Government Code section 65583.2, subdivisions (h) and (i).
- *Large Sites*: The element should include a program to encourage the development of housing for lower-income households on sites greater than ten acres. Actions could include coordination with property owners and developers to facilitate appropriate parceling or site planning (e.g., one to five acres), establishing incentives, priority processing and fee reductions.

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

As noted in Finding A4, 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 A1, 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 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, discrete timing or milestones, geographic targeting and metrics or numerical targets toward AFFH outcomes. As appropriate, actions must address housing mobility, new housing choices and affordability in higher resource or higher income areas throughout the City (e.g., a variety of choices and affordability such as missing middle housing types in lower density single family areas), place-based strategies for community preservation and revitalization and displacement protection.

### **C. Quantified Objectives**

*Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)*

While the element includes quantified objectives for new construction, rehabilitation, and conservation by income group; it could consider quantified objectives for conservation beyond at-risk preservation. Examples of programs that could be utilized include Programs 3 (Green Building), 4 (Code Enforcement), 6 (Housing Choice Vouchers), 7 (Condominium Conversions) and 15 (Replacement Housing).

**D. Water Sewer Priority**

*The element shall be immediately delivered to all public agencies or private entities that provide water or sewer services for municipal and industrial uses, including residential, within the territory of the legislative body. Each public agency or private entity providing water or sewer services shall grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households. (Gov. Code, § 65589.7.)*

The element should discuss or commit to immediately deliver the housing element to all public agencies that provide water and sewer service.