

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

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July 31, 2023

Ethan Bindernagel, City Manager
City of Pleasant Hill
100 Gregory Lane
Pleasant Hill, CA 94523

Dear Ethan Bindernagel:

RE: Pleasant Hill's 6th Cycle (2023-2031) Adopted Housing Element

Thank you for submitting the City of Pleasant Hill's (City) housing element adopted May 18, 2023 and received for review on June 1, 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 Kelvin Kwan, Kevin Burke, Susan and Larry Barlettani, Mathew Kennedy, MaryAnn DiNatale, East Bay for Everyone, Marshall Lewis, David Kellogg and Madeira Heights Townhouses Association and other affiliated groups pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses many statutory requirements described in HCD's March 22, 2023 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).)*

Racially Concentrated Areas of Affluence (RCAA): The element was revised to include maps for local and regional RCAA and included some high-level data regarding the City's RCAA census tracts. However, as found in HCD's prior review, the element must analyze these areas for trends, conditions, coincidence with other fair housing factors (e.g., race, highest resource, overpayment), effectiveness or absence of past strategies (e.g., lack of publicly assisted housing and lack of multifamily zoning), local data and knowledge and other relevant factors. Based on the outcomes of this analysis, the element should

include significant and meaningful programs to promote housing mobility (not limited to the regional housing need allocation (RHNA)).

Goals, Priorities, Metrics, and Milestones:

- *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 low-density and higher opportunity neighborhoods. However, the revised analysis demonstrated that the City is majority RCAA and a large portion of the City's lower-income RHNA has been identified outside of these areas. These conditions and circumstances warrant significant and robust actions (not limited to the RHNA) to promote housing mobility and increasing housing choices and affordability in higher income, higher resourced and lower-density neighborhoods. The element should be revised with aggressively numeric targets and geographic targets that include RCAA, 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, ADUs), targeting affordable housing funding, homesharing programs, more than one junior accessory dwelling unit (JADU) (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:* The element was not revised to address this finding. As found in HCD's prior review, the element must include place-based strategies for neighborhoods considered low and moderate resource and have coincidences of fair housing issues such as higher concentration of lower-income households and more disparate access to opportunities compared to other parts of the City.
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).)*

Morello Terraces and Paso Nogal: The element now identifies two vacant sites in higher income and high-moderate resourced communities. While the location of these sites can help foster inclusive communities and create housing opportunities and affordability in higher-income and higher-resourced areas, HCD received public comments indicating that these sites may be unsuitable due

to sloping conditions, local ordinances prohibiting development and infrastructure constraints. The element should evaluate any potential constraints related to infrastructure (water and sewer capacity), environmental issues (sloping conditions) or any other site-specific conditions that would preclude development on these sites. The element could discuss any outreach with developers regarding the potential of developing on these sites. Based on a complete analysis, the element may need to add or revise programs to remove or mitigate any identified constraints.

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 adjust the sites inventory to reduce the reliance of nonvacant sites and provide some additional information about the factors utilized to determine the degree of underutilization. However, as found in HCD's prior review, the element must support these factors. For example, the element relies on the Choice in Aging and 85 Cleveland projects as past examples of redevelopment trends on underutilized sites. However, the analysis does not provide any details to describe how these projects relate to the identified criteria. To clearly support and relate project examples to the redevelopment criteria, the element could include a listing of local and regional projects that have redeveloped with similar criteria (improvement to land value, building age, etc.,).

Additionally, while the element does not currently rely upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, if future revisions and modifications result in the City relying on nonvacant sites to accommodate more than 50 percent then the element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Zoning for a Variety of Housing Types:

- Program O (Municipal Code Updates – Supportive Housing): While the element was revised committing to allowing transitional and supportive housing by-right, this action must explicitly commit to revising the zoning code to comply with AB 2162 (Government Code section 65651) which includes supportive housing provisions related to approval timelines and parking requirements. For additional information, please see [AB 2162 Fact Sheet](#).

- *Program O (Municipal Code Updates – Accessory Dwelling Units (ADU))*: While the element now commits to allowing ADUs consistent with state law and contacting HCD to identify ADU compliance issues, as found in HCD’s prior review, the element must include a specific commitment to revising the City’s ADU ordinance to comply with state law.

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 must be revised, as follows:

- *Shortfall of Sites – Program F (Increase Allowable Densities)*: As found in HCD’s prior review, the element is showing a shortfall of sites and must include a program committing to adopting zoning changes and comply with housing element rezone requirements pursuant to Government Code section 65583.2 (h) and (i). While the element was revised with a commitment to comply with some of these provisions, for sites to accommodate the lower-income RHNA, it must also commit to requiring a minimum density of 20 units per acre and rezoning sites by-right (without discretionary action) for multifamily developments in which 20 percent or more of the units are affordable to lower-income households. Additionally, as the City failed to adopt a compliant housing element within 120 days of the statutory deadline, this program must be completed no later than one year from the statutory deadline. This program should be revised with an updated timeline (e.g., completion by January 31, 2024) to reflect these statutory requirements.
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).)*

Constraints on Housing for Persons with Disabilities – Reasonable Accommodation (RA): The element was revised to now include a description of the City’s RA process including the required findings to approve an RA request. The analysis indicated that the City’s process does not subject RA requests to discretionary findings related to compatibility with surrounding uses. However, the listing of required approval findings (pp. 4-112) indicated that the City must find that the request included measures to reduce impact on surrounding uses and the physical attributes of the property. However, granting a reasonable

accommodation based on findings related to impacts on surrounding uses is essentially a conditional use permit (CUP) finding. A reasonable accommodation should be a unique exception process from a CUP, especially given its importance in addressing barriers to housing for persons with disabilities. The element should include a program to amend the reasonable accommodation ordinance and remove constraints, namely approval findings related impacts on surrounding uses.

Programs: In addition, the element must be revised, as follows:

- *Program H (Development Standards)*: HCD's prior review found that the City's development standards are a constraint to providing a variety of housing choices and facilitating maximum densities including but not limited to heights, parking, lot coverage, setbacks and minimum unit sizes. The element was revised with a program committing to remove standards constrain the production of lower-income housing. However, the element should commit to removing or reducing standards that pose a constraint on housing regardless of income levels and not limited to accommodating the RHNA.
- *Program O (Municipal Code Updates – Group Homes)*: The element was revised with a commitment to allowing group homes in all zones similar to other uses of the same form. However, as found in HCD's prior review, the element must commit to allowing these uses in the same manner as similar residential uses (e.g., single family home).

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.

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), Program F (Increase Allowable Densities) to rezone 967 units to accommodate the RHNA must 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 rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) 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.

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 Sohab Mehmood, of our staff, at sohab.mehmod@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager