

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

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May 16, 2024

Alex D. McIntyre, City Manager
City of San Bruno
567 El Camino Real
San Bruno, CA, 94066

Dear Alex D. McIntyre:

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

Thank you for submitting the City of San Bruno's (City) revised draft housing element received for review on March 18, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The revised draft element addresses many statutory requirements described in HCD's March 29, 2023 review; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows:

1. *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).)*

Review and Revise: As noted in the prior review, if the City did not make adequate sites available to accommodate the regional housing need allocation (RHNA) 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.

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)).

Realistic Capacity: The element lists several projects in the broader County area and then assumes 100 units per acre to calculate residential capacity on identified sites. However, this analysis should account for land use controls, including zoning and development standards and exceptions that were granted such as use of State Density Bonus Law. For example, the element should discuss the zoning and development standards in the City, including heights and whether exceptions were granted and the zoning and development standards in other cities then adjust assumptions, as appropriate.

Nonvacant Sites: 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, including findings in the resolution.

Electronic Site Inventory: 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 and submit an electronic version of the sites inventory. While the City has submitted an electronic version of the sites inventory, if changes occur, any future re-adopted versions of the element must also submit the electronic version of the sites inventory.

Programs: As explained above, 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 3a (Rezone to Accommodate RHNA)*: The sites identified in Program 3a are critical to meeting the RHNA and should include more specific timing for coordination with developers and completion of major project milestones during the planning period (e.g., entitlement, predevelopment, building permits). In addition, Program 3a should include specific commitments to pursue alternative actions (including additional rezoning) if projects do not progress toward completion in the planning period as intended by a specific date.
- *Program 9 (Streamline Review Process)*: For prior identified sites being utilized toward the lower-income RHNA, the Program should explicitly

commit to permit housing developments with at least 20 percent affordability for lower-income households by-right (without discretionary action) at appropriate densities.

- *Program 11 (Update Municipal Code)*: For single-room occupancy (SRO), the Program should commit to which zones will allow the use, how the use will be permitted without constraints and appropriate development standards to encourage the use.

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... ..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 revised element identifies ground floor commercial requirements resulting in vacant space and other “site specific constraints” as development constraints in the sites inventory analysis. The element must analyze ground floor commercial requirements and other site-specific factors for their impacts on cost, supply, housing choice, and affordability of housing development in the City, including the ability to achieve maximum densities. This analysis should also include City-Wide multifamily height limits. Finally, as stated in HCD’s prior review, the element states that the full build-out of the sites located in the TCP would exceed the maximum of 1,610 units allowed under the current Environmental Impact Report (EIR). The element must analyze whether capacity assumptions in the EIR act as a constraint, adjust capacity assumptions, if necessary and add or modify programs to address identified constraints.

Programs: As explained above, the element requires a complete analysis of potential 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. In addition, the element should be revised, as follows:

- *Program 5 (Amend Ordinance No. 1284)*: Program 5 should be revised to provide specific commitment and remove noncommittal language (e.g., “may include, but not limited to”). Additionally, as stated in HCD’s prior review, the program should commit to mitigate development constraints (lot sizes in R-2 zone) and implement significant alternative actions to

support housing mobility by a specific date if the ballot initiative is not passed. Finally, the Program should commit to broader areas of the City and a date earlier in the planning period.

- *Architectural Review*: While the element concludes that a program is needed to address the identified constraints (e.g., removing architectural review process and amending subjective approval findings), it should also add or modify a program to implement the actions by a specific date (e.g., July 2024).
4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons... (Gov. Code, § 65583, subd. (c)(5)).*

Goals, Priorities, Actions, and Milestones: The element includes many meaningful actions to affirmatively further fair housing (AFFH), however, it should include additional actions to address displacement risks. Examples of programs to address displacement risk include rent stabilization programs, just cause eviction or other efforts improving tenant stability beyond state law, land banking programs actively receiving funding and rent review board and/or mediation. Please see HCD's AFFH Guidance Memo (starting on page 74) for additional information. In addition, the element should be revised, as follows:

- *Program 1 (Preserve and Rehabilitate Existing Housing Stock)*: The Program should include a numeric target.
- *Program 4 (Accessory Dwelling Units (ADU))*: The Program should include a numeric target for allowing ADU beyond state law.
- *Program 16 (Place-based Strategies for Community Revitalization)*: The Program should include discrete timing for ongoing implementation (e.g., at least annually), numeric targets (e.g., 2-3 improvements per year) and should apply for funding beyond utilization of the capital improvement program.
- *Program 17 (Environmental Justice)*: The Program should include discrete timing for ongoing implementation (e.g., at least annually)
- *Program 19 (Affirmatively Furthering Fair Housing (AFFH) – Other)*: The Program should include numeric targets for other place-based strategy activities listed in the AFFH matrix (e.g., Street trees, park improvements,

The element will meet the statutory requirements of State Housing Element Law once it has been revised, re-adopted, if necessary, submitted, and reviewed by HCD to comply with the above requirements pursuant to Government Code section 65585 and rezones are completed as described below.

As a reminder, the City's 6th cycle housing element was due January 31, 2023. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

A jurisdiction that did not adopt a compliant housing element within 120 days from the statutory deadline must rezone sites within one year of the statutory deadline and meet requirements pursuant to Government Code sections 65583, subdivision (c)(1)(A) and 65583.2, subdivision (c). As this year has passed and Programs 3 (Adequate Sites) and 9 (Streamline Review Process) have not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed. Once the City completes the rezone, a copy of the resolution or ordinance should be transmitted to HCD. HCD will review the documentation and issue correspondence identifying the updated status of the City housing element compliance.

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.

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 Affordable Housing and Sustainable Communities program, 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 Anthony Errichetto, of our staff, at Anthony.Errichetto@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