

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

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October 3, 2023

Taylor Bateman, Director
Community Development Department
City of Scotts Valley
1 Civic Center Drive
Scotts Valley, CA 95066

Dear Taylor Bateman:

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

Thank you for submitting the City of Scotts Valley's (City) revised draft housing element that was received for review on July 5, 2023, along with revisions received on September 19, 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. Our review was facilitated by a conversation on August 24, 2023 with you, Sarah Wikle, Senior Planner, Kirsten Powell, Attorney, and Consultants Ines Galmiche and Bill Wiseman. In addition, HCD considered comments from Santa Cruz YIMBY and David Kellogg pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses some statutory requirements; however, revisions will be necessary to 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 (December 15, 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). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until 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 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>.

HCD appreciates the cooperation you and Sara Wikle, Senior Planner provided during the course of our review. 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 SCOTTS VALLEY

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).)*

Outreach: The element provides a brief discussion of outreach conducted to local organizations and developers on G-3 but generally does not address affirmatively furthering fair housing (AFFH) requirements. While AFFH outreach can be conducted with the other portions of the housing element, it must also be specific to AFFH. For example, the outreach could specifically target fair housing organizations or neighborhoods with relatively concentrated poverty for input related to housing and community development needs and access to opportunities such as education and transportation.

Integration and Segregation: The element provided some data on integration and segregation across racial groups within the jurisdiction; however, it must also evaluate patterns at a regional basis, comparing the City to the region.

Disproportionate Housing Needs, Including Displacement Risk: The element includes some general information on overcrowding and cost burden but should also evaluate patterns within the City, such as areas of higher need. The element should utilize local data and knowledge such as service providers and code enforcement officials to assist this analysis.

In addition, while the element includes some local and county data on persons experiencing homelessness (p. B-23), it must provide analysis and conclusions for this data. In particular, the element should examine patterns of need or areas with higher concentrations of persons experiencing homelessness, including access to transportation and services.

Local Data and Knowledge, and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Identified Sites and AFFH: The element analyzed the identified sites for various fair housing components including access to opportunity and segregation and integration of income. However, the element states (p. E-11) that the City allocated a majority of its low- and very low-income Regional Housing Needs Allocation (RHNA) to Census Tract 1 since it has the lowest median income. The element must include analysis and reasoning about the location of sites and impact on current fair housing conditions. The element should discuss whether this strategy potentially isolates a significant number of the housing need for lower-income households and include actions as appropriate to promote inclusive communities and equitable quality of life throughout the City.

Contributing Factors: The element identifies two contributing factors to fair housing issues. However, these issues and goals do not appear to be rooted in the AFFH analysis and do not appear adequate to facilitate the formulation of meaningful action to AFFH. The element should re-assess contributing factors upon completion of analysis and make revisions as appropriate.

2. *An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter... (Gov. Code, § 65583, subd. (a)(7).)*

Special Needs Households: The element includes information on local and regional resources for special needs households (e.g., persons with disabilities, elderly, large households, etc.). However, a complete analysis must examine the gaps in addressing the needs of these populations and identify proposed policies, programs, and funding to help address those gaps.

3. *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 describes the status of each project, to fully demonstrate these units are expected to be constructed during the planning period, the element should provide information on anticipated remaining steps and any known barriers to development in the planning period. For example, the element could analyze

infrastructure schedules, City's past completion rates on pipeline projects, outreach with project developers, and should describe any anticipated timelines for final approvals. This is particularly important given that several of these projects were identified to accommodate the RHNA during the last planning period but have not yet been constructed.

In addition, given the element's reliance on pipeline projects, the element should include a program that commits to facilitating development and monitoring approvals of the projects (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).

Realistic Capacity: The element (p. F-11) mentions an assumption of 70 percent of maximum allowable densities to calculate residential capacity on identified sites and generally references a few examples of recent developments. However, the element should include list information on typical densities based on affordability level. For example, the element could list recent projects by zone, acreage, built density, allowable density, level of affordability and presence of exceptions such as a density bonus.

Small Sites: Sites smaller than half an acre are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size and affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element mentions some parcels are located next to one another and under common ownership but should also discuss the potential for consolidation. For example, the element could evaluate the circumstances potentially leading to consolidation such as existing shared access, necessity for consolidation to share access, necessity for consolidation to promote financial feasibility, meet development standards or facilitate site planning. Based on the outcomes of this analysis, the element should add or modify actions (Program H-2.8) to encourage lot consolidation. For example, the element could consider graduated density as an additional incentive to promote lot consolidation.

Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing (Gov. Code, § 65583.2, subd. (c)(2)(A).). While the element mentions parceling is not necessary, it should also discuss how the site facilitate developments with units affordable to lower-income households, particularly how the level of affordability could be achieved as assumed in the inventory. Alternatively, the element could adjust affordability assumptions similar to the application of inclusionary requirements.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites, including past experiences converting existing uses to higher density residential development, include current market demand

for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development. While the element lists sites and generally mentions factors like low improvement to land value ratios, to address this requirement, the element could expand the site-by-site discussion to include additional factors demonstrating the potential for redevelopment. For example, the element could discuss the lack of investment, structural condition, degree of underutilization, recent turnover in uses and whether the uses will be continuing or discontinuing and if discontinuing, how development will occur given the existing use.

In addition, 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.

Electronic Sites Inventory: 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 <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

4. *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: The element states that multifamily housing requires a Conditional Use Permit (CUP) in the C-S district when located above a ground-level commercial use or at the ground level at the rear of a commercial space. The element should analyze the CUP process as well as the ground floor commercial requirement as a potential constraint on the development of sites in the inventory and add or modify programs as appropriate.

In addition, while the element includes Program H-1.1 to increase the residential cap on R-H zoned sites from 50 percent to 70 percent, the commercial requirement may constrain residential development. The element should analyze the 30 percent commercial requirement as a constraint on multifamily development and add or modify programs as appropriate.

Finally, While the element provides a brief analysis of development controls, the analysis must address height limits, minimum lot size, setbacks, site coverage and

maximum density requirements. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Local Processing and Permit Procedures: While the element was revised to describe processes and standards, including discretionary and nondiscretionary review findings and procedures, the element must still analyze these standards for impacts on timing, cost, supply, and approval certainty and include programs to address identified constraints.

Constraints on Housing for Persons with Disabilities: The element must describe and analyze the permitting process for group homes of six or fewer, including zones allowing the use and whether the use is permitted similar to a single-family use.

In addition, group homes of seven or more are only allowed conditionally in few zones. The element must include a program to allow this housing type in all residential zones and similar to other uses of the same type in the same zone. In addition, the element must address whether the City imposes any other requirements on group homes (i.e., parking, spacing).

B. 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 address the goals of the housing element, programs must be revised with discrete timelines, including for Program H-1.3 (Sites Inventory Monitoring Program), Program H-1.5 (ADU program), Program H-2.1 (Code Enforcement) and Program H-2.3 (Monitor and Preserve Affordable Housing).

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 A3, 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:

- *Program H-1.2 (By Right Development)*: The element identifies a shortfall of capacity to accommodate the RHNA, including for lower-income households and will be utilizing sites identified in prior planning periods toward the lower-income RHNA. As a result, Program H-1.2 must specifically commit to meet all by-right requirements pursuant to Government Code section 65583.2, subdivision (c), (h) and (i). For example, rezoning related to a shortfall of capacity must allow 16 units per site and comply with residential only or residential performance standards, including allowing 100 percent residential development. Further, Program H-1.2 should commit to a minimum acreage, anticipated capacity and establishing or amending development standards appropriate to facilitate achieving maximum densities.
- *Program H-1.10 (Surplus Land)*: While the Program commits to surplus sites and comply with the surplus land act, it should include additional steps the City will take to encourage development in the planning period, including facilitating entitlements, assisting with funding, issuing building permits and taking alternative actions by a specified date if development will not occur in the planning period.
- *Program H-2.6 (Development of Large Lots)*: The Program should commit to establish incentives to promote affordability on identified large sites as assumed in the inventory.
- *Program H-3.9 (Emergency Shelters)*: The Program should commit to meet all requirements pursuant to AB 2339 (statutes of 2022), including amending the definition of emergency shelters, ensuring sufficient capacity to meet the need for emergency shelters, including proximity to services and establishing appropriate development standards, if applicable.

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).)*

Programs H-3.2 and H-3.6: Based on a complete review of the previous element, programs should be revised to include proactive actions to assist in the development of housing for special needs persons and households, including specific commitments, timing, and numeric objectives.

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).)

As noted in Finding A4, 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.

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).)*

As noted in Finding A1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. 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, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in relatively higher opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For example, many programs should include metrics or numeric targets and actions should be added to promote housing mobility or housing choices and affordability throughout the City, including highest resource and highest median income areas. Examples of additional actions could include upzoning areas, increasing housing choices (e.g., duplexes to fourplexes), targeting funding, allowing conversion of existing space beyond state ADU and junior accessory dwelling unit (JADU) laws and homesharing.

6. *Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program H-2.3 (Monitor and Preserve Affordable Housing): The Program should commit to comply with noticing requirements pursuant to Government Code section 65863.10 and provide education and assistance to tenants.

C. Quantified Objectives

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 & 2).)

The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element includes these objectives by income group for low-, moderate- and above-moderate income, the element must also specify objectives for very low- and extremely low-income households. Further, conservation objectives should not be limited to

at-risk preservation and may include a variety of activities intended to conserve the existing housing stock and promote tenant stability. Examples include Programs H-2.1 (Code Enforcement), H-2.4 (Mobile Home Park Conversion Ordinance), H-2.5 (Mobile Home Park Rent Stabilization Ordinance), H-3.1 (Housing Choice Vouchers) and H-13.12 (Condominium Conversion Ordinance).

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)(9).)

Moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/public-participation>.