

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

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May 19, 2023

Valerie Barone, City Manager
City of Concord
1950 Parkside Drive
Concord, CA 94519

Dear Valerie Barone:

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

Thank you for submitting the City of Concord's (City) housing element that was adopted March 14, 2023 and received for review on March 21, 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. In addition, HCD considered comments from, East Bay Housing Organizations, Raise the Roof, BART, Heather Peters, David Kellogg, pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses most statutory requirements described in HCD's November 14, 2022 letter; however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq.), as follows:

1. *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: Given the need in the community, the clear disparities in race, income and access to opportunities between the central/western and southeastern portions of the City, the element must include significant quantifiable and measurable targets, meaningful programs, clear implementation actions and specificity in geographic targeting. Additionally, HCD encourages the City to continue to utilize public comments to help continue to formulate and strengthen affirmatively furthering fair housing (AFFH) programs. Below summarizes additional information on each required program component.

- **Metrics** – To target significant and meaningful impact, the element should increase several numeric targets for programs focused on housing

mobility, increased housing opportunities and affordability and place-based. Additionally, several metrics targeted the number of grants or outreach events as an outcome for each program. However, metrics should be targeting beneficial impacts for people, households, and neighborhoods.

- *Geographic Targeting* – The element included geographic targeting to high and low resourced areas. However, given the analysis, the element should be revised to include specific geographic targeting (e.g., neighborhoods or quadrants) in the City. Additionally, the element included a list of programs to promote housing mobility but included a geographic target for lower resourced areas. For your information, housing mobility programs should aim to promote mobility and reduce barriers to higher opportunity/income areas. The element should revise these programs to include more appropriate geographic targeting.
- *Increasing Housing Choices and Affordability in Higher Resourced/Higher Income Areas* – The analysis of fair housing demonstrated that the City has concentrations of higher incomes, majority white populations, and higher access to opportunities leading to an overall higher quality of life for residents living in these neighborhoods. To address this disparity, the element proposes to rezone for an additional 1,000 units in these areas among other strategies. While HCD is supportive of the City's strategy, additional actions or increased metrics will be needed to ensure that programs are significant in addressing these disparities. For example, the element could strengthen programs 1 and 9 with significant metrics and implementation steps.

HCD will follow-up under a separate cover with additional guidance.

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).)*

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

Publicly-Owned Sites: HCD understands that the City has identified three BART sites to accommodate a portion of the Regional Housing Needs Allocation (RHNA). While the element included some general information and commits to

collaborating with BART, it must specifically discuss these sites. The analysis should address any known conditions that preclude or could promote development in the planning period, status, potential schedule for development and consistency with AB 2923 (2018) and BART Transit Orientated Development guidelines. Based on this analysis, the element should add or modify programs. In addition, while the element included a program to develop publicly identified sites, the element must include specific actions to facilitate development on BART sites. Please see the finding in the programs section for additional information on programs for BART sites.

Nonvacant Sites: The element was revised to identify a list of factors (building age, improvement to land value, existing uses and floor area ratio (FAR) that were used in determining redevelopment potential on sites and including a description of each site's zoning, existing uses, capacity assumptions and other relevant information. However, as found in HCD's prior review, the element must describe how and why these factors demonstrate these sites are suitable for housing development. For example, the element included a list of several projects indicating affordability and existing uses (Appendix C, Table 2). The element could relate these examples to support the factors that were utilized in identifying nonvacant sites with redevelopment potential. Specifically, for each project listed, the element could include information on the FAR, building age, existing uses, conditions of structures prior to redevelopment, and any other information that is reflective of the criteria used in identifying sites.

Infrastructure Capacity: The element was revised to indicate that all sites have sufficient access to infrastructure, sites have been identified near areas already established with infrastructure, and the City completes any necessary upgrades needed to meet growth demands. However, as found in HCD's prior review, the element must specifically indicate if the City has sufficient existing and planned total capacity to meet the RHNA.

Programs: As noted 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 1 - Accessory Dwelling Units (ADU):* While this program now commits to frequent monitoring, as found in HCD's prior review, it must commit to adjust assumptions and completing alternative actions within a specified timeframe (e.g., six months).
- *BART Sites* - The element should include or modify a program with additional commitments for BART owned sites. Examples of steps include

completing on- and off-site improvements and parking strategies, consistency with AB 2923 (2018), completion of requests for proposals or qualifications, facilitating entitlement and issuing permits and alternative actions with timing if steps are not completed as anticipated to facilitate development in the planning period. Additionally, the program should be revised with numerical targets reflecting assumptions on BART sites.

- *Concord Reuse Project Area Plan* - The element was revised to include additional information on the status and schedule of the Concord Reuse plan for the Naval Station. However, as the element is utilizing this area as a buffer for the RHNA (300 units), it should include a program with a schedule of actions to facilitate development on this site. For example, the schedule of actions can include estimated dates for when the City will complete the development of the specific plan, infrastructure planning, potential timelines for subdividing parcels, and adopting the implementing ordinance as indicated in the analysis.

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... ..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. 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).)

Land Use Controls: The element included some analysis of land use controls but should be revised as follows:

- *Heights and Story Calculation*: The City conducted the analysis based on the assumption that the average story height is 9 feet. However, stories should be measured with a 12-foot height.
- *Height Limits*: The analysis indicates that the City imposes a maximum height requirement of 60 foot in the RH zone that allows for 100 units per acre. Additionally, the CO and CMX zones allow for 30 foot heights and allows for 40 du/ac. These limits are generally considered constraints and the element should include a program to revise the maximum height requirement in these zones to facilitate achieving maximum densities.
- *Net Acreage*: HCD understands the City utilizes net acreage when calculating densities. However, this strategy may impact the number of

units that can be achieved on a site. The element should analyze this requirement for potential constraints and impacts and cost, supply and feasibility. Based on a complete analysis, the element may need to include or modify a program, as appropriate.

Local Processing and Permit Procedures: 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.

Program 2 (Addressing Constraints to Development): While the element includes Program 2 committing to simplify the definition of family, remove constraints, and address requirements for common spaces, this program must also commit to removing constraints around requiring residents to be under a single lease agreement.

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).)*

Permit Times: The element was revised to indicate that the City average processing time is six to nine months. However, HCD's prior review found that the element needs to specifically identify 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.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted to comply with the above requirements.

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 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.

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>.

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 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>.

HCD appreciates the hard work and dedication of the City's housing element team. 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