

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

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July 25, 2023

Sofia Mangalam, Director
Community Development Department
City of Foster City
610 Foster City Blvd
Foster City, CA 94404

Dear Sofia Mangalam:

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

Thank you for submitting the City of Foster City's (City) adopted housing element update received for review on May 26, 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 Evan Adams and G. H. Dababo pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses most statutory requirements described in HCD's April 4, 2023 review; however, additional revisions will be 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).)*

Progress in Meeting the Regional Housing Needs Allocation (RHNA): While the revised element now describes the status of pending projects, it must still demonstrate the availability of projects in the planning period, including describing remaining steps, known barriers to development and the likelihood of development in the planning period.

Realistic Capacity: As stated in HCD's prior review, the element must provide substantial support for realistic capacity assumptions and demonstrate a significant history of developing at maximum densities. As part of this analysis, the element should denote all past multifamily developments by gross allowable

density and whether there was use of any exceptions to allowable densities (e.g., state density bonus law, SB 35, etc.). Alternatively, the element could rescale assumptions (e.g., 80 percent of maximum allowable densities) or utilize minimum densities.

Nonvacant Sites: The element must demonstrate the potential for redevelopment during the planning period for all identified sites, including those which do not have property owner interest. While the element explains that the Franciscan and Lagoons sites have similar characteristics as other nonvacant sites in the inventory, it also acknowledges that these sites do not have property owner interest to redevelop the sites during the planning period. The element should provide additional analysis to demonstrate the likelihood that these sites will redevelop in the planning period, including discussion of other indicators that the sites will redevelop in the planning period or remove and identify other sites. Based on the outcomes of this analysis, the element should add or modify programs to encourage redevelopment. For example, program(s) could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites. Examples of incentives include identifying and targeting specific financial resources and reducing appropriate development standards."

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While Programs H-F-2-d and H-F-2-e were revised with specific commitment to provide for objective development standards, the Programs must also include specific commitment to remove the 60-day maximum stay requirements, as stated in HCD's prior review.
- *Single-Room Occupancy (SRO):* Program H-E-9-b clarifies which zones will allow for SROs; however, the Program should also provide specific commitment for how they will be permitted (e.g., by-right, conditionally, etc.) and establish or modify development standards to encourage the development of SROs.

Programs: As noted above, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning have not been 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, Program H-D-4-h (Accessory Dwelling Unit (ADU) Monitoring) has been revised to monitor ADU production and affordability, but it should also identify additional alternative actions to be taken with discrete timing going beyond providing incentives if production and affordability is significantly less

than anticipated. Examples include modification to development standards, fee waivers beyond state law and additional rezoning.

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... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: While the element identifies a few development standards as constraints on development, it still must evaluate all other development standards for impacts on housing costs, feasibility, and the ability to achieve maximum densities and add or modify programs, as appropriate.

Programs: As noted 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, as stated in HCD's prior review, Program H-F-1-I (Community Care Facilities) must address spacing requirements as a constraint on housing for persons with disabilities. Please see HCD's prior review for additional information.

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).)*

The City is entirely the highest resource category in access to opportunity and consists of households with the highest median income category. These conditions and circumstances warrant significant and robust actions (not limited to the RHNA) to promote housing mobility and increase housing choices and affordability throughout the City, including in lower-density neighborhoods. While the element includes some programs to promote housing mobility, it should add geographic targeting and numeric targets to existing programs and consider additional actions that are significant and meaningful.

For example, some Programs that should include geographic targeting and numeric targets or metrics include Programs H-A-3-a (Technical Assistance), H-A-5-b (Funding for Affordable Housing), H-C-4-a (Rental Assistance), H-D-1-a (Housing Opportunity Areas), H-D-2-a (Re-use of Commercial Sites), H-D-4-b (Accessory Dwelling Units), H-D-5-a (School Sites), H-D-5-b (Religious Owned Sites) and H-E-1 (More and Existing Affordable Housing), H-E-6-a (Housing Sharing). Examples of additional actions include creating more housing choices

and affordability in single-family neighborhoods beyond complying with law (e.g., SB 9, accessory dwelling units), targeting funding, more than one junior accessory dwelling unit per single family structure and enhancing capacity and increased densities.

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 regional housing needs allocation 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.

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 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 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 your hard work and dedication provided in preparation of the City's housing element and looks forward to receiving the City's adopted housing element. 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