

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

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July 27, 2023

Bryan Swanson, Director
Community Development Department
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

Dear Bryan Swanson:

RE: City of Saratoga's 6th Cycle (2023-2031) Revised Draft Housing Element

Thank you for submitting the City of Saratoga's (City) revised draft housing element received for review on May 30, 2023. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Joanne Cornbleet, pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements described in HCD's March 17, 2023 review; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities program, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Clare Blackwell, of our staff, at clare.blackwell@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SARATOGA

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

A. 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).)*

Integration and Segregation: While the element was revised to briefly report differences in income relative to the region, the analysis still should incorporate other relevant factors, such as zoning and land use patterns, local growth-related measures or investments. In addition, the element must still describe and analyze any local concentrations or patterns of familial status geographically within the City. For more information, please see HCD's March 17, 2023 review.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element now identifies sites by income and location and generally concludes that sites do not exacerbate current fair housing conditions because all the RHNA sites are located in high resource areas. While all the RHNA sites are located in high resource areas, the entire City is a high resource area and a significant portion of the lower-income RHNA is geographically isolated, including areas that correspond with other fair housing coincidences including higher levels of renter overpayment and higher rates of individuals that are part of a protected class. The element should either identify additional sites to better promote inclusive neighborhoods throughout the City or clearly recognize and evaluate the isolation of the lower-income RHNA and add or modify significant and meaningful actions to promote housing mobility (e.g., housing choices and affordability) throughout the City, including lower density single-family areas.

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).)*

Progress in Meeting the RHNA: While the element now mentions the status of approved pipeline projects, it must still address the gap between approval and building permit application submittal for the Marshall Lane Subdivision, including any barriers to development. The element must also discuss the status and anticipated completion of pending projects such as the Saratoga Retirement Community project, including any known barriers to development, and address drop-out rates of all pending SB 9 applications.

Small Sites: The element was not revised to address this finding. For more information, please see HCD's March 17, 2023 review.

Suitability of Nonvacant Sites: While the element was revised to evaluate the potential for redevelopment on some of the parcels within the Village East Site; the element must still provide analysis of existing uses of the sites at 20440 Arbeleche Ln. and 14363 Saratoga Avenue; and demonstrate that the existing uses at these sites will likely discontinue during the planning period. For more information, see HCD's March 17, 2023 review.

SB 9 Sites: While the element now briefly mentions the ease of potential subdivisions on identified lots, it generally was not revised to address HCD's prior finding and must still provide a complete analysis demonstrating the likelihood of redevelopment. For more information, please see HCD's March 17, 2023 review. The element should add or modify programs based on the outcomes of a complete analysis.

Electronic Site Inventory: For your information, pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City/County can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

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

Land Use Controls: While the element was revised to identify height and lot coverage requirements of the new mixed-use district MU(VHD), it must also analyze these controls for impacts on housing costs and ability to achieve maximum densities. The element states that development standards within the commercial zoning districts (CN, C-V, CH-1, CH-2, and P-A) do not pose a constraint since other mixed-use projects have been built under these regulations. However, simply mentioning that development has occurred does not mean that the standards were not constraints. The element should include analysis,

including impacts on the ability to achieve maximum density. In addition, the element must still analyze the 40 percent maximum lot coverage, setbacks, and two-story height limits in multifamily zones as a constraint on development and add programs as appropriate. The element must also still discuss minimum lot sizes and any impacts on identified sites to accommodate the RHNA. For more information, please see HCD's March 17, 2023 review.

While Program 3.3-1 was revised to include a proposed amendment to the parking standards for multifamily, the element must still analyze the parking requirements of one garage space and an additional 0.5 space for a one-bedroom unit, particularly the cost impacts of requiring a garage. In addition, Program 3.3-1 must include actions to specifically commit to reviewing and revising the constraints identified and include specific timing and commitment to proposed revisions.

Local Processing and Permit Procedures: The element was revised to include additional information on processing and permit procedures. However, the element must also analyze this approval process for its impact on housing cost, supply, timing, feasibility, and approval certainty. Particularly, the element should evaluate approval findings for impacts on approval certainty and add or modify programs to address identified constraints.

B. Housing Programs

1. *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 A2, 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.

2. *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).)*

Program 4-2.4 (Affordable Housing Incentives and Waivers): The Program should be revised to include a quantified objective for units to be developed that will be affordable to lower-income households or special needs groups.

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 Finding A3, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *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).)*

As noted in Finding A1, the element must include a complete analysis of AFFH. The element must be revised based on the outcomes of a complete analysis. For more information, see HCD's March 17, 2023 review.

In addition, the entirety of the City falls into the highest resource category in access to opportunity, has significant areas that are racially concentrated areas of affluence and consists of households with the highest median income category. Further, the City geographically isolates the lower-income RHNA. These conditions and circumstances warrant significant and robust actions (not limited to the RHNA) to promote housing mobility and increase housing choices and affordability throughout the City, including in lower-density neighborhoods.

C. 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)(9).)

HCD received comments with many meaningful suggestions related to the likelihood of development of Gateway South and Prospect/Lawrence sites, potential for additional residential capacity at Saratoga Village and Allendale/Chester Housing Site and other issues related to sites and AFFH. HCD encourages the City to consider these comments in subsequent revisions.