



TOWN OF LOS GATOS
HOUSING ELEMENT ADVISORY BOARD REPORT

MEETING DATE: 05/19/2022

ITEM NO: 1

DESK ITEM

DATE: May 19, 2022

TO: Housing Element Advisory Board

FROM: Joel Paulson, Community Development Director

SUBJECT: Review and Discussion of the Housing Element Site Inventory

REMARKS:

In response to a Board Member request, staff has received Property Owner Interest Forms for the following sites:

Property Owner Interest Forms Submitted by Property Owner Included in Tier 1

1. 50 Park Avenue and 61 Montebello Way – Included as Site A-2
2. 101 S. Santa Cruz Avenue – Included as Site A-3
3. 165 Los Gatos Saratoga Road – Included as Site A-7
4. 50 Los Gatos Saratoga Road – Included as Site C-1
5. 15300 Los Gatos Boulevard – Included as Site D-1
6. 15349, 15367, 15405 Los Gatos Boulevard – Included as Site D-4
7. 15425 Los Gatos Boulevard – Included as Site D-5
8. 16492 Los Gatos Boulevard and APN 532-07-085 – Included as Site D-29
9. 440 Los Gatos Almaden Road and 445 Leigh Avenue – Included as Site I-1
10. 14000 Blossom Hill Road – Included as Site J-1

Property Owner Interest Forms Submitted by Property Owner Not Included in Tiers 1, 2, and 3

1. 9 Forrest Avenue – Zoned R-M:5-12
2. 128 Mary Way – Zoned R-1:8
3. 333 University Avenue – Zoned R-1D:LHP
4. APN 529-06-072 – Zoned RMH

Based on the site selection criteria utilized by staff, the four sites identified above were not included in Tiers 1, 2, or 3. Should the HEAB wish to include additional sites, staff would recommend including the site located at 9 Forrest Avenue to Tier 3 due to it having a lot size less than half an acre. Staff does not recommend including the sites located at 128 Mary Way

PREPARED BY: ERIN WALTERS AND JOCELYN SHOOPMAN
Associate Planner and Associate Planner

REMARKS (continued):

and 333 University Avenue due to their zoning, General Plan land use designation, and lot size less than half an acre. Additionally, staff does not recommend including the site located at APN 529-06-072 due to environmental constraints, with the location of the Los Gatos creek within the site.

Attachment 6 contains a public comment unintendedly omitted from the Staff Report, as well as additional public comments received after the completion of the Staff Report.

ATTACHMENTS:

Previously Received with the May 19, 2022, Staff Report:

1. Housing Element Site Inventory Guidebook, Department of Housing and Community Development
2. Draft Tier 1 Sites
3. Draft Tier 2 Sites
4. Draft Tier 3 Sites
5. Draft Tier 1 Map

Received with this Desk Item Report:

6. Public Comments Received Between 11:01 a.m., Friday, May 13, 2022, and 11:00 a.m., Thursday, May 19, 2022

From: Lee Fagot <[REDACTED]>

Sent: Friday, May 6, 2022 11:37 AM

To: Joel Paulson <jpaulson@losgatosca.gov>; Jennifer Armer <JArmer@losgatosca.gov>; Laurel Prevetti <LPrevetti@losgatosca.gov>; Housing Element <HEUpdate@losgatosca.gov>

Subject: Site selection for RHNA target

Folks,

Thanks for the work you are all doing on the HEAB team.

I did want to ask that before submitting the final list of sites, with densities and height limits, that you review the total number of new housing units to make sure we do NOT provide more sites than the 1993 units as mandated by ABAG, and in each affordability range. Not sure I understand the logic of a buffer of 15%, and recommend to keep the number lower, especially as we know there are more than two more RHNA cycles in the next 20 years that will also be challenging to our community, especially as regards the character of our Town that is being challenged to deal with what is "perceived" as a need for so much more housing that our population could be increased here by about 1/3 over the next 20 years. Is that logical, given the lack of infrastructure, water, reliable energy, etc.

Thanks for considering my thoughts and hope you will review and make available the total number of housing units by site and income levels before submitting to the Council. That would be the proper transparency Thanks Lee Fagot

[REDACTED] cell

From: Phil Koen <[REDACTED]>
Date: May 18, 2022 at 11:22:10 AM PDT
To: Joel Paulson <jpaulson@losgatosca.gov>, Shelley Neis <sneis@losgatosca.gov>
Cc: jak vannada <[REDACTED]>, Rick Van Hoesen <[REDACTED]>, David Weissman <[REDACTED]>, Lee Fagot <[REDACTED]>, Peter Herten <[REDACTED]>, Jim Foley <[REDACTED]>, Catherine Somers <[REDACTED]>
Subject: lanhermosabeachadoptedout032322.pdf

Hello Shelley and Joel,

Would you please include the LGCA email below and the attached letter from HCD to the City of Hermosa Beach in the HEAB meeting package. Thank you.

Dear Members of the HEAB,

Attached please find an example of the comment letters local SCAG jurisdictions have recently received from the HCD after reviewing local jurisdictions adopted 6th cycle housing element updates. A carefully reading of the letter will hopefully further inform the HEAB with regard to the critical areas being analyzed by the HCD during the certification process. I am sure staff can vouch that the Hermosa Beach letter is typical of the comment letters bring issued by HCD.

Informed of HCD's focus areas, of particular note is the Town's draft site inventory relies on non-vacant sites to accommodate more than 50% of the RHNA for lower income households. Since it is more than 50%, the non-vacant site use is presumed by HCD to impede additional residential development, UNLESS there are findings based on substantial evidence that the use will be likely discontinued during the planning period.

This test raises questions in our mind whether at least 470 of the lower income sites (which account for nearly 50 % of the lower income sites identified) consisting of 145 units on the N40, 264 units at Los Gatos Lodge and 101 units at Nob Hill) can meet this high water test. If not, the identified sites should not be included in the site analysis.

Additionally we note that the site analysis uses land use densities proposed in the draft 2040 General Plan and not the current land use densities. Since the draft 2040 General Plan has not been adopted and continues to be of great public concern, we question whether it is appropriate to use these densities in the site analysis.

Regarding the income distribution of the 200 ADUs, the site analysis assumes 10% of the units will be very-low income, 30% will be low-income, 30% will be moderate income and 30% will be above moderate income. Has there been a study to confirm this income distribution and what is the assumption regarding one person and two person households? We are aware of a study prepared by SCAG which would suggest materially different income distributions for ADUs which could result in substantially less units in the VLI and MI categories and more units in the LI and AM categories.

One last point we would like to raise to the HEAB is the importance of performing a capacity analysis for each site to validate that the projected site capacity can be realistically achieved. There are new rules that govern the development of the effective site capacity. HCB's letter to Hermosa Beach discusses this issue in detail.

In closing, we greatly appreciate the hard work the HEAB is putting forth in developing a thoughtful site inventory that ultimately the HCD will certify. We hope you will find our comments constructive and will assist you as you continue to refine the site inventory analysis.

Thank you.

Phil Koen

Los Gatos Community Alliance

**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



March 23, 2022

Suja Lowenthal, City Manager
City of Hermosa Beach
1315 Valley Drive
Hermosa Beach, CA 90254

Dear Suja Lowenthal:

RE: City of Hermosa Beach's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Hermosa Beach's (City) housing element adopted December 21, 2021 and received for review on December 22, 2021. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on March 14, 2022 with Ken Robertson, Christy Teague, and Carlos Luis.

The adopted housing element addresses some statutory requirements described in HCD's October 4, 2021 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall 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).

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill

(SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD is 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 Molivann Phlong, of our staff, at molivann.phlong@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

Enclosure

APPENDIX CITY OF HERMOSA BEACH

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

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).)

The revised element provides (p. A-2) general information on the previous element's programs. However, this information does not provide further analysis other than implementation status of programs. A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As stated in the previous review, as part of this analysis, the element should describe the actual results of the prior element's programs with any metrics and numerical accomplishments, compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation for programs that are incorporated into the current cycle programs.

In addition, as part of the review of programs in the past cycle, the element must provide an evaluation of the effectiveness of 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).

B. Housing Needs, Resources, and Constraints

1. *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))*

Fair Housing Enforcement and Outreach: The revised element includes (p. III-16) general information on fair housing enforcement and outreach and states that the City

held a series of public hearings for the element. However, the element did not address this finding. The element must provide further analysis and describe ongoing fair housing outreach throughout the planning period or include a program. Outreach should include more robust actions in addition to housing flyers on the City's website. Please refer to HCD's October 4, 2021 review for more information.

Integration and Segregation: The element was not revised to address this finding. The element should describe the population including factors behind the block groups with the highest percentage of nonwhite residents located in the southern and eastern portions of the City, and analyze whether this area overlaps with other areas of the analysis. This analysis must include both local and regional data and analyze segregation and integration based on race and ethnicity, income, familial status and persons with disabilities. Please see HCD's October 4, 2021 review for more information.

Disparities in Access to Opportunity: The element was not revised to address this finding. Please see HCD's October 4, 2021 review for more information.

Disproportionate Housing Needs and Displacement: While this section of the element was revised (p. III-18), additional information and analysis is needed to comply. The element must include both local (comparing areas within the City) and regional (comparing the City to the region) data to analyze cost burden by tenure, overcrowding by tenure, substandard housing, homelessness, and displacement throughout the community. The element must also analyze factors of displacement in addition to at-risk properties, such as displacement due to investment, disinvestment and disaster. The analysis must also address trends, patterns, and other local knowledge and conclude with a summary of fair housing issues.

Contributing Factors: The revised element utilizes (p. III-19) the 2018 Analysis of Impediments to Fair Housing Choice (AI) for the County of Los Angeles as the list of contributing factors to fair housing issues. However, the contributing factors are regional and many do not pertain to the fair housing analysis of the City (such as addressing R/ECAPs within the City). The element should include a prioritized list of contributing factors and analyze the factors specific to the City that create, contribute to, perpetuate, or increase the severity of fair housing issues. Contributing factors are fundamental to adequate goals and actions. The analysis should result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Sites Inventory Affirmatively Furthering Fair Housing (AFFH) Analysis: While the element was revised to state that the sites inventory includes underutilized sites that do not contribute to displacement risk (p. III-18), additional data and analysis is needed. The element must include an analysis that addresses how the sites inventory AFFH. Sites must be identified and evaluated relative to the full scope of the AFFH (e.g. segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, etc.). The site inventory and accompanying analysis must identify and analyze selected sites, map the location of the sites including

affordability level, and evaluate sites relative to socio-economic patterns. The analysis should incorporate the City's projected housing development at all income levels and assess the extent to which that development will either further entrench or ameliorate existing patterns of segregation and/or exclusion of members of protected categories.

AFFH Goals, Policies, and Actions: The element was not revised to address this finding. Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. Please see HCD's October 4, 2021 review letter for more information.

- 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).)*

The City has a regional housing needs allocation (RHNA) of 558 housing units, of which 359 are for lower-income households. To address this need, the element mainly relies on rezoning sites and accessory dwelling units (ADUs) to meet the City's housing needs. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses.

Sites Inventory: Tables B-3 and B-4 (p. B-4) included additional information of the existing uses. However, this is not adequate or sufficiently detailed to demonstrate the potential for redevelopment in the planning period. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period (e.g. are commercial buildings vacant or leased, the status of residential units and utility switching stations, etc.). In addition, Table B-1 states that the City will be rezoning candidate sites to accommodate a shortfall of 446 units, including shortfall of 56 above moderate units. However, Table B-4 (Candidate Sites for Rezoning) does not identify any sites to accommodate the above moderate RHNA allocation. The element must indicate how the City will identify sufficient capacity to accommodate the shortfall.

For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Small Sites: The revised Table B-4 (p. B-5) lists small sites for lower income units. However, the element was not revised to address this finding. The element must demonstrate the adequacy of small sites to accommodate the lower income RHNA

including examples of lot consolidation and demonstrate that small sites in the rezone will accommodate 16 units per site. Please see HCD's October 4, 2021 review letter for more information on how to address the finding.

Realistic Capacity: The element continues to not support the capacity assumptions assumed in the element. The element states (p. B-2) that there are no recent examples of large-scale housing or mixed-use development in the City to support the assumptions of buildout for sites included in the inventory. The element can analyze examples of large- and small-scale development throughout the City and in neighboring jurisdictions with typical densities of existing or approved residential developments at a similar affordability level. In addition, the element states that due to high land values, developers are likely to maximize yields on these properties. The element must provide further support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions, such as developers maximizing yields on the properties. While the element assumes 100 percent development capacity of each site, the estimated number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, and typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction or regionally.

The element must also analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses (e.g., mixed-use) and on underutilized nonresidential sites. If sites are rezoned to mixed-use, consider competing uses, the extent nonresidential uses are allowed, and environmental constraints limiting the usage. Also, there should be analysis on typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction or regionally. This analysis should consider the likelihood of 100 percent nonresidential development, performance standards, and development trends supporting residential development.

Suitability of Nonvacant Sites: While the element was revised to include a recent development of multifamily units developed in neighboring Redondo Beach on an existing commercial site as a comparable example for potential development within the City, this example alone does not demonstrate the potential for redevelopment and demonstrate the extent existing uses constitute an impediment to additional residential development. As stated in the previous review, the analysis shall consider factors including, but not limited to, the, recent developments, development trends, market conditions, the City's past experience converting existing uses to higher density residential development, analysis of existing leases or other contracts that would perpetuate the existing use or prevent additional residential development, and incentives or standards that encourage development. For example, the element could consider indicators such as age and condition of the existing structure, presence of expiring leases, expressed developer interest, low improvement to land value ratio, and other factors. Absent local development trends, the element can include trends from neighboring cities. However, those the element should indicate how those examples relate to characteristics of the sites in the inventory.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Accessory Dwelling Units: The revised element assumes (p. B-2) a build out of 104 ADUs in the planning period. It is not clear if this production level will be achievable in the planning period. As a result, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Specifically, in addition to other methods, HCD accepts the use of trends in ADU construction since January 2018 to estimate new production. Based on HCD's records of past production between 2018 to 2020, the City is averaging one unit per year. To support assumptions for ADUs in the planning period, the element could reduce the number of ADUs assumed per year or reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate.

Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). If necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Infrastructure: While the element was revised to include information on dry utilities, it must demonstrate sufficient existing or planned water and sewer supply capacity to accommodate the City's regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).)

Zoning for a Variety of Housing Types (Transitional and Supportive Housing): The revised element includes (p. III-6) a statement that current City definitions for transitional and supportive housing are in compliance with this requirement. However, a cursory review of the City's residential zoning code found limitations on the uses to just six or fewer residents. 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. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate consistency

with Government Code section 65583, subdivision (a)(5) or add or revise programs which comply with the statutory requirements.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Local Processing and Permit Procedures: The element was not revised to address the analysis of the Precise Development Plan (PDP). While the element includes Program 11 to evaluate processing and permit procedures' impacts, an analysis must be completed to formulate an appropriate program to address identified constraints. For example, while the element provides a description (p. III-3) of the PDP required for housing developments, it must also analyze the PDP process, identify what is reviewed, list typical findings and approval procedures by zone and housing type. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability and should consider processing and approval procedures and time for typical single family and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures.

The revised element also includes a description of the City (p. III-11) within the Coastal Zone. However, the element should include an analysis of whether the City coastal preservation policies will potentially impact future or existing housing development within the designated coastal zone of the City especially for sites that require rezoning identified in Table B4. The element should also state when the City will receive approval for the Local Coastal Plan.

Constraints on Housing for Persons with Disabilities: The revised element states (p. III-11) that residential care facilities serving six or fewer persons are permitted in all residential zones and that large residential care facilities are conditionally permitted in most residential zones. However, residential care facilities serving seven or more persons are limited to the same zones with the approval of a conditional use permit. While the element states it will consider changing the review process, it must commit to revising the requirements to remove constraints on persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

In addition, while the element describes the City's reasonable accommodation process, it should evaluate impacts, including identifying and analyzing findings of approval. For example, Section (4)(b) of the City's Reasonable Accommodation (p. III-5) is a constraint to the provision of housing for persons with disabilities and the element must include a program to revise the reasonable accommodation procedure and specifically remove identified constraints.

4. *An analysis of potential and 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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

The element was not revised to address this requirement. Please see HCD's October 4, 2021 review letter for more information on how to address the finding. In addition, the element states (p. III-13) that the timeline of development projects from project approval to building permit application can vary from project to project. However, the element must include an estimate of the typical length of time between receiving approval for a housing development and the submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need. The element should also include an analysis of requests to develop housing at densities below those anticipated, including sites listed in the inventory. The element must also include a description of any program(s) that mitigate nongovernmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category.

5. *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).)*

The element was not revised to address this finding. Please see HCD's October 4, 2021 review for more information.

C. 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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- 
- *Program 4 (Affordable Housing Development Outreach and Assistance)*: Provide an implementation timeline (e.g., month and year) for incentives in addition to the timeframe that was included to provide information to affordable housing developers.
 - *Program 7 (Land Value Recapture)*: While the element included a date of the feasibility study, it must also provide an implementation timeline (e.g., month and year) to implement the results of the study.
 - *Program 8 (Housing Trust Funds)*: Provide a definitive implementation action and timeline (e.g., month and year) beyond investigating Housing Trust Funds.
 - *Program 11 (Streamline Housing Permit Processing)*: The Program must include specific implementation timelines to comply with SB 35.

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, mobilehomes, 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. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised, as follows;

- *Program 5 (Facilitate Efficient Use of Sites that Allow High-Density Residential Development)* should be strengthened to incentivize development of affordable units on small sites under 0.5 acres as the City relies on small sites to accommodate part of the lower income RHNA.
- *Program 9 (Adequate Sites to Accommodate Housing Needs)* identifies the rezoning necessary to accommodate the lower income RHNA. However, the program should be revised to also identify the number of acres specifically to be rezoned and identify the proposed zones for the rezoned sites. In addition, the program must identify and rezone to meet moderate and above moderate RHNA.

3. *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).)*

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. In addition, the element should be revised, as follows:

- *Program 10 (Housing for Persons with Special Needs)* should be revised from “will be reviewed” and “may” to objective, specific actions that the City will take during the planning period to create a meaningful program.
 - *Parking Requirements:* While the revised element states (p. III-7) that the City will reevaluate the appropriateness of the City’s parking requirements based on current conditions as part of the comprehensive Zoning Ordinance update, it must include a program with implementation actions to address or remove any identified constraints.
4. *Promote AFFH 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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

The element was not revised to address this finding. Programs need to be based on identified contributing factors from localized AFFH analysis, include metrics and milestones, and be significant and meaningful. Please see HCD’s October 4, 2021 review letter for more information.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element’s ADU program (Program 6) should commit to additional incentives and strategies, frequent monitoring (every other year) of ADU production and affordability and specific commitment to adopt alternative measures such as rezoning or amending the element within a specific time (e.g., 6 months) if ADU assumptions for the number of units and affordability are not met.

D. Public Participation

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)(8).)

The element was revised to include a general summary of stakeholders outreach as part of the element update. However, these revisions are insufficient in demonstrating that all economic segments of the community, particularly low-and moderate-income households and organizations that represent them, were involved in the development of the housing element. In addition, the element did not include a summary of public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

Direct No.: [REDACTED]

May 18, 2022

Town of Los Gatos Housing Element Advisory Board
c/o Community Development Department
110 E. Main Street
Los Gatos, CA 95030

Re: Housing Element Site Inventory

Dear Advisory Board Members:

Our firm represents Grosvenor USA Limited ("Grosvenor") in connection with housing and land use matters for development of the North Forty Specific Plan Area in the Town of Los Gatos (the "Town"). As you are aware, Grosvenor controls a majority of the undeveloped property in the North Forty Specific Plan Area, which is titled "E. North Forty District" in the Town's Initial Draft Site Inventory that the Housing Element Advisory Board ("Advisory Board") will consider at its meeting on May 19, 2022.

Grosvenor is very interested in developing housing on the North Forty District site during the sixth RHNA cycle's upcoming eight-year planning period, and we agree that including the North Forty District in the Town's Housing Element Site Inventory makes sense. Unfortunately, the 390 units of housing shown in the Initial Draft Site Inventory is not a realistic number to plan for, because current economic conditions do not support a feasible residential development of this scale on the site.

Consistent with the community engagement process that Grosvenor and its development team have worked on with the Town over the past two years, Grosvenor envisions developing a mixed-use project on the approximately 14 acre portion of the North Forty District site it controls. Current projections contemplate developing approximately 190 housing units on this portion of the site, inclusive of housing dedicated to low and very low income households that complies with the Town's Below Market Price program.

Accordingly, we must ask that the Advisory Board reduce the unit allocation for the North Forty District. Grosvenor remains open to developing more housing on the site if market conditions change. It may be possible to deliver more units than expected, which would help the town demonstrate progress towards achieving its RHNA goals during the planning period. Therefore, we encourage the Town to maintain

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flexible density and development standards that will allow for the development to deliver the maximum amount of housing that is feasible when the site develops. Please note that Grosvenor does not control all of the land within the North Forty District Site, and we recognize that the Town may desire to continue planning for additional housing on the portion of the North Forty District site under separate ownership. Although this means that overall the North Forty District may still accommodate more than 190 units, it is not realistic to expect Grosvenor's portion of the North Forty District to develop at 20 du/ac on the entirety of its portion of the site as part of the Housing Element planning process. Therefore, the Initial Draft Site Inventory should be revised accordingly, with no more than 190 units attributed to the property under Grosvenor's control.

Thank you for your consideration and for your important work planning for how the Town will do its part to meet the state's housing needs. If you have any questions or would like to discuss realistic options for development of the North Forty District, please feel free to contact me or another member of the Grosvenor team at any time.

Sincerely,



Eric S. Phillips

cc: Whitney Christopoulos, Grosvenor USA
Don Capobres, Harmonie Park Development
Wendi Baker, Harmonie Park Development
Jennifer Renk, Sheppard, Mullin, Richter & Hampton LLP

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