

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

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October 20, 2023

Jövan D. Grogan, City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, Ca 95050

Dear Jövan D. Grogan:

**RE: City of Santa Clara's 6<sup>th</sup> Cycle (2023-2031) Adopted Housing Element**

Thank you for submitting the City of Santa Clara's (City) housing element adopted June 27, 2023 and received for review on August 23, 2023, along with technical modifications received October 12, 2023. Technical modifications were authorized by Resolution Number 23-9244 and were made available to the public for seven days before HCD's review. 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 September 29, 2023 with Reena Brilliot, Assistant Director Community Development; Lesley Xavier, Planning Manager; Adam Marcus, Housing and Community Services Division Manager; John Davidson, Principal Planner; John Baty, Consultant Planner; as well as your consultants. Finally, HCD considered comments from Housing Action Coalition and Farella Braun + Martel LLP pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses many statutory requirements described in HCD's March 23, 2023 review; however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows.

1. *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).)*

*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... (Gov. Code, § 65583, subd. (c)(1).)*

Progress toward the Regional Housing Need Allocation (RHNA): As noted in HCDs prior reviews, for larger specific plans, the element should discuss planned built out horizons, necessary steps to make sites available, any impediments to the availability of sites for development in the planning period and if necessary, adjust the number of units counted toward the RHNA in the planning period.

Suitability of Nonvacant Sites: The prior review found that the element must describe redevelopment potential of nonvacant sites and clarify how the various factors utilized is indicative of redevelopment potential. The element was revised to list recent examples and provide some additional information about a few factors utilized (e.g., floor area ratio). However, the element should provide additional supporting information for the factors based on trends or other relevant information and relate those factors to the sites inventory.

In addition, the element must still evaluate the extent existing uses impede additional development. This analysis may utilize a site-by-site approach and should address public comments on this review. To address the extent existing uses impeded additional development, the element could utilize indicators of existing uses turning over in the planning period such as interest from property owners in residential development, age of structure, lack of recent improvements or investment, vacancies, existing versus allowable floor area, recent and frequent turnover in uses and lack of existing leases, contracts or other conditions that preclude additional residential development or recent development activity.

Finally, if the element relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, the City must 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 findings, any changes to the analysis should be reflected in future re-adoption of the element.

Zoning for a Variety of Housing Types (Emergency Shelters): While the element was revised to include available acreage, development standards and proximity to transit related to capacity for emergency shelters, Action 9 (Zoning Ordinance) should clarify emergency shelters will be permitted without discretionary action. Further, please be aware 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, including amending the definition of emergency shelters and demonstrating sufficient capacity based on statutory formulas. 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>.

Programs: As noted above, the element does not contain a complete site inventory and analysis. 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, including rezoning sites and meeting all by-right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i).

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).)*

*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).)*

Land Use Controls: The element includes a general statement that development standards do not constrain development based on a brief example that development meet minimum lot size requirements. However, the element must include analysis and programs to address identified constraints. The analysis should evaluate the cumulative impact of development standards on factors such as the ability to achieve maximum densities without exceptions. For example, the element could describe recent projects, provide a bulk analysis utilizing development standards or engage the development community to address this requirement.

Programs: As noted above, the element does not contain a complete analysis of potential governmental constraints. Upon a complete analysis of potential governmental constraints, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised, as follows:

- *Action 1 (Provisions of a Variety of Housing Types):* While the Action was revised to acknowledge residential care facilities and allow the uses through by right processes, it should clarify residential care facilities will be permitted in all residential zones similar to other residential uses of the same type in the same zone.
- *Action 2 (Affordable Housing Ordinance):* While the Action now commits to receive feedback on a feasibility study and bring the study and summary

of feedback to the City Council, it should also commit to bring revisions to the ordinance if necessary.

- *Action 3 (Affordable Housing incentives and Facilitation)*: The element should include a specific commitment to reduce parking requirements for studios and one-bedroom apartments in multi-family zones as discussed in land use controls (p. 13.5-17). In addition, the City should include a specific commitment to reduce parking requirements beyond areas within a half-mile of a transit stop.

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).)*

Goals, Priorities, Metrics, and Milestones: While the element includes many meaningful actions to affirmatively further fair housing (AFFH), it should be revised, as follows:

- *Increasing Housing Choices and Affordability in Areas of Opportunity*: The element was revised to include some actions with geographic targeting and metrics for programs in higher opportunity neighborhoods. However, the element should be revised to include robust actions (not limited to the RHNA and not limited to complying with state law) to promote housing mobility and increasing housing choices and affordability in higher income, higher resourced and lower density neighborhoods. Examples include creating more housing choices and affordability in single-family neighborhoods beyond complying with law (e.g., SB 9, accessory dwelling units (ADUs)), intensification of single family neighborhoods, targeting affordable housing funding, homesharing programs, more than one junior accessory dwelling unit (JADU) or conversion of existing space (per single family structure), enhancing capacity, affordability, and housing choices on religious institutional sites beyond the RHNA and other alternative land use strategies. Lastly, the element must be revised to include quantified metrics (beyond the RHNA) programs focused on housing mobility and increased housing opportunities and affordability.
- *Place-Based Strategies for Community Revitalization*: As found in HCD's prior review, the element must include place-based strategies toward community revitalization targeted toward lower resourced and relatively lower income areas with higher concentrations of poverty. Examples of actions include prioritizing local funding and applying for funding for neighborhood improvements such as streetscapes, sidewalks, safe routes to school, community facilities, parks and community amenities. HCD will send examples under separate cover.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted (if necessary) to comply with the above requirements pursuant to Government Code section 65585.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), rezoning to make prior identified sites available (Action 9) or to address a shortfall of sites to accommodate the RHNA 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 all necessary rezones are completed pursuant to Government Code section 65583, subdivision (c)(1)(A) and Government Code section 65583.2, subdivision (c).

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.

For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. While the City has submitted its electronic sites inventory, if any changes occur, the City should re-submit the electronic sites inventory with future submittals of the housing element.

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>.

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.

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 Jose Armando Jauregui, of our staff, at [jose.jauregui@hcd.ca.gov](mailto:jose.jauregui@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall". The signature is stylized and written in a cursive-like font.

Paul McDougall  
Senior Program Manager