



## **CITY COUNCIL AGENDA REPORT**

**Meeting Date: February 2, 2023**

**From: John Swiecki, Community Development Director**

**Subject: Self-certification and Adoption of the 2023-2031 Housing Element and Finding These Actions Categorically Exempt from Environmental Review Under CEQA under CEQA Guidelines Sections 15061(b)(3) and 15183(d)**

### **Community Goal/Result**

Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation.

### **Purpose**

To adopt a Housing Element of the General Plan that complies with State law.

### **Recommendation**

Self-certify and adopt the draft 2023-2031 Housing Element, via adoption of the draft resolution provided in Attachment 3.

### **Background**

The draft 2023-2031 Housing Element was published on August 8, 2022. Following a formal 30-day public comment period and the Planning Commission's public hearing and recommendation on October 6, 2022, City Council held a public hearing and directed staff to submit the draft Housing Element to the Department of Housing and Community Development (HCD) for an initial 90-day review period. HCD received the draft Housing Element on October 7, 2022 and provided written comments on the Element's compliance with State Housing Element law on January 4, 2023. (See Attachment 1).

Per State law, cities in the Bay Area have until January 31, 2023, plus a 120-day grace period (or May 31, 2023) to adopt an Element and for that adopted Element to be "certified" as compliant with State law by HCD. City staff initially anticipated using the full extent of the grace period for Planning Commission and City Council review of the first round of HCD comments and the necessary public hearings for adoption of an updated version of the Housing Element following HCD's "certification" of its compliance with State law.

However, a recent interpretation of State law by HCD staff suggests that the City must adopt a compliant Housing Element by January 31, 2023, without regard to the 120-day grace period. Failure to adopt the Element by the deadline could leave the City's Housing Element out of compliance with State law and expose the City to the so-called "builder's remedy," whereby housing developers who comply with certain affordability

standards may proceed with their projects without regard to certain local zoning requirements.

Based on this recent interpretation and to limit risk to the City, the Housing Element adoption process is being accelerated ahead of HCD's formal certification. On January 12, 2023, the Planning Commission provided a recommendation to the City Council to self-certify and adopt the Housing Element, including any edits proposed by staff to address the comments made by HCD in their January 4, 2023 letter.

## **Discussion**

In order for City Council to adopt the Housing Element and certify its compliance with State law, Council must find that the Element complies with State law. A compliance checklist was provided in Appendix F of the Housing Element and is included by reference in the attached draft resolution. A summary of the primary Housing Element topics covered by State law and how they are addressed in the Housing Element is provided in the January 12, 2023 Planning Commission agenda report (see Attachment 6).

### Recommended Revisions to the Draft Element

HCD's January 4, 2023 letter to the City (see Attachment 3) outlines several topic areas for which it believes the City must provide more analysis and/or evidence to demonstrate compliance with State law. Staff met with HCD staff on January 20, 2023 to discuss how best to provide additional analysis for HCD to certify the Element as compliant with State law. Responses to HCD's comments based on staff's conversation with HCD are provided in Attachment 4, and revisions to the Element are shown in redline (Attachment 1). Most of the revisions to the draft Element in response to HCD's comments provide additional data and analysis to the Element's discussion of various topic areas. A number of programs were edited as shown in redline in Chapter 5. Many of these are to provide more specificity or are to ensure compliance with state law.

However, some comments related to the City's action programs would require the Council to make policy and/or budgetary decisions in order to respond to HCD comments and these are highlighted as follows:

*Program 2.B.4: Update the zoning ordinance allowing for emergency shelters as a permitted use in the SCRO-1 District from 12 beds to 30 beds, with such use not subject to discretionary action or to any development or management standards that would not apply to other allowed uses within the zone, except as provided by Government Code Section 65583(a)(4); Timeframe: 12/31/26*

Currently the Municipal Code allows for construction of emergency shelters of up to 12 beds in the Southwest Bayshore SCRO-1 district by-right, without a discretionary permit, subject to certain development provisions. HCD suggested that an emergency shelter of 12 beds would be inadequate to meet the demand and a shelter of that small

size is unlikely to be built. They indicated a target range of 30 to 40 beds would be more appropriate. The newly drafted program shown above would commit the City to rezone to increase the permitted bed count for a by right shelter from 12 to 30. Note that Section 2.1.6 of the draft Element provides a range of homeless individuals from 4 people in a 2019 homeless count surveys to 19 people in a 2017 survey. Further discussion has been added to Section 3.2.1.7 of the draft Element.

**Program 2.G.1:** *Study potential updates to the Residential-Brisbane Acres (R-BA) zoning district density transfer program to expand allowable “receiving” sites to include sites in other residentially or mixed-use zoned districts in the City to facilitate preservation of privately owned parcels in the R-BA zoning district and allow development rights to be transferred to parcels with access to existing infrastructure and lesser habitat value; Timeframe: 12/31/25*

**Program 2.E.6:** *Study the potential to develop vacant or underutilized City-owned sites for affordable and/or special needs housing with nonprofit housing developers, HEART, HIP Housing, and other partners; Timeframe: 1/31/25*

HCD’s review requested that draft programs 2.G.1 and 2.E.6 be amended to include definitive outcomes beyond completing studies. Both of these studies would also include a robust community engagement component.

In the case of the density transfer program expansion (2.G.1), study of the proposal would include an analysis of the following:

- the density maximum that could be transferred from sites in the R-BA,
- which residential or mixed-use districts may be appropriate to receive moderate density increases, and
- what potential impacts may occur as a result of those density transfers into various districts.

For program 2.E.6, study of the proposal would include the following:

- inventorying city-owned and Housing Authority owned sites,
- consultation with affordable housing developers, and community engagement to identify the market potential of sites in the inventory,
- and determination of the appropriateness of housing on the various sites considering their size, topography, and location (among other factors).

City Council may consider whether more definitive outcomes (e.g., committing to a specific course of action) is appropriate at this time, or if the program language should remain as-is. If the programs are retained as is, it is likely HCD will identify the same concerns upon subsequent review of the revised Element. A third option is to delete the proposed programs and pursue them outside of the Housing Element, though staff notes HCD may similarly have concerns on that course of action upon subsequent review.

**Program 5.A.9:** *Establish a stakeholder committee to advise the City on additional methods to engage all segments of the community, especially lower income and special needs households, on housing issues through the plan period; Timeframe: Q1 2024; ongoing thereafter.*

This program would involve assembling a stakeholder committee to advise the Council and staff on engaging with a diverse range of community members on housing issues. Formation of such committees is at the discretion of the City Council. Staff anticipates that such a committee would meet no more than quarterly.

### Baylands

It should be noted that HCD's characterization of the Baylands rezoning program as a "pipeline project" is inaccurate as pipeline projects refer to development projects with approved entitlements; staff informed HCD of this incorrect statement and has included clarifying language in the redline text to make that distinction more clear.

### Deferred Revisions to the Draft Element

Staff has identified minor informational updates to respond to HCD's comments regarding existing land use information in the sites inventory. While these edits are not presented to the Council this evening, staff intends to complete them administratively prior to submitting the revised Element to HCD.

### CEQA Determination:

Adoption of the Housing Element is categorically exempt under the following sections of the CEQA Guidelines:

- Section 15061(b)(3) because it involves adoption of policies and programs that would not cause a significant effect on the environment.
- Section 15183(d) of the CEQA Guidelines as follows:
  - Rezoning to meet the RHNA Shortfall is addressed under the Environment Impact Report (State Clearinghouse #2006022136; via Brisbane City Council Resolution 2018-61) and EIR Addendum for General Plan Amendment GPA-1-19 (adopted via Brisbane City Council Resolution 2020-1), which allows for development of up to 2,200 housing units on that same portion of the Baylands as indicated in the Housing Element.
  - All other residential and mixed-use districts identified in the Housing Element are already designated for residential development in the City's General Plan and zoning ordinance, for which an Environmental Impact Report was adopted in 1994 (SCH #93071072) and a negative declaration was adopted in 2015 relative to adoption of the Parkside Residential Overlay districts (SCH #2015012053).

### Consultation:

Staff notes that under Government Code, Section 65352, the City is to consult with tribes when a General Plan is proposed to be amended. Although tribes were not consulted

specifically as to this proposed amendment to the Housing Element, there has been substantial compliance with these two sections. This proposed Housing Element is consistent with the current Land Use Element of the General Plan that was amended in 2018 to allow 1800 to 2200 housing units in the Baylands subarea (General Plan Amendment GP-1-18). The City did consult with tribes with respect to that General Plan Amendment and tribal consultation will occur again in 2023 as part of the preparation of the Baylands Specific Plan application. Moreover, if Council approves the Housing Element and self certifies it but it becomes necessary to amend the Element further in light of comments the City receives from HCD, staff will consult with tribes at that time.

### Next Steps

Once City Council self-certifies and adopts the Housing Element, staff will submit it to HCD for a 60-day review period. If after concluding review of the adopted Element HCD has further substantive comments requiring Council action, revisions to the adopted Element in response to such comments would be brought back to the Planning Commission and City Council for consideration as an amendment to the adopted Element. Staff intends to obtain HCD certification within the 120-day grace period, or by May 31, 2023.

### **Fiscal Impact**

None

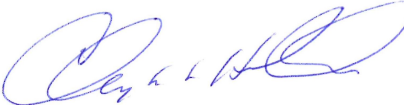
### **Measure of Success**

Adoption of a Housing Element for the 2023-2031 planning period that complies with State law.

### **Attachments**

1. Draft 2023-2031 Housing Element with changes shown in redline (hyperlink)
2. Draft City Council Resolution 2023-XX
3. January 4, 2023 HCD review letter (hyperlink)
4. City Response Matrix detailing responses to January 4, 2023 HCD review letter
5. Planning Commission Resolution 2023-GPA-1-A
6. January 12, 2023 Planning Commission Meeting Agenda Packet, Minutes, and Video (hyperlink)
7. Written correspondence received prior to packet publication

  
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John Swiecki, Community Development Director

  
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Clay Holstine, City Manager

Attachment 1: 2023-2031 Housing Element showing revisions in redline  
(Hyperlink)

**draft**  
RESOLUTION 2023-XX  
A RESOLUTION OF THE BRISBANE CITY COUNCIL  
TO ADOPT A GENERAL PLAN AMENDMENT TO REPEAL THE 2015-2022 HOUSING  
ELEMENT, ADOPT THE DRAFT 2023-2031 HOUSING ELEMENT AND  
CERTIFY ITS COMPLIANCE WITH STATE LAW

WHEREAS, the California Legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives” (Gov. Code Section 65589.5.); and

WHEREAS, the Legislature has further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration” (Gov. Code Section 65589.5.); and

WHEREAS, the Legislature recently adopted the Housing Crisis Act of 2019 (SB 330) which states that “In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years”; and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City of Brisbane’s (City) regional housing need allocation (RHNA) of 1,588 housing units, comprised of 317 very-low income units, 183 low-income units, 303 moderate-income units, and 785 above moderate-income units; and

WHEREAS, to comply with State Housing Element Law, the City of Brisbane has prepared a 2023-2031 Housing Element (the Housing Element) in compliance with State Housing Element Law and has identified sites that can accommodate housing units meeting the City’s RHNA; and

WHEREAS, as provided in Government Code Section 65350 et. seq., adoption of the Housing Element constitutes a General Plan Amendment; and

WHEREAS, as provided in Government Code Sections 65352 – 65352.5, the Native American Heritage Commission was provided notice of EIR preparation for the General Plan amendment for the Baylands Specific Plan, which includes the only rezoning within this Housing Element; and

WHEREAS, the preparation, adoption, and implementation of the Housing Element requires a diligent effort to include all economic segments of the community; and

WHEREAS, the City conducted extensive community outreach over the last twenty-one months including nine public meetings before the Planning Commission and

City Council, in-person outreach at community events, online and hard copy surveys, a social media campaign, and direct mailers to tenants of multi-family dwellings; and

WHEREAS, in accordance with Government Code Section 65585 (b), on August 8, 2022, the City published the Housing Element on its website and made physical copies available at the Brisbane Library and City Hall, and requested public comment for a 30-day review period;

WHEREAS, the Planning Commission held a public hearing to consider the Housing Element on August 25, 2022 during the 30-day public comment period, and recommended that the City Council direct staff to submit the Housing Element to the State Department of Housing and Community Development (HCD); and

WHEREAS, the City Council held a public hearing on October 6, 2022 to consider the Housing Element and all public comments received during and after the 30-day public comment period, and directed staff to submit the Housing Element to HCD; and

WHEREAS, on October 7, 2022, the City submitted the draft Housing Element to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on January 4, 2023, the City received a letter from HCD providing its findings regarding the draft Housing Element; and

WHEREAS, on January 12, 2023, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider the draft Housing Element and all pertinent maps, documents and exhibits, including HCD's findings, the staff report and all attachments, and oral and written public comments; and

WHEREAS, the Planning Commission adopted Resolution 2023-GPA-1-A recommending the City Council adopt and self-certify the Element, with revisions as may be considered by the City Council in response to HCD's comments, and finding that adoption of the Element is exempt from CEQA; and

WHEREAS, on January 27, 2023, the City published a revised draft Housing Element responding to HCD's findings and requested public comment on the draft; and

WHEREAS, on February 2, 2023, the City Council conducted a duly and properly noticed public hearing to take public testimony and consider the Element as revised to address HCD's comments, and all pertinent maps, documents, and exhibits, the staff report and all attachments, and oral and written public comments; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby finds that, based on substantial evidence in the record:

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. The Housing Element is consistent with the 1994 General Plan, as amended.
3. The Housing Element substantially complies with State Housing Element Law, as detailed in Appendix F of the Housing Element.
4. Adoption of the Housing Element is categorically exempt under CEQA Section 15061(b)(3) because it involves adoption of policies and programs that would not



cause a significant effect on the environment, and exempt from CEQA per Section 15183(d) of the CEQA Guidelines as follows:

- a. Rezoning to meet the RHNA Shortfall is addressed under the Environmental Impact Report (EIR) for General Plan Amendment GPA-1-18 (State Clearinghouse #2006022136; certified via Brisbane City Council Resolution 2018-61) and EIR Addendum for General Plan Amendment GPA-1-19 (adopted via Brisbane City Council Resolution 2020-1), which allows for development of up to 2,200 housing units on that same portion of the Baylands as indicated in the Housing Element.
- b. All other residential and mixed-use districts identified in the Housing Element are already designated for residential development in the City's General Plan and zoning ordinance, for which an Environmental Impact Report was adopted in 1994 (SCH #93071072) and a negative declaration was adopted in 2015 relative to adoption of the Parkside Residential Overlay districts (SCH #2015012053).
5. The 2015-2022 Housing Element is hereby repealed and the 2023-2031 Housing Element attached hereto as Exhibit A, incorporated by this reference, is adopted.
6. The Community Development Director is hereby directed to file all necessary material with the Department of Housing and Community Development for the Department to find that the Housing Element is in conformance with State Housing Element Law and is further directed and authorized to make all non-substantive changes to the Housing Element to make it internally consistent or to address any non-substantive changes or amendments requested by the Department to achieve certification.
7. The Community Development Director is hereby directed to distribute copies of the Housing Element in the manner provided in Government Code Sections 65357 and 65589.7.

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MADISON DAVIS, Mayor

I hereby certify that the foregoing Resolution 2023-XX was duly and regularly adopted at a regular meeting of the Brisbane City Council on February 2, 2023, by the following vote:

AYES:

NOES:

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INGRID PADILLA, City Clerk

Attachment 3: January 4, 2023 HCD Comment Letter  
(Hyperlink)

HCD Comment	Response
<b>REVIEW AND REVISE</b>	
<p>1. <i>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).)</i></p>	
<p><b>Shortfall of Sites from Prior Planning Periods:</b> As noted on page A-15, the City had a shortfall of sites to accommodate the regional housing needs allocation (RHNA) for the 5th cycle of the housing element. The element notes that rezoning was completed but should describe how all requirements were met or include new programs to address any gaps in meeting requirements. Specifically, the element should clearly describe how the 5th cycle needs were accommodated with sites at appropriate densities, size and other suitability and availability factors. The element should also discuss the suitability and availability of the sites and how all by right requirements were met pursuant to Government Code section 65583.2, subdivisions (h) and (i) and add or modify programs, as appropriate.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Updated Appendix A, table A.4, to include PAOZ-1 and PAOZ-2 densities, permitted by-right residential development types, minimum site yields using minimum density permitted in zoning district regulations, ministerial design review by ZA. Add hyperlink to BMC CH. 17.27 and to Parkside Precise Plan.</li> <li>• Updated Chapter 3, Section 3.1.2, to expand on overview of 2018 zoning amendments and suitability/availability of sites, adding cross reference to Appendix B.</li> </ul>
<p><b>Special Needs Housing:</b> The element must provide an evaluation of the cumulative effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female- headed households, farmworkers, and persons experiencing homelessness) and revise programs as appropriate.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Expanded on existing analysis in Appendix A with a new Section 5 - Effectiveness of Past Goals, Policies and Programs for Special Needs Populations. See also Brisbane’s Housing Needs Data Report in Appendix D.</li> <li>• Added cross reference of cumulative effectiveness to Section 2.3, which includes a new section 2.3.1 Housing Problems.</li> </ul>
<b>HOUSING NEEDS, RESOURCES, AND CONSTRAINTS</b>	
<p>1. <i>Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)</i></p>	
<p><b>Local Data and Knowledge:</b> The element notes the City is comprised of one census tract. As a result, most of the fair housing information and mapping does not reveal a pattern. For example, there is no discernible pattern in poverty rates or persons with disabilities. For these reasons, the element should utilize local data and knowledge to complement the fair housing information and mapping. For example, the element could utilize fair housing providers, City staff, school officials, transportation planners and other local and regional planning documents.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Expanded discussion and added analysis of patterns using local knowledge and data to Appendix C, Section II (Integration and Segregation) and Section IV (Disparate Housing Needs)</li> <li>• Enhanced analysis of existing school district AFFH concerns</li> <li>• Modified Appendices C2 and C3 to highlight Brisbane-specific data</li> <li>• Added new Policy 1.C and program 1.C.1 committing to regular coordination with service providers and local agencies over the planning period to ensure up-to-date local data is maintained throughout and to use fair housing data to inform Capital Improvement Projects and biennial budget.</li> <li>• Emphasized Brisbane-specific data in educational supplement (Appendix C.2) outlining disparities between students in the Brisbane Elementary, Jefferson Union High School, and Bayshore Elementary school districts.</li> </ul> <p>Note: Awaiting SamTrans and Project Sentinel confirmation of survey findings to reveal patterns.</p>
<p><b>Other Relevant Factors:</b> The element includes several other relevant factors to fair housing issues such as history, land use, redlining, CC&amp;R,</p>	<p><b>Proposed Edits/Actions</b></p>

<p>lending and related demographics. However, given the one census tract (noted above) for the City, the element could consider additional other relevant factors such as historical investment by AREAS (e.g.; capital improvement program), state and federal investment. Seeking investment or lack of seeking investment to promote affordability and inclusion or other information that complements the state and federal data to better describe the patterns and trends within the City and compared to the region. The analysis could also consider future fair housing implications of the Baylands which may result in difference in access to opportunity such as parks and open space and active transportation or other indicators of quality of life.</p>	<ul style="list-style-type: none"> <li>• Added analysis to Appendix C, Section III regarding prior Redevelopment Agency investment (e.g., senior housing, Habitat for Humanity)</li> <li>• Added statement to Appendix C, Executive Summary that there is no evidence of harm or historic pattern to relevant factors and City/State/Federal investment is not a contributing factor to a fair housing issue.</li> <li>• Expanded Appendix C, Section V sites inventory AFFH analysis to clarify parks and transit proximity in the Baylands.</li> <li>• Amended Chapter 5, Program 2.A.2 for Baylands Specific Plan to address accessible units design in close proximity to transit.</li> </ul> <p>Note: Additional analysis to be provided in Appendix C, Section III showing Capital Improvement Project locations and types throughout City neighborhoods.</p>
<p><b>Contributing Factors to Fair Housing Issues:</b> Based on the outcomes of a complete then formulate appropriate policies and programs.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• No Fair Housing Action Plan revisions necessary based on updated analysis.</li> </ul>
<p>2. <i>Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)</i></p> <p><i>Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)</i></p>	
<p><b>Extremely Low-Income (ELI) Households:</b> While the element quantifies existing and projected ELI households, it must also analyze their housing needs. The analysis of ELI housing needs could consider tenure, overpayment, overcrowding, resources and the effectiveness of strategies and the magnitude of housing need.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Amended Chapter 2 to add section 2.3.1 and Table 2.31; also refer to section 3.2.1.10</li> </ul>
<p><b>Special Housing Needs:</b> While the element includes some quantification of special housing needs, it must still analyze those needs. The analysis should include, but is not limited to, factors such as trends, household income, tenure, housing types, zoning, available resources, effectiveness of past strategies and an evaluation of the magnitude of the need. Local officials, special needs service providers, or social and health service providers may be able to assist with information to complete the analysis. For additional information and a sample analysis, see the Building Blocks at <a href="https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks">https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks</a>.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Amended Chapter 2 to expand Section 2.3 ; subsections 2.3.1 thru 2.3.7 added with (new) Tables 2.31 thru 2.34; cross references to Chapter 3 and Appendix D throughout</li> </ul>
<p>3. <i>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).)</i></p>	
<p><b>Progress toward the RHNA:</b> While the element may utilize pipeline and potential development projects toward the RHNA, it must also demonstrate their affordability and availability in the planning period. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions).</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Created a new action program committing to facilitating development and monitoring of approvals of pipeline projects (Chapter 5, Program 2.A.9).</li> <li>• Amended Chapter 3. Section 3.1.2, and Appendix B, Section 4.5 and Table B.7.2, to add clarifying language on environmental cleanup status and timeframe for the Baylands site</li> </ul>

<p>Availability should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors.</p> <p>In addition, the analysis of affordability and availability should specifically address the Baylands and its affordability and availability for development in the planning period. Regarding affordability, the element should either demonstrate affordability based on sales prices and rents or other mechanisms ensuring affordability (e.g., deed- restrictions) or demonstrate how the large site will facilitate affordability. For availability, the analysis should address the anticipated scheduled for development, including completion, any known barriers to development in the planning period, impacts of remediation plans on site availability, infrastructure, phasing requirements, build out horizons and any other factors impacting the availability of sites in the planning period. Based on the outcomes of this analysis, the element should adjust residential capacity assumptions for the planning period.</p> <p>Finally, given the element has identified a large portion of the RHNA through pipeline projects, the element should include programs with actions that commit to facilitating development and monitoring approvals of the projects, including the number of units and affordability (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals and monitoring of project progress, including rezoning or identification of additional sites, if necessary).</p>	<p>per approved Remedial Action Plans, and to clarify status of site as a pending zoning project as opposed to a pipeline project.</p>
<p><b>Parcel Inventory:</b> While the element lists parcels by various factors such as acreage, general plan designation, zoning and realistic capacity by income group, it should also list parcels by existing use sufficiently to facilitate an analysis of potential for redevelopment. Currently, the element (pp. B-20 to B-21) lists existing uses generically (e.g., Warehouse, single family residential) which is not sufficient information to facilitate an analysis of the potential for redevelopment. Instead, the element could describe the existing uses such as abandoned structure with large parking lot or could utilize factors or indicators of potential for redevelopment such as age of structure, existing versus allowable floor area and improvement to land value.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>Deferred: To be added prior to HCD submittal. Administrative descriptions to be added. Some minor changes have already been made to tables in Appendix B.</li> </ul>
<p><b>Suitability of Nonvacant Sites:</b> The element must include an analysis demonstrating the potential for additional development on nonvacant sites. To address this requirement, the element should address the extent to which existing uses may constitute an impediment to additional residential development, the City’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>Provided analysis of development potential of nonvacant sites in the PAOZ-1 and PAOZ-2 districts in Chapter 3, Section 3.1.2, and Appendix B, Section 4.4.</li> <li>Added statement to Chapter 3, Section 3.1.2, that less than 50% of the low income RHNA is accommodated by nonvacant sites.</li> </ul>

<p>other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional incentives or standards to encourage additional residential development on these sites.</p>	
<p><b>Availability of Infrastructure:</b> The element includes some general discussion of water and sewer capacity but should clarify sufficient existing and planned water and sewer capacity to accommodate the RHNA and include programs, if necessary.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Amended Chapter 5, Program 2.A.2 to incorporate requirement for water allocation to be explicitly referenced.</li> <li>• Amended Chapter 4, Sections 4.1.4.1 and 4.1.3.2 to add statements that projected development over the planning period is accommodated by existing or planned water supply and sewer treatment capacity.</li> </ul>
<p>Environmental Constraints: While the element generally describes potential environmental constraints, it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period. (e.g., shape, contamination, easements, conditions, compatibility)</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• See new section 4.2.1 Environmental and Physical Constraints and expanded discussion in Chapter 3, Section 3.1 - Sites Inventory, and Appendix B.</li> </ul>
<p><b>Electronic Sites Inventory:</b> For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <a href="https://www.hcd.ca.gov/planning-and-community-development/housing-elements">https://www.hcd.ca.gov/planning-and-community-development/housing-elements</a> for a copy of the form and instructions. The City can reach out to HCD at <a href="mailto:sitesinventory@hcd.ca.gov">sitesinventory@hcd.ca.gov</a> for technical assistance.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Deferred: To be completed when certified.</li> </ul>
<p><b>Zoning for a Variety of Housing Types:</b></p> <ul style="list-style-type: none"> <li>• <b>Emergency Shelters:</b> While the element mentions emergency shelters are permitted in the Southwest Bayshore Commercial district without a use permit, it should clarify the use is permitted without discretionary action. In addition, the element should discuss available acreage such as the presence of reuse and redevelopment opportunities to demonstrate sufficient capacity to accommodate the need for emergency shelters. In addition, the analysis should address proximity to transportation and services and any conditions inappropriate for human habitability and should list and evaluate development standards, including parking requirements as potential constraints. For example, the analysis should address the 12-bed limit as a constraint. Based on the outcomes of the analysis, the element should add or modify programs as appropriate.</li> <li>• <b>Transitional and Supportive Housing:</b> Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. While the element notes these uses are permitted the same as other residential uses, it should also clarify</li> </ul>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Emergency Shelters: See expanded description/analysis in the Resources Chapter, Section 3.2.1.7 Emergency Shelters and Program 2.B.4 to expand the 12-bed limit to 30-beds for a permitted by-right development.</li> <li>• Transitional and Supportive Housing: See added Section 3.2.1.8 and Program 2.A.8 to update the ordinance, to allow transitional and supportive housing and by-right permanent supportive housing in the NCRO-2 district- 2030</li> <li>• Manufactured Housing: See added Section 3.2.1.8 - Allowance of Various Housing Types for manufactured housing</li> <li>• ADUs: Added new program 2.A.10 to update ADU Ordinance by 12/31/2023</li> <li>• Employee Housing is referenced in 2.3.7 and new Section 3.2.1.8, which includes the existing zoning ordinance definition, treating employee housing as the same as single family dwellings pursuant to the state code.</li> </ul>

<p>the uses are permitted in all zones allowing residential uses and similar to residential dwellings of the same type in the same zone.</p> <ul style="list-style-type: none"> <li>• <b>By Right Permanent Supportive Housing:</b> By right permanent supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.</li> <li>• <b>Employee Housing:</b> The element must demonstrate zoning complies with the Employee Housing Act (Health and Safety Code, § 17000 et seq.) or add or modify programs. Specifically, section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.</li> <li>• <b>Manufactured Housing:</b> Pursuant to Government Code section 65852.3, manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. The element must demonstrate consistency with this requirement or add or modify programs as appropriate.</li> <li>• <b>Accessory Dwelling Units:</b> The element indicates the City modifies its zoning code to ease barriers to the development of accessory dwelling units (ADU's). However, after a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance to comply with State law.</li> </ul>	
<p>4. <i>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).)</i></p>	
<p><b>Land Use Controls:</b> The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address multifamily heights. The analysis should address any impacts on housing cost, supply (number of units), feasibility and ability to achieve maximum densities and include specific commitment to address identified constraints in program.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Added analysis to Section 4.1.1.2 detailing trends of housing developments constructed in compliance with district building height limits to illustrate that existing land use controls do not impede housing development.</li> <li>• Added analysis to Section 4.1.1.2 to detail pathway through the density bonus ordinance for affordable housing projects to attain building heights above the underlying district regulations without discretionary approval requirements.</li> <li>• Added analysis to Section 4.1.1.2 illustrating how land use controls would apply to multi-family development on a typical lot in the R-3 and SCRO-1 districts (multi-family by-right districts).</li> </ul>

<p><b>Fees and Exaction:</b> The element shows the total amount of fees per unit for typical single-family and multifamily development but should also list and evaluate all impact fees as part of the analysis. Currently, the analysis shows an aggregate figure for impact fees.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>Added breakdown of impact fees for single-family and multi-family developments in footnotes in Chapter 4, Tables 4-3 and 4-4.</li> <li>Added a statement finding of the overall impact of fees on development feasibility</li> </ul>
<p><b>Local Processing and Permit Procedures:</b> The element provides a general summary of some permit procedures but should discuss the procedures for a typical single family and multifamily development that is consistent with zoning and the general plan. The analysis should address the decision-making body, typical number of hearings, timing and approval findings. The analysis should evaluate impacts on cost, timing and approval certainty and add or modify programs to address any identified constraints.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>Added additional information to Chapter 4, Section 4.1.4.2 regarding typical single-family and multi-family permit processing procedures and timeframes, as well as PAOZ-1 and PAOZ-2 overlay ministerial review.</li> </ul>
<p><b>Housing for Persons with Disabilities:</b> The element must analyze potential governmental constraints on housing for persons with disabilities. The analysis must address reasonable accommodation, definition of family and zoning and permit procedures for group homes for seven or more persons. For reasonable accommodation, the element should discuss the procedures, decision maker, timing and specifically list and evaluate approval findings. For the definition of family, the element should identify the definition and evaluate any potential impacts on the number of persons and unrelated persons. For group homes for seven or more persons, the element should specifically analyze and add or modify programs to address the conditional use permit procedure as a constraint.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>Added information and analysis to Chapter 4, Section 4.1.5 describing existing reasonable accommodations permit procedures, decision maker, timing, and findings and expanded discussion of use permits required for group homes of 7 or more persons.</li> </ul>
<p><b>On- and Off-Site Improvements:</b> The element briefly mentions the City has standards for on- and off-site improvements but should list the actual standards for a typical development and evaluate the cost impacts on housing development.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>Amended Chapter 4, Section 4.1.3.1, to add specific off-site improvement standards, typical development scenarios, and evaluation of cost impacts of required improvements.</li> </ul>
<p><b>Zoning and Fees Transparency:</b> The element must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City’s website and add a program to address these requirements, if necessary.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>Amended Chapter 5 to add Program 7.A.9 to update City’s website by 12/2023 and annually thereafter to ensure up to date information in compliance with the Government Code.</li> </ul>
<p>5. <i>An analysis of potential actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and 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).)</i></p>	
<p><b>Requests for Lower Density and Permit Times:</b> The element must analyze (1) requests to develop housing at densities below those identified in the inventory and (2) the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the construction of a locality’s share of the regional housing need and programs should be added or modified as appropriate.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>See added Sections 3.2.1.9 - Minimum Density Zoning and 4.1.4.5 - Accommodating Lower Density Requests.</li> </ul>



## HOUSING PROGRAMS

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs should have specific commitment toward housing outcomes (e.g., remove or modify “evaluate feasibility”, “study feasibility”, “study potential”, “examine how”, “explore potential”) and discrete and early timing (e.g., at least annually or by Jan 2025).

Examples of programs that should be revised with discrete timing include Programs

- 2.B.3 (Regional Shelter and Services to Homeless),
- 2.E.1 (Affordable Housing Strategic Plan),
- 2.F.3 (Land Banking),
- 2.F.4 (City Funding),
- 4.B.1 (Collaborate with Other Agencies on Housing Repair and Home Rehabilitation),
- 4.B.2 (Preservation Policies) and
- 5.A.4 (Publicize Funds for Rehabilitation).

Examples of programs that should be revised with specific commitment include Programs

- 2.A.5 (Reduce Minimum Lot Sizes),
- 2.A.7 (Commercial Zoning Amendments for Mixed Use),
- 2.D.1 (Special Needs Housing),
- 2.D.2 (ADU and JADU),
- 2.E.3 (ADU Construction Loan),
- 2.E.6 (City-owned Sites),
- 2.F.4 (City Funding in Private Development),
- 2.G.1 (Density Transfer) and
- 4.A.11 (Extend Affordability Covenants).

### Proposed Edits/Actions

- Modified programs 2.B.3, 2.E.1, 2.F.3, 4.B.2, and 5.A.4 to include discrete timing
- Modified programs 2.A.5, 2.A.7, 2.D.1, 2.D.2, 2.E.3, 2.F.4, 4.A.11 to include specific commitments to outcomes
- Programs 4.B.1 and 5.A.4 identified by HCD as requiring revisions to add discrete timing already contained discrete timing and are not proposed to be revised.

2. *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 completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B3, 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:

- **Shortall of Sites to Accommodate the RHNA:** The program should commit to *comply* (replace “consistent”) with all of the by right requirements pursuant to Government Code section 65583.2 (h) and (i). For example, the program should commit to affordability provisions and residential performance standards as well as permitting multifamily development without discretionary action.
- **Baylands and Pipeline Projects:** As noted in Finding B3, the element should include a program that commits to facilitate development and monitor approval of pipeline projects, including the Baylands, number of units and affordability.
- **Sites Identified in Prior Planning Periods:** If necessary, the element must include a program for vacant sites identified in two of more consecutive planning periods’ housing elements or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be implemented within the first year or three years, whichever is appropriate, of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households (30 units per acre) and allow by-right approval (without discretionary action) for housing developments that include 20 percent or more of its units affordable to lower-income households.
- **Replacement Requirements:** The element should include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).
- **Program 2.B.5 (Low Barrier Navigation Centers):** The program must specifically commit to amend zoning (beyond “explore”) permit low barrier navigation centers in all zones allowing multifamily uses pursuant to Government Code section 65661.

**Proposed Edits/Actions**

- Amended Program 2.A.2 to replace “consistent” with “comply” and added Government Code sections, add by-right provisions and no discretionary review, meeting affordability levels anticipated in the Housing Element, and requirement to provide a dedicated water supply through the CEQA mitigations process.
- Added new program 3.A.5 to amend zoning ordinance to require replacement of lost low-income units on a one-to-one basis.
- Amended program 2.B.5 to amend zoning ordinance to comply with Government Code sections 65660 – 65668 regarding low barrier navigation centers.
- Created a new action program committing to facilitating development and monitoring of approvals of pipeline projects (Chapter 5, Program 2.A.9).
- No vacant sites were identified in two or more consecutive planning periods for low income RHNA- no action required.

3. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

Given the lack of progress toward the regional housing need allocation for lower income households and special needs households in the prior planning period, the element must include significant and specific

**Proposed Edits/Actions**

- Added Program 2.F.7 and revised Program 2.F.4 to address specific actions for ELI housing and add cross reference to program 2.E.1.

<p>commitment to assist in the development of housing for lower-income households. While the element includes some actions (e.g., Goal 2), many of these actions do not commit to housing outcomes. Several actions commit to studies, examinations or building relationships. While these efforts are important and meaningful, these efforts should be complimented by additional steps that lead to housing outcomes. For example, Program 2.F.2 commits to annually develop a relationship with nonprofit housing developers. Instead, the Program should include clear and specific commitment to identify affordable development opportunities, grant incentives, assist with funding and process entitlements on an annual basis. The Program should also commit to a numerical target and evaluate and adjust efforts as necessary every other year. Other examples include programs under Policies 2.B (Special Needs), 2.D (Reduce Development Costs), 2.E (Seek Funding) and 2.F (Facilitate Affordable Housing).</p> <p>In addition, the element must include specific actions to assist in the development of housing for extremely low-income households. Actions could include adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to extremely low-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.</p>	
<p><i>4. 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).)</i></p>	
<p>As noted in Findings B4 and B5, the element requires a complete analysis of potential governmental and nongovernmental 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.</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• See edits and actions listed under Findings B4 and B5.</li> </ul>
<p><i>5. 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).)</i></p>	
<p>As noted in Finding B1, the element must include a complete analysis of affirmatively furthering fair housing (AFFH). The element must be revised to add goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numeric objectives and, as appropriate, must address housing mobility enhancement, new housing choices and affordability in higher opportunity or income areas, place-</p>	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• See edits and actions listed under Finding B1.</li> </ul>

based strategies toward community revitalization and displacement protection. (JA) - Done	
<i>6. Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)</i>	
The element should commit to monitor the production and affordability of ADUs every two to three years (e.g., three times in the planning period) and take action if assumptions in the sites inventory are not met (e.g., additional incentives, rezoning) within a specified time (e.g., six months).	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• Added an ADU monitoring program as a standalone program or a part of the existing ADU programs. (2.F.6)</li> <li>• Amended ADU rent survey program to outline actions to be taken if assumptions are not met (3.A.3)</li> </ul>
<b>QUANTIFIED OBJECTIVES</b>	
<i>1. Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 &amp; 2).)</i>	
While the element includes new construction objectives, these objectives should include numerical targets for extremely low-income households and should also consider rehabilitation and conservation objectives by income group, including extremely low-income households.	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• See added Section 3.2.1.10 Accommodating Extremely Low Income Households</li> <li>• See added line in Table 5-1 for SCRO-1 emergency shelter, for 12 (increased to 30) beds.</li> <li>• See added line in Table 5-1, preservation, for existing ELI, VL, L, and M housing unit preservation</li> </ul>
<b>PUBLIC PARTICIPATION</b>	
<i>1. Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)</i>	
While the element described various efforts to achieve public participation in the preparation of the housing element update, moving forward, the City should employ additional methods to engage all segments of the community, including lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income and special needs households in future public outreach efforts.	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• See added Program 5.A.9 for stakeholder committee to advise on community engagement during the planning period.</li> </ul>
<b>GENERAL PLAN CONSISTENCY</b>	
<i>1. The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)</i>	
While the element discusses how internal consistency will be achieved with other elements of the general plan as part of the housing element update, it should also discuss how internal consistency will be maintained throughout the planning period.	<p><b>Proposed Edits/Actions</b></p> <ul style="list-style-type: none"> <li>• See edit to Program 4.A.13</li> </ul>

## RESOLUTION 2022-GPA-1-A

A RESOLUTION OF THE BRISBANE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT A GENERAL PLAN AMENDMENT TO REPEAL THE 2015-2022 HOUSING ELEMENT AND ADOPT THE HOUSING ELEMENT OF THE GENERAL PLAN FOR THE PERIOD OF 2023-2031, IN COMPLIANCE WITH STATE HOUSING ELEMENT LAW

WHEREAS, the California Legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives” (Gov. Code Section 65589.5.); and

WHEREAS, the Legislature has further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration” (Gov. Code Section 65589.5.); and

WHEREAS, the Legislature recently adopted the Housing Crisis Act of 2019 (SB 330) which states that “In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years”; and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City of Brisbane’s (City) regional housing need allocation (RHNA) of 1,588 housing units, comprised of 317 very-low income units, 183 low-income units, 303 moderate-income units, and 785 above moderate-income units; and

WHEREAS, to comply with State Housing Element Law, the City of Brisbane has prepared a 2023-2031 Housing Element (the Housing Element) in compliance with State Housing Element Law and has identified sites that can accommodate housing units meeting the City’s RHNA; and

WHEREAS, as provided in Government Code Section 65350 et. seq., adoption of the Housing Element constitutes a General Plan Amendment; and

WHEREAS, as provided in Government Code Sections 65352 – 65352.5, the Native American Heritage Commission was provided notice of EIR preparation for the General Plan amendment for the Baylands Specific Plan, which includes the only rezoning within this Housing Element; and

WHEREAS, the preparation, adoption, and implementation of the Housing Element requires a diligent effort to include all economic segments of the community; and

WHEREAS, the City conducted extensive community outreach over the last twenty-one months including nine public meetings before the Planning Commission and

City Council, in-person outreach at community events, online and hard copy surveys, a social media campaign, and direct mailers to tenants of multi-family dwellings; and

WHEREAS, in accordance with Government Code Section 65585 (b), on August 8, 2022, the City published the Housing Element on its website and made physical copies available at the Brisbane Library and City Hall, and requested public comment for a 30-day review period;

WHEREAS, the Planning Commission held a public hearing to consider the Housing Element on August 25, 2022 during the 30-day public comment period, and recommended that the City Council direct staff to submit the Housing Element to the State Department of Housing and Community Development (HCD); and

WHEREAS, the City Council held a public hearing on October 6, 2022 to consider the Housing Element and all public comments received during and after the 30-day public comment period, and directed staff to submit the Housing Element to HCD; and

WHEREAS, on October 7, 2022, the City submitted the draft Housing Element to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on January 4, 2023, the City received a letter from HCD providing its findings regarding the draft Housing Element; and

WHEREAS, on January 12, 2023, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider this Resolution regarding the proposed Housing Element, reviewed the Housing Element and all pertinent maps, documents and exhibits, including HCD's findings, the staff report and all attachments, and oral and written public comments.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby finds that, based on substantial evidence in the record:

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. The Housing Element is consistent with the 1994 General Plan, as amended.
3. The Housing Element substantially complies with State Housing Element Law, as detailed in Appendix F of the Housing Element.
4. Adoption of the Housing Element is categorically exempt under CEQA Section 15061(b)(3) because it involves adoption of policies and programs that would not cause a significant effect on the environment, and exempt from CEQA per Section 15183(d) of the CEQA Guidelines as follows:
  - a. Rezoning to meet the RHNA Shortfall is addressed under the Environmental Impact Report (EIR) for General Plan Amendment GPA-1-18 (State Clearinghouse #2006022136; certified via Brisbane City Council Resolution 2018-61) and EIR Addendum for General Plan Amendment GPA-1-19 (adopted via Brisbane City Council Resolution 2020-1), which allows for development of up to 2,200 housing units on that same portion of the Baylands as indicated in the Housing Element.
  - b. All other residential and mixed-use districts identified in the Housing Element are already designated for residential development in the City's General Plan and zoning ordinance, for which an Environmental Impact Report was adopted in 1994 (SCH #93071072) and a negative declaration was adopted in 2015 relative to adoption of the Parkside Residential Overlay districts (SCH #2015012053).

5. The Planning Commission recommends that the City Council repeal the 2015-2023 Housing Element and adopt the 2023-2031 Housing Element attached hereto as Exhibit A, incorporated by this reference. This includes edits as may be necessary to address HCD's comments, as provided in their January 4, 2023 review letter to the City.

ADOPTED this twelfth day of January, 2023 by the following vote:

AYES: Funke, Gooding, Lau, Sayasane

NOES: N/A

ABSENT: Patel

*Roel Funke*

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ROEL FUNKE

Vice Chairperson

ATTEST:

---

JOHN A. SWIECKI, Community Development Director

Attachment 6: January 12, 2023 Planning Commission Meeting Agenda  
Packet, Minutes, and Video  
(Hyperlink)





The Housing Element update represents a critical opportunity for Brisbane to improve its housing policies in a way that promotes abundant, affordable, and secure housing opportunities for all its residents. While we commend city staff for their efforts in this process, Brisbane's Draft Housing Element still has deficiencies in regard to detailing its pipeline projects that will render it unlikely to receive HCD certification. As such, we recommend that Brisbane add additional evidence to their site inventory in order to meet HCD's pipeline requirements.

### Site Inventory & Methodology

Brisbane's RHNA for this sixth cycle Housing Element update is 1,588 housing units. The Housing Element notes that Brisbane lacks adequate sites to meet RHNA, and as such a program was included for rezoning on the Baylands via adoption of a specific plan.

Based in part on the results of Balance Brisbane and the expertise of staff, consultants, and developers, the City identified the Baylands subarea as the most logical site to be put forward as meeting the RHNA plus the buffer, given that a range of 1,800 to 2,200 housing units is permitted per a General Plan Amendment completed in 2019, a single landowner/developer owns the multi-parceled site and is actively pursuing development of the site with housing, and it is vacant.

While the City General Plan allows for 1800-2200 housing units within the Baylands, it is currently zoned commercial C-1, which does not allow for housing. However, a specific plan is in process which will rezone the site for housing consistent with the adopted general plan.

**TABLE B.4.1**  
**Sites Inventory by Subarea Affordability Breakdown**

<i>Subareas</i>	<i>Total Units</i>	<i>Very Low</i>	<i>Low</i>	<i>Moderate</i>	<i>Above Moderate</i>	<i>Pipeline</i>
<b>Baylands</b>	1,800	145	80	287	1,288	-
<b>Parkside</b>	246	159	87	0	0	-
<b>Central Brisbane</b>	140	1	4	4	131	61
<b>ADUs</b>	40	12	12	12	4	-
<b>Totals</b>	2,226	317	183	303	1,423	-

*Table Source: Housing Resources Sites Inventory*

1

**This site inventory was developed to meet all statutory requirements and provide a realistic and achievable roadmap for the city to meet and exceed RHNA.**

<sup>1</sup>Appendix B-6



**As currently drafted, the site inventory relies on the existence and rezoning of the Baylands in order to meet RHNA requirements. We agree with staff’s analysis that the Baylands is an incredible site for housing, and can certainly meet the city’s housing requirements.**

**However, in order for this site to be included in Brisbane’s pipeline projects, it must meet HCD’s requirement to show schedules for entitlement and development.**

*Specifically, “While the element may utilize pipeline and potential development projects toward the RHNA, it must also demonstrate their affordability and availability in the planning period. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). Availability should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors.*

*For availability, the analysis should address the anticipated schedule for development, including completion, any known barriers to development in the planning period, impacts of remediation plans on site availability, infrastructure, phasing requirements, build out horizons and any other factors impacting the availability of sites in the planning period. Based on the outcomes of this analysis, the element should adjust residential capacity assumptions for the planning period.*

**We ask that staff provide substantial evidence that the Baylands site will be redeveloped and include a written schedule for the entitlement and development process into the Housing Element. Without this additional evidence, the housing element will be rejected from HCD, and Brisbane will be out of compliance.**

Whether or not HCD accepts the Baylands as an opportunity site, Brisbane’s site inventory still has several other gaps. For example, the city includes dozens of single-family parcels in its site inventory that were used in both the 4th and 5th cycles, meaning the city needs to provide a site-by-site analysis demonstrating its projections for these sites are realistic. No such analysis is provided in the draft housing element.

Several other policies and programs could be added or improved to encourage more affordable housing development in Brisbane as described below:

- **Amend Program 2.A.2, “Adopt the Baylands/Specific Plan,”** to
  - a. Expedite approval of the Baylands Specific Plan by the end of 2023.
  - b. Expedite all relevant permit processing for the Baylands project.
  - c. Expedite any supplemental environmental review of the Baylands so as to ensure remediation can occur as rapidly as possible.
  - d. Offer concessions and waivers to the Baylands pursuant to density bonus law.

**We ask that if staff is going to prioritize the Baylands as the primary opportunity site**



**for development, that they codify a written schedule for entitlement and development as well as expedite approvals and permitting in order to ensure the Baylands moves forward during this RHNA cycle.**

Thank you very much for your consideration,

Ali Sapirman  
South Bay & Peninsula Organizer / Affordable Housing  
Advocate Housing Action Coalition



Department of Housing and Community Development  
Housing Policy Division  
January 24, 2023

**RE: Comment on Housing Element of the City of Brisbane**

On behalf of the Bay Area Council, I write to express my concerns with the City of Brisbane's draft housing element. We urge the Department of Housing and Community Development to not approve a version of its element without clear and reliable commitments to moving forward the Brisbane Baylands project, which represents the vast majority of the housing growth that Brisbane forecasts in its draft housing element.

The Bay Area Council represents 300 of the region's largest businesses, and many of our members have direct experience building in the Bay Area. As a part of developing our comments on all housing elements we work on, we worked with our members to identify the strategies that their experiences teach them would build more housing in the Bay Area. Their perspective is especially valuable because they work in many cities in the Bay Area and can compare Brisbane to other similar jurisdictions.

As the legislative sponsor of SB 828 (Wiener), the Council and our members are especially keen to see housing element law succeed in the Bay Area. In addition to collecting our members' views, the Council developed several principles for housing element review. In general, we look for ways to:

- Reduce or eliminate discretionary review opportunities,
- Identify the cumulative impact of cost drivers, such as fee, and
- Review the approval process and set better timeline goals for project.

In reviewing Brisbane's element, we were challenged to apply these principles because so much of Brisbane's needs are going to be met by the Brisbane Baylands. Given that the Baylands plays such an outsized role in Brisbane's housing element, the City's housing element should follow these three principles to the highest degree possible for that specific project within the housing element itself, which we admit is not a usual practice for a city.

In general, we agree with HCD's request that Brisbane needs to enhance certainty that the City will approve the Baylands within the next year, so that the project can be completed within the housing element cycle period. To accomplish that, Brisbane should establish mandatory timelines for reviewing and approving the project that are clear and create actionable consequences if the City does not meet its own timelines. If these timelines are not met, housing element compliance should be revoked by triggers built into the element itself. There should be bright line tests for how the project is moving

along to ensure that the housing element as a whole is making progress on its housing goals, as most cities must do for their total housing pipeline during the housing element process.

On January 4, 2023, HCD sent a review letter to Brisbane requesting significant changes to its draft housing element. Based on HCD's feedback and the current policy commitments stated in the housing element draft, BAC encourages HCD to ensure that Brisbane's pipeline projections comply with housing element law, which generally requires that pipeline projections be based on past success or reasonably expected under new programmatic commitments to HCD.

To accomplish this, as HCD's letter points out, Brisbane's housing element should include a comprehensive development schedule for the Baylands project. Brisbane should commit to specific, measurable, and attainable programs that facilitate the development. Specifically, BAC recommends Brisbane:

- Provide a detailed schedule for the approval of the Baylands Specific Plan in 2023, entitlement approval by the end of 2024, and supplemental environmental review (if necessary) by the end of 2024.
- Allow environmental remediation to occur concurrently with the entitlement process.
- Support funding applications for the Baylands development, including for any necessary water infrastructure.

Without these changes, Brisbane's pipeline projection cannot reasonably be expected to result from new programmatic commitments or from past performance. To the extent Brisbane adopts the programs we recommend, we believe its housing element should be valid only if they are making progress to those commitments. If Brisbane does not make these commitments, we recommend HCD not certify its element. The Bay Area Council thanks you for the consideration of our comments, and we would be happy to answer any questions you might have.

Best wishes,



Louis Mirante, Bay Area Council  
Vice President of Public Policy  
[lmirante@bayareacouncil.org](mailto:lmirante@bayareacouncil.org)

SENT VIA EMAIL

CC: City of Brisbane and staff

## Brisbane Housing Element 2023- 20XXX

This is a train-wreck waiting to happen. By not questioning the fairness of our double-the-size-of-your-town RHNA number assignment, we are now forced to have shovel to ground-somewhere, anywhere whether appropriate or not, whether safe or not. **These laws amount to extortion...** “Do this or we’re taking away your open space, your environmentally sensitive lands, your parking, your recreation areas... even your CC&R’s...” The law(s) you are trying to comply with, to bypass CEQA for only one element of the General Plan, this is out of balance, it has to be challenged.

Does today create our 30-day window for public comment period? The closing period is not clear. Have you properly informed the public of the changes, amendments since comments from the state? Have you informed the public that the elimination of R-1 will mean your neighbor can multiplex to any height, shade out your solar system, eat up your parking, tie into your sewer lines without any environmental or mitigating compensations?

Stand up to the profit-driven bullies in Sacramento and say NO, we can come up with a better low-income housing plan without destroying our whole town. Our RHNA number compliance is dependent on water availability and **we don't have the water.** We don't have any agreements in place to widen the roads or the myriad of improvements deemed necessary to support the growth for doubling our town.... to just to make 500 low-income units... based on a prior thoughtful community-reflected EIR. Where are your overriding considerations and agreements that the City will now take on these developer obligations? It's implied.

SB 9, SB 10 and a multitude of housing reform laws were placed into service since 2018, the document you referenced for CEQA compliance. The effects of these laws have not been properly vetted. To undergo NO environmental review at the tipping point of the shift from the exercise of RHNA numbers to the implementation anywhere without covenants to mitigate the impacts, is tantamount to conspiring to defraud the citizens. Please don't.

Incorporate by reference information regarding Housing Law changes for 2019, 2020, 2021, 2022.

2019 : <https://www.hklaw.com/en/insights/publications/2018/10/californias-2019-housing-laws-what-you-need-to-know>

2020 : <https://www.hklaw.com/en/insights/publications/2019/10/californias-2020-housing-laws-what-you-need-to-know>

2021: <https://www.hklaw.com/en/insights/publications/2020/09/californias-2021-housing-laws-what-you-need-to-know>

2022 : <https://www.hklaw.com/en/insights/publications/2021/10/californias-2022-housing-laws-what-you-need-to-know>

Brisbane had the mechanism to serve our low-income community's housing needs. It was the 20% set-aside tax revenue from our redevelopment projects. With the capital improvements going on at Sierra Point, and if you were to be sincere in your efforts to provide housing for all segments of the society, you could implement the set-aside requirement and have sufficient funds to produce low-income housing. It worked in the past. It is disciplined and fair.

At the time, we had a city council that made it a priority to produce mandated housing in order to not lose their set-aside funds. Instead, through this multiple-year RHNA exercise, you have

participated in allowing the city of Brisbane to play a game of monopoly with our public housing funds, to withhold funds and sit on properties for over decades, swap out for non-housing uses, and actually lose one unit due to burdensome regulations. There should be more accountability than to look at the issue, once again, and come up with a program at some later date. You have a one-year window for compliance.

The 20% set-aside tax policy works... no need for more time to figure it out, straight to implementation. At least that is a recommendation to make to the council.

You have to look at council and city manager bias as our stumbling block. If you don't, I will. To have a council member refer to this responsibility as serving "those people" with fearful remarks about folks from "the East Bay," and all council members nodding in unison... I think the issue is that our council does not have the capacity to carry out their responsibility to the public. You have a legal background, It's your job to generate laws to protect us from extortionists and fraud. Please do so.

The meeting I refer to council bias is on this clip between the minutes of 30:15 and 30:35.

<https://www.brisbaneca.org/citycouncil/page/joint-city-council-brisbane-gvmid-financing-authority-housing-authority-meeting>

I oppose approving this element because the alternate areas you considered for dense housing may be environmentally sensitive, inappropriate, and have land-use restrictions. We don't have any studies or protections for sea-level rise. Please ask the city for an assessment of mud slides and closed roadways during this last storm event to determine whether denser housing should be allowed on our steep, clay hillsides or safe on our landfills subject to liquefaction. Are we prepared for 4x the housing?

This is a multiplying event with multiple impacts and you choose to not look at them. If approved tonight, you appear to be complicit with this theft. I ask that you vote no or excuse yourselves from creating a law that violates our rights to equal representation by our public officials.

Please recirculate this document. Please inform the public of the true impacts and please create regulations that protect all of us of the theft of our public assets, from wearing-out our infrastructure, all for the benefit of for-profit foreign speculator development.

Thank you,  
Dana Dillworth  
earthhelp@earthlink.net