

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



August 29, 2023

Justin Murphy, City Manager
City of Menlo Park
701 Laurel Street
Menlo Park, CA, 94025

Dear Justin Murphy:

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

Thank you for submitting the City of Menlo Park (City) housing element that was adopted February 3, 2023 and received for review on June 30, 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.

The adopted housing element addresses many statutory requirements described in HCD's April 7, 2023 review; however, revisions will be 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).)*

Actions, Programs, Metrics, and Milestones: The element was revised to include geographic targeting and some additional actions. However, given the disparities in access to opportunity between the east and west side of the City, the element still must include a significant and robust suite of actions to 1) promote housing mobility 2) increase new housing choices and affordability in higher opportunity or relatively higher-income areas 3) place-based strategies for community preservation and revitalization and 4) displacement protection. Additionally, given the stark contrast between different parts of the City in terms of income and access to opportunity, the element must be revised to include significant numeric metrics (beyond the Regional Housing Needs Allocation (RHNA)) focused on all four program areas noted above. For your information, quantified metrics should 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 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... (Gov. Code, § 65583, subd. (c)(1).)

Zoning for a Variety of Housing Types – Emergency Shelters: The element explains parking requirements for emergency shelters complies with AB 139 (Statutes of 2020). However, AB 139 provides that parking requirements shouldn't be more than what is necessary for staff working in the shelter. The City's requirements exceed the number of spaces necessary for staff and as a result, the element should add or modify programs to address the constraint.

In addition, 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>.

Electronic Sites Inventory: Although the City has submitted electronic sites inventory as described in the prior review, if any changes occur, the City should submit revisions as part of any future re-adoption or submittal. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for additional information.

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:

The element includes many complex and challenging strategies that are essential to the City's approach in addressing its housing needs including identifying publicly-owned sites, large pipeline projects and complex nonvacant typologies. As a result, the element should include a program to evaluate the effectiveness of these approaches and commit to adjustments, as appropriate, to continue working toward the housing element's goals and objectives. Specifically, the element could include a program to conduct an in-depth mid-term evaluation

of identified sites and programs, including their effectiveness in addressing the RHNA, and commit to adjustments within a specified time period. Topics should include pipeline projects, nonvacant sites, rezoning, Affordable Housing Overlay zone and governmental constraints (e.g., parking, lot coverage, Floor Area Ratio (FAR), etc.).

Shortfall of Adequate Sites (Program H4.K – Rezone for Lower-Income Shortfall):

– HCD’s prior review found that this program must include several revisions related to appropriate statutory references, timelines and other provisions. While this Program was revised to address some of HCD’s prior review, it still must identify the shortfall by income group, acreage, allowable densities and commitment to appropriate development standards. Additionally, HCD’s prior review found that the element must clarify whether other programs are needed to meet the City’s RHNA and if so, it also needs to comply with the applicable rezone requirements under Government Code section 65583(c)). While the element clarified that Programs H4.I (Create New Opportunities for Mixed-Use Development) and H4.T (Residential Overlay) are needed to address a shortfall of sites and implement rezones, it did not revise these programs to comply with all applicable requirements.

Federally-Owned Sites and School Sites: HCD’s prior review found that the element must include sufficient analysis demonstrating the feasibility and likelihood of these sites redeveloping during the planning period. While the element now includes an analysis, it should also include a program committing to facilitating development on these sites during the planning period. Specifically, the element should include a program with numerical objectives that ensures, if applicable, compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development on these sites and alternatives (e.g., identifying additional sites) if production does not actualize as identified in the inventory. Actions could include but are not limited to outreach with owners, facilitating communications developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.

- 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: HCD’s prior review found that the element must analyze development standards in the R-3 zones and whether standards facilitate achieving maximum densities. The element briefly discussed that landscaping, parking, and FAR requirements could act as a constraint to development and

included a program to evaluate and modify these requirements. However, the element must also include actions addressing lot coverage in R-3 zones as a constraint. Specifically, the element acknowledged that the City's current lot coverage requirements in these zones are generally lower than what's permissible in neighboring jurisdictions (p. 5-26). In addition, HCD finds that lot coverage for multifamily housing less than 50 percent is generally considered a constraint. The element must include or modify programs(s) committing to increasing lot coverage requirements in these zones.

State Density Bonus Law (SDBL): The element was revised to note that the City's affordable housing overlay zone conflicts with SDBL and included a program to address this conflict. However, irrespective of the City's overlay zone and as found in HCD's prior review, this analysis must specifically address how the City complies with SDBL. As found in HCD's prior review, the element could discuss the procedures, various levels of benefits (e.g., density, concessions and incentives, parking reductions), non-discretionary actions and burden of proof.

Affordable Housing Overlay Zone (AHOZ): HCD's prior review found that the element must describe the City's AHOZ including analyzing densities and development standards under this zone. The element was revised to briefly describe past projects that utilized this zone, available incentives, and compliance with SDBL (p. 5-19). The element also stated that when combined with other incentives such as SDBL, a project could potentially achieve 100 du/ac. However, this analysis still does not address HCD's prior review. The element must specifically discuss and analyze the framework of the overlay zone including thresholds for a project to qualify for the additional density under this zone and any other applicable requirements. Further, HCD now understands that the City is utilizing the potential density available through the overlay zone to calculate realistic capacity for sites identified in prior planning periods, rezoned sites to accommodate a shortfall, and potentially other types of sites. This information is supported by statements and assumptions on Table 7-7 (RHNA and Reuse Sites), Site-specific fact sheets (Appendix 7-5), sites inventory (Appendix 7-1). To utilize these capacity assumptions, the element must include evidence demonstrating the likelihood of developers taking advantage of the density bonus and circumstances where the density bonus will not be utilized. Based on a complete analysis, the element may need to rescale assumptions and include programs as appropriate.

Programs: As noted above, the element does not include 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, HCD's prior review found that the element must clarify what parking requirements will be reduced and ensure updates will not result in any

constraints to development. While the element was revised to specify that adjustments in standards will be to facilitate achieving maximum densities, Program H4.M (Update Parking Requirements and Design Standards) still should include specific information about reduction in parking requirements such as ensuring reductions will not constrain multifamily development and the number of spaces that will be considered (e.g., one space for smaller bedroom types).

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 H-4.K (Rezone for Lower Income Shortfall) and Program H4.Q (Reuse Sites) to accommodate the RHNA and make prior identified sites available 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 all necessary rezones to make prior identified sites available and accommodate a shortfall of sites are completed pursuant to Government Code section 65583, subdivision (c)(1)(A) and Government Code section 65583.2, subdivision (c).

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 Strategic Growth Council and HCD's 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.

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.mehmood@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