

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

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April 7, 2023

Maya DeRosa, Planning & Building Director
Planning Department
City of St. Helena
1572 Railroad Avenue
St. Helena, CA 94574

Dear Maya DeRosa:

RE: City of St. Helena's 6th Cycle (2023-2031) Revised Draft Housing Element

Thank you for submitting the City of St. Helena's (City) revised draft housing element that was received for review on February 7, 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. HCD considered comments from Holland and Knight; David Kellogg and Generation Housing; pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements described in HCD's December 6, 2022 review; 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. 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 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) (Program H-A) 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.

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. 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>.

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>.

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 Jamillah Williams, of our staff, at Jamillah.Williams@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

APPENDIX CITY OF ST. HELENA

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. 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).)*

Enforcement: While the element discussed compliance with existing fair housing laws, it must also address any past or current findings, lawsuits, enforcement actions, settlements or judgements related to fair housing or civil rights. For additional information, please see HCD's prior review and pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Concentration of Fair Housing Issues: The element was revised to briefly indicate that the east side of the City's fair housing conditions are attributed to types of uses and zoning. However, to better formulate appropriate policies and programs, the element must still analyze trends, past and current policy efforts, and their effectiveness, neighborhood investment or disinvestment, local data and knowledge, and other relevant factors, particularly relative to equitable quality of life, resources, and strategies to address any inequities in quality of life. Please see HCD's prior review for more information.

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 towards the Regional Housing Needs Allocation (RHNA): The element is crediting 87 units from the Hunter Subdivision Project towards the RHNA. HCD's prior review found that the City must analyze the likelihood that this project will be built and units will be available during the planning period. Additionally, the prior review found that HCD has received public comments regarding the City's ability to process and approve this project in a timely manner. Further, this analysis is particularly important given that the project has been pending since the 4th cycle planning period and the project will help the City provide housing and build a portion of their RHNA. The element was revised to state that the project will receive "planning approvals in the near future" and the next planning commission hearing is in February. This does not address HCD's prior review. The element should clearly indicate timelines and remaining steps to fully entitle this project and demonstrate the likelihood these units will become available during the planning period. Lastly, the revised element is now crediting these units towards the City's above moderate-income RHNA. However, HCD received public comments from the applicant indicating that 20 percent of the project will be affordable via deed restrictions in line with the City's inclusionary requirements. The element could be revised to credit a portion of these units towards the City's lower-income RHNA. Based on the outcomes of a complete analysis, the element should include a program to monitor the progress of the project and take alternative action if the project is not entitled and permit are not issued in a timely manner.

Realistic Capacity: The element was revised to state that sites are assumed to develop at an average of 80 percent of maximum allowable densities and noted three projects that have developed between 50-100 percent of maximum allowable densities. First, while the element states that most sites were assumed to develop at 80 percent of maximum allowable densities, Sites 2, 4 and 5 have higher build out assumptions (e.g., 85-100 percent). The element should either adjust calculations in the inventory based on the analysis or provide a specific analysis supporting the higher assumptions. Second, the analysis indicates that realistic capacity was based on past trends and notes three projects. However, the element should include all recent residential or multifamily projects to analyze all development activity by zone, size, allowable density, built density and affordability.

The element was revised to indicate that sites in the mixed-use zone do allow 100 percent commercial and that the City will implement Program H-P to incentivize residential development. However, to account for the likelihood of 100 percent nonresidential development, the analysis should discuss recent trends for development in the pertinent zone, including how often 100 percent nonresidential uses occur, then, adjust residential capacity assumptions and add or modify programs, if appropriate.

Nonvacant Sites: The element was revised with additional site characteristics, including owner interest and referenced past projects that redeveloped to residential development with similar existing uses. However, in addition to property owner interest and development trends, the analysis should consider additional factors that are indicative of redevelopment potential. For example, several sites seem to have low underutilization e.g., existing densities vs. allowable densities, floor area ratio (FAR), low lot coverage,

etc., The element could quantify this factor for applicable sites and include additional local or regional examples supporting the trend that underutilized sites will redevelop at the densities and uses identified in the inventory.

Lot Consolidation: The revised element now indicates that Sites 8 and 9 are made up of several parcels. The element should include an analysis evaluating whether these sites will need be consolidated to develop at the densities that were identified in the inventory. Based on a complete analysis, the element may need to add or modify programs with a commitment to facilitate and incentivize lot consolidation.

City-Owned Sites: HCD's prior review found that the element must include an analysis supporting residential capacity assumptions, existing uses and any known conditions that would preclude development. The element was not revised to address this finding. The element did reference that the City conducted feasibility studies for these sites. Where appropriate, the analysis should incorporate more information regarding the outcomes of these feasibility studies to support the likelihood of development on these sites. Please see HCD's prior review for additional information.

Sites Inventory Electronic Form: Please note, pursuant to Government Code section 65583.3, subdivision (b), 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> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, 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.

Infrastructure: The element was revised to state that adequate infrastructure is available contingent upon the implementation of infrastructure improvements identified in the City's Integrated Utility master plan. However, the element must still include a program committing to actions and a timeline to make sufficient infrastructure and implement the necessary improvements to accommodate the RHNA. Please see HCD's prior review for additional information.

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: While the element was revised to include a list of all development standards by zone, it must evaluate lot coverage requirements and heights for impacts on achieving maximum densities, cost, feasibility and supply (number of units) of housing.

Parking: The element was revised with an analysis evaluating the 1.5 parking space requirement for smaller bedroom types (i.e., studio and one-bedrooms). While the analysis found that these requirements are not a constraint on development due to the lack of available public transportation, requiring 1.5 parking spaces for a studio apartment is generally considered a constraint and can impact a project's cost, supply (number of units), feasibility and ability to achieve maximum densities. The element should be revised with a program committing to reducing parking requirements.

Local Permit and Processing Procedures: HCD's prior review found that multifamily housing is subject to a conditional use permit (CUP) and it is considered a constraint. Additionally, HCD's certification of the 5th cycle housing element on May 29, 2015 explicitly stated that for the City to remain in compliance, it must complete Program HE1.D which committed to eliminating use permit requirements for multifamily projects in the medium density residential district. Further, HCD's records indicate that the City utilized state funding to remove or lessen discretionary review for multifamily housing (SB2 Planning Grants) and removing the use permit requirements for multifamily housing in certain zones (LEAP Planning Grants).

However, the element provides conflicting information. For example, the element's review and revise section indicates that the City removed the CUP requirement for multifamily housing. Additionally, page 2-162 indicates that a CUP is a required permit, while page 2-160 notes that multifamily is only subject to design review. The element must reconcile this information and clearly indicate if multifamily housing is subject to CUP requirements and whether this constraint has been removed. If this constraint has not been fully addressed, the element must include a program committing to removing this constraint early in the planning period (e.g., one year).

Additionally, the element should address public comments on this revised draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

Fees and Exactions: While the element now includes a listing of fees for a typical single family and multifamily development, the element should specifically evaluate impact fees e.g., parks and public safety for impacts on housing cost, supply, and feasibility.

Constraints on Housing For Persons with Disabilities: While the element now includes Program H-F committing to allowing group homes for seven or more persons similarly to multifamily uses, it must also commit to 1) allowing group homes of seven or more in all zones allowing residential uses and 2) permit these uses with objectivity and certainty similar to other residential uses of the same form.

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, the element should be revised, as follows:

Replacement Housing Requirements: The housing element must include a program to provide replacement housing. Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

City-Owned Sites: While the element includes Program H-L (City-Owned Sites), the Program should be revised based on the outcomes of a complete analysis as noted in Finding A2. In addition, the Program should include steps and milestones beyond a request for proposal, including complying with the Surplus Land Act, facilitating all necessary entitlements, assisting with funding, issuing permits and alternative actions to identify other sites within a specified time if development does not proceed as anticipated. Finally, the program should include numeric objectives, including affordability, consistent with the assumptions in the sites inventory.

Permanent Supportive Housing: The element now includes Program H-F (Municipal Code Updates) to incorporate objective design standards for ministerial design review of multifamily uses. However, the Program should clarify permanent supportive housing pursuant to Government Code section 65651 will also be permitted without discretionary action.

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. 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 Finding A3 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.

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 requires a complete AFFH analysis. Depending upon the results of that analysis, the City will need to add or revise 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.

Additionally, as found in HCD's prior review, programs still should be revised with increased metrics and significant and meaningful actions (beyond the RHNA) to promote housing mobility (more choices and affordability across geographies) and new housing choices and affordability in higher opportunity and relatively higher income areas (e.g., missing middle housing types). Further, as found in HCD's prior review, the element still must include significant and meaningful place-based strategies for community revitalization with actions targeting the southeast quadrant of the City to improve quality of life related to housing, transportation, safety, education, recreation, infrastructure, etc., and quantified metrics that target beneficial impacts for people, households and neighborhoods (e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed). HCD will follow-up under a separate cover with additional information.