

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

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March 29, 2023

Jovan D. Grogan, City Manager
City of San Bruno
567 El Camino Real
San Bruno, CA, 94066

Dear Jovan D. Grogan:

RE: City of San Bruno's 6th Cycle (2023-2031) Adopted Housing Element

Thank you for submitting the City of San Bruno's (City) housing element adopted January 24, 2023 and received for review on January 31, 2023. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on March 23, 2023 with Michael Smith, Darcy Smith, Michael Laughlin, Peter Gilli, and consultant Sabina Mora. In addition, HCD considered comments from San Francisco International Airport, TransForm, David Kellogg, and Housing Leadership Council of San Mateo County pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses most statutory requirements described in HCD's October 6, 2022 review; however, additional revisions are necessary to substantially 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) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). 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 these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the dedication the housing element team provided throughout the course of the housing element review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Hillary Prasad, of our staff, at Hillary.Prasad@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SAN BRUNO

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/planning-and-community-development/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/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

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

As noted in the prior review, if the City failed to make adequate sites available to accommodate the regional housing need in the prior planning period, the City must zone or rezone sites to accommodate any unaccommodated need within the first year of the 2023-2031 planning period. (Gov. Code, § 65584.09.) Program 2-A was necessary to demonstrate compliance with the adequate sites requirement in the previous planning period, including meeting by right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). While the element now explains the rezoning was completed, it must still demonstrate the rezoning meets all by right requirements as noted above. Based on the outcomes of this analysis, the element must include programs to address any lack of implementation within the first year of the current planning period.

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).)*

Disparities in Access to Opportunity: The element must analyze areas of poor environmental outcomes and identify actions to address fair housing issues.

Disproportionate Housing Needs including Displacement: The element must describe and analyze areas sensitive to displacement, including displacement risk due to disaster (e.g., earthquake, fire, and flood) and add or modify programs as appropriate.

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 in Meeting the Regional Housing Need Allocation (RHNA): While the element was revised to demonstrate affordability and list approval dates for each project, it must sufficiently describe the availability of projects during the planning period. The element should discuss the status, any barriers to development and other relevant factors to demonstrate their availability in the planning period. This could include feasibility of remediation of the gas station, status of the project approved in 2019 which received two extensions to pull building permits.

Sites Inventory: The element must list sites by parcel number, parcel size, zoning, general plan designation, describing existing uses for nonvacant sites and include a calculation of the realistic capacity of each site. While the element includes most of these requirements, the inventory must include units by affordability level in Table 6-5. In addition, sites that are identified for rezone must include existing and proposed general plan and zoning designations. The element must also ensure there are sufficient sites identified in the inventory, either with existing zoning or proposed rezones to meet the lower and moderate income RHNA.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must be adjusted as necessary, based on the land use controls and site improvements and typical densities of existing or approved residential developments at a similar affordability level. In addition, the element should describe what factors were included in the realistic capacity assumptions, especially in the mixed-use zones. Currently, the element includes many sites in the transit-oriented development (TOD) which does not include a maximum density. Assumptions of realistic capacity should be supported with examples. Finally, the calculation of residential capacity must also account for the likelihood of residential development in zoning where 100 percent nonresidential uses are allowed. The analysis should be based on factors such as development trends including nonresidential, performance standards requiring residential uses or other relevant factors such as enhanced policies and programs. 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.

Zoning for Lower-Income Households: This finding was not addressed, please see HCD's prior review for additional information.

Small and Large Sites: This finding was not addressed, please see HCD's prior review for additional information.

Suitability of Nonvacant Sites: While the element was revised to include information on existing uses in Table 6-6, it should relate the analysis of sites to the provided

development examples to demonstrate the potential for redevelopment. In addition, the element must analyze the extent that existing uses may impede additional residential development. For example, the element includes sites identified as former schools, and a gas station; but must also demonstrate whether these existing uses would impede development of these sites within the planning period. The element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. The element could also support, based on recent development trends, indicators such as age and condition of the existing structure, expressed developer interest, existing versus allowable floor area, low improvement to land value ratio, and other factors. The element should describe feasibility of the Bayhill Shopping Mall, school sites, gas stations, and car lots.

In addition, for your information, the element relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, which triggers requirements to make findings based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period. While the resolution of adoption includes the findings, any changes to the analysis should be reflected in future re-adoption of the element.

Tanforan Site: While additional information was added regarding feasibility of development on this site, it must describe whether a specific plan is needed. While it states that entitlements are projected to be complete by Fall 2024, it must commit to by-right rezone requirements. In addition, the element states that the project was reviewed by the Airport Land Use Commission but does not state what the conclusion of the review was, or how it will affect development on the site. The element must address comments received regarding feasibility of the site.

Sites Identified in Multiple Planning Periods: This finding was not addressed, please see HCD's prior review for additional information.

Accessory Dwelling Units (ADU): While the element revised the ADU assumptions, Program 4-P must be revised to commit to additional incentives and strategies, frequent monitoring (every other year) and specific commitment to adopt alternative measures such as rezoning or amending the element within a specific time (e.g., 6 months) if needed. The element must also address affordability assumptions for ADU projections.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element was revised to state the City will adopt development standards consistent with state law, it must describe and analyze current standards and provide an analysis of proximity to transit and services in the M-1 zone. Program 4-S should also include specific timing to implement AB 139 parking requirements for emergency shelters.

For your information, Chapter 654, Statutes of 2022 (AB 2339), adds additional 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>.

- *By-Right Permanent Supportive Housing*: This finding was not addressed, please see HCD's prior review for additional information.
- *Single Room Occupancy (SRO) Units*: This finding was not addressed, please see HCD's prior review for additional information.
- *Employee Housing*: The element must clarify whether the City's zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5. The element was revised to state it is compliant, but also references a program that does not commit to ensuring compliance. If necessary, the element should add or modify programs.
- *Accessory Dwelling Units*: While Program 4-P includes updating the City's ADU ordinance, it must include specific timing to implement the program.

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: This finding was not addressed, please see HCD's prior review for additional information.

Local Processing and Permit Procedures: While the element includes information about processing times, it should also describe the procedures for a typical single family and multifamily development. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty.

Design Review: While the element was revised to state that not all design review findings are objective, it must describe and analyze the design review guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. The element should add or revise a program to address any identified constraints.

State Density Bonus Law: While the element was revised to state that the City complies with state density bonus law, it states that additional requirements to study base densities have taken time to do correctly. As a result, the element should add or revise a program to address the identified constraint.

Streamlining Provisions: The finding was not addressed, please see HCD's prior review for additional information.

Constraints on Housing for Persons with Disabilities: While program 4D includes an action to address reasonable accommodation constraints, it must specify which findings will be removed, including but not limited to, "the potential impact on surrounding uses". In addition, while the element states that unlicensed residential care facilities must require a license from the state licensing agency before operation, zoning and standards should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations. Zoning code regulations that isolate and regulate various types of housing for persons with disabilities may pose a constraint on housing choice for persons with disabilities. The element should include specific analysis of these and any other constraints for impacts on housing for persons with disabilities and add or modify programs as appropriate. Lastly, the element must describe and analyze any definitions of family used in zoning and land use for impacts on housing for persons with disabilities and add or modify programs as appropriate.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Developed Densities and Permit Times: While the element was revised to add developed densities during the last cycle, the element must describe and analyze the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

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 address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of

the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- *Program 1-F (Consolidate Fee Schedules)*: The program should be revised to include specific timing on updating fees.
- *Program 4-R (Create an Affirmative Marketing Strategy)*: The program should be revised to include proactive outreach and specify how often (e.g., annually) outreach will occur throughout the planning period.
- *Program 2-A (Evaluate Ballot Initiative)*: The program was revised to include proactive outreach, but the timing was revised to occur further in the planning period. The timing of the program must be implemented earlier in the planning period to ensure beneficial impact and include specific commitment to the action.
- *Program 4-D (Nexus Study for Affordable Housing Program)*: The program should include an action and timing to implement the results of the study.
- *Programs 4-I (Increase Supply of Housing for Large Families), 5-C (Revise Affordable Housing Ordinance), and 5-E (Expedite Review of 100% of Affordable Housing Projects)*: These programs were removed from the element. The programs should be included and address HCD's previous findings, please see HCD's prior review.

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 B2, 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:

Program 2-D (Require a Minimum of 1,000 Housing Units on Tanforan Mall Project):

This program should be revised to describe the actions that the City will take to encourage a set aside for persons with disabilities. In addition, the program should include timing of when the City will coordinate with the developer. Lastly, the site needs to be rezoned. The program should be revised to meet all by-right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i), including but

not limited to permitting multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households.

Shortfall of Adequate Sites: If the element does not identify adequate sites to accommodate the regional housing need for lower-income households, it must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. The program should identify the shortfall by income group, acreage, allowable densities, appropriate development standards and meet all by-right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i), including but not limited to permitting multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households.

Program 2-I (Release RFP for City-Owned Sites): While the program was revised to ensure compliance with the Surplus Land Act for City-Owned sites, the program should include commitment to actions with specific timing to ensure the school owned sites will also comply with the Surplus Land Act.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B3 and 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.

In addition, while program 2-A was revised to include removal of the minimum lot area requirement in the R-2 zone and commits to increase heights in the El Camino Real, the program should specify how heights and lot area will be revised and work with developers to ensure feasibility. In addition, the program should commit to alternative actions by a specific date if the ballot initiative is not passed.

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 be revised to add or modify 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, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility

enhancement, new housing choices and affordability in higher opportunity and income areas, place-based strategies for community preservation and revitalization and displacement protection. While programs were revised to include general metrics, they should specifically respond to the fair housing analysis. For example, programs could specify the number of units by income level and include geographic targets.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

While Program 4-P was revised to include proactive outreach and incentives, the program should commit to monitor permitted ADUs and affordability every other year and take appropriate action such as adjusting assumptions or rezoning within a specified time (e.g., six months) if assumptions are not realized.

D. 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).)

The element must include quantified objectives for conservation/preservation by income group, including extremely low-income households. In addition, the estimated number of units to be rehabilitated should be increased in response to the needs identified in the element.