

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

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August 28, 2020

Steve Stewart, Planning Manager
City of Livermore
1052 S. Livermore Avenue
Livermore, CA 94550

Dear Steve Stewart:

RE: Letter of Inquiry – No Net Loss Law Compliance

The purpose of this letter is to inquire about the status of the available housing development capacity remaining in the City of Livermore's (City) 2014-2023 Housing Element Site Inventory, pursuant to Government Code section 65863 (No Net Loss Law). No Net Loss Law requires a jurisdiction to maintain a sufficient supply of adequate sites in its housing element at all times throughout the housing element planning period to meet a jurisdiction's remaining unmet share of the Regional Housing Needs Allocation (RHNA) for each income category.

To comply with the No Net Loss Law, jurisdictions must ensure their actions do not create a shortfall of available sites. When making decisions regarding zoning and land use (e.g., downzoning) and/or when approving housing development projects, jurisdictions must assess the impacts those actions have on their ability to accommodate new housing on the remaining sites in their housing element site inventories. If, at any time during the planning period, the jurisdiction finds that their remaining sites are insufficient to accommodate its remaining RHNA, the jurisdiction must take immediate action to correct the shortfall by amending its housing element sites inventory to increase capacity by either adding previously unidentified sites or rezoning remaining sites to correct for the shortfall.

Further, if a development is approved at a lower density than what was assumed in the sites inventory of the housing element, No Net Loss Law requires a jurisdiction to make written findings and identify additional site capacity. A lower residential density results from a jurisdiction either approving a development with fewer residential units than what was assumed for the site or approving a development with residential units that are affordable to a different income category than the site was assumed to accommodate.

Status of Livermore's Housing Element Site Inventory

On April 20, 2015, the California Department of Housing and Community Development (HCD) found the City of Livermore's housing element in compliance with State Housing Element Law (Article 10.6 of Gov. Code). This finding was based, among other things, on the City identifying adequate sites in its site inventory to meet its RHNA obligation (Tables A-1, A-2, B-1, B-2, and B-3). The finding was also based on a program committing the City to maintain adequate sites to meet RHNA obligations for all income levels throughout the planning period (Program 1.1.1: Land inventory).

HCD is aware that the City recently approved a number of developments with fewer units per affordability level than identified in the housing element. However, it is unclear whether these projects were approved with the required written findings pursuant to No Net Loss Law. A few examples are as follows:

- In 2017, the City Council voted to approve the development of the Ageno Apartments as part of the Brisa Neighborhood Plan. The City approved the site for 34 housing units affordable to low-income households. In the adopted housing element, the City included the Brisa Neighborhood Plan in its site inventory and projected its capacity as 171 low-income housing units (Table A-2, Appendix page A-7).
- On June 11, 2018, the City Council voted to approve the development of the Legacy Partners Project. The City approved the site for zero housing units affordable to low-income households. In the adopted housing element, the City included the Legacy Site in its site inventory and projected its capacity as 100 units at a low-income affordability level (Table B-3, Appendix Page B-6).
- On September 24, 2018, the City Council voted to approve the development agreement of the Eden Housing Project, as well as the development of a 1.5-acre park (Stockmen's Park). The site of the Eden Housing Project would account for 130 housing units affordable to low-income households. In the adopted housing element, the City included The Livermore Village Site (APN 098-0289-021-00, 098-0289-018, 098-0289-019) in its site inventory and projected its capacity as 235 housing units at a low-income affordability level (Table B-3, Appendix Page B-6).

Because of the discrepancy between approved and projected units at these sites, it is unclear whether the City continues to have adequate sites to accommodate the remaining lower-income RHNA. Therefore, HCD requests the City of Livermore provide written findings to demonstrate that either (1) the City's housing site inventory continues to have sufficient capacity to accommodate the remaining RHNA for the 2014-2023 Housing Element Planning Period, or (2) the City has found an alternative site (or sites) to replace the loss of affordable units described above. Please provide necessary documentation to HCD within 30 days of receiving this letter. For information on the specific provisions of No Net Loss Law and tools to assist the City in evaluating its remaining site inventory capacity, refer to HCD's technical assistance memorandum on [No Net Loss Law](#).

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HCD recognizes the challenge of interpreting new housing and land-use laws and appreciates the City's efforts to maintain compliance with housing element and No Net Loss Law. If you have additional questions, please contact Reid Miller, of our staff, at 916-263-2707.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Land Use and Planning Chief