

**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



December 19, 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) Subsequent Draft Housing Element

Thank you for submitting the City of Scotts Valley's (City) revised draft housing element received for review on October 20, 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 Santa Cruz YIMBY pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements described in HCD's October 3, 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.

As a reminder, the City's 6th cycle housing element was due on December 15, 2023. 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 below, 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 (December 15, 2023), then any rezoning to make prior identified sites available and/or to 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>.

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))*

Disproportionate Housing Needs: The element was revised to include some brief information comparing rates of overcrowding and overpayment to the neighboring jurisdictions (pg. E-37). However, as found in HCD's prior review, the element must analyze local patterns and trends throughout the City including areas of higher need and supplement the analysis with local data and knowledge such as service providers and code enforcement officials to assist this analysis.

Additionally, HCD's prior review found that the element must examine patterns of need or areas with higher concentrations of persons experiencing homelessness, including access to transportation and services. The element was revised to include a high-level statement indicating that there are no concentrated areas of homelessness in the City. However, the element needs to include a discussion supporting that conclusion or discuss areas throughout the City where persons experiencing homelessness generally locate.

Local Data, Knowledge, and Other Relevant Factors: The element was briefly revised to generally state that higher-income areas exhibit hilly conditions; therefore, making it unsuitable for affordable housing. However, this does not address HCD's prior review. The element should be revised to supplement the assessment of fair housing with local data, knowledge and other relevant factors that evaluate contributing factors and inequities in access to opportunity throughout the community and the broader region. Specifically, this analysis could also address racially concentrated areas of affluence (RCAA) areas and coincidences with other fair housing factors (e.g., race, highest resource, overpayment), effectiveness or absence of past strategies (e.g., lack of publicly assisted housing and lack of multifamily zoning), and additional local data, knowledge, and other relevant factors.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): HCD's prior review found that the element must include a complete analysis of the location of sites and number of units relative to fair housing conditions and factors. To facilitate this analysis, the element was revised to aggregate the City and its census tracts into two planning areas e.g., Scotts Valley Corridor and South Gateway. However, these two planning areas are an inaccurate reflection of the conditions within each of City census tracts. For example, Scotts Valley Corridor is a combination of Census Tract 1 and 2. Census tract one is a high resource area with significantly lower incomes compared to census tract two which is highest resource, an RCAA and predominately single-family zoning. The same assumptions and potential issues apply to the South Gateway planning area. Therefore, aggregating these census tracts into one planning area does not account for the differences in income, race, and access to opportunities. The analysis should be revised to review the location of sites and number of units by income level by census tracts versus planning areas.

Secondly, while a complete analysis is still needed, as found HCD's prior review, the element generally identifies majority of its Regional Housing Needs Allocation (RHNA) in Census Tract 1, which has the lowest median income relative to the rest of the City. Given the fair housing conditions in the City and the location of RHNA sites, the element will need to include significant actions to promote housing mobility (e.g., housing choices and affordability) throughout the City to promote inclusive communities.

Contributing Factors: The element should re-assess contributing factors upon completion of analysis and make revisions as appropriate.

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: The element was revised with a high-level statement indicating that there are no known barriers to development (pg. F-7) and updated each project status to state that the City continues to work with applicants on remaining steps. However, this does not demonstrate whether these units will be constructed and made available during the planning period. For example, the element could address anticipated timelines for final maps submittal or detail the remaining steps and anticipated timeline for completion. The element could also discuss the City's completion rate on pipeline projects from the last planning period, analyze any infrastructure schedules, outreach with project developers on potential timelines or other relevant information.

In addition, while the element includes Program H-1.3 to monitor sites in the inventory and consider additional incentives and assistance mid-way through the planning period, this program should commit to more proactive actions including annual outreach with applicants, and developers, coordinating with applicants, providing technical assistance for any remaining entitlements, supporting funding applications,

and expediting project review as necessary. The program should also commit to identify additional adequate sites and rezone if necessary if pipeline projects do not develop, or do not develop at the densities anticipated by a specified date (e.g., 2028).

Realistic Capacity: While the element was revised to include some information on recent development projects (pg. C-50 and F-20), it should still include information on the affordability level of these developments and relate this to the realistic capacity assumptions to analyze the likelihood that the identified units will be developed as noted in the inventory. Additionally, as noted below in the constraints section, the element should also consider the City's land use controls and development standards as part of determining the likelihood that sites will be able to develop at 70 percent of maximum densities.

Suitability of Large Sites: The element was not revised to address this finding from HCD's prior review. Please see HCD's October 3, 2023 review for additional information.

Suitability of Nonvacant Sites: The element was revised to describe the various factors utilized to identify redevelopment potential on nonvacant sites (pg. F-24). Additionally, the element related those factors to the actual sites. However, additional revisions will be necessary to demonstrate the likelihood of redevelopment on nonvacant sites. First, the element indicated that the City evaluated sites that had a land value greater than the improvement value. However, the analysis needs to quantify the factor and relate it to the actual sites. Second, while the element identified five redevelopment factors, several sites rely on only 1-2 factors to demonstrate redevelopment potential. The element should be revised to include additional factors or other relevant information for sites that only have two factors. Lastly, the element must provide support for the identified factors to demonstrate how they are indicative of redevelopment potential on nonvacant sites. For example, the element should be revised to support and relate these factors by including past projects that redeveloped with the same criteria. For your information, when including examples, the element should list specific site characteristics that relate to the factors utilized in the analysis.

For your information, 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.

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:

- *C-S and C-SC Zone* – HCD’s prior review found that the element must analyze the City’s development standards including heights, lot sizes, setbacks, site coverage and maximum density requirements for potential constraints. The element was revised to include a few hypothetical examples for evaluating these standards. Based on the updated analysis for the C-S and C-SC zone, the element must indicate if three stories are allowed within the 35 feet maximum height requirement. Additionally, this zone allows a maximum of 35-45 percent site coverage. This is generally considered a constraint to developing multifamily and mixed-use developments, especially with the City’s minimum commercial requirements. While the element includes a program to revise development standards as part of the City’s rezone requirements, this program should not be limited to rezoned sites and should generally address parcels in the C-S and C-SC zones that permit multifamily and mixed-use housing. This program should, among other things, commit to increasing lot coverage to 50-60 percent. Lastly, while the revised element included a hypothetical example of a development in the mixed-use zone, the example did not appropriately consider and deduct parking as part of the analysis.
- *R-M-6* – The element should analyze the minimum lot size requirements of 6,000 feet in this zone. The analysis should evaluate this requirement as part of identifying housing mobility strategies e.g., allowing a variety of housing choices and affordability throughout the community including low-density zones.
- *Rezoning* – Lastly, the housing element proposes to rezone several sites to accommodate a maximum allowable density of 40 du/ac. As such, the element should either include a discussion of proposed development standards to complement the rezones or include a program committing to establish development standards (heights, lot coverage, setbacks, etc.) that facilitate achieving the proposed maximum densities.

Local Processing and Permit Procedures: The element was not revised to address this finding from HCD’s prior review. Please see HCD’s October 3, 2023 review for additional information.

Constraints on Housing for Persons with Disabilities: The element was revised to include Program H-3.16 (Group Homes) committing to allowing group homes of seven or more with objectivity and greater approval certainty. However, as found in HCD’s

prior review, the program must be revised committing to allowing group homes for seven or more persons (regardless of licensing) in all zones allowing residential uses and only subject to requirements of other residential uses of the same type in the same zone. Additionally, the analysis did not address HCD's prior review regarding any spacing or parking requirements for group homes. The element should be revised to identify and analyze any additional requirements imposed on group homes. .

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 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 have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines. While Program H-1.3 (Sites Inventory Monitoring Program) and Program H-1.5 (ADU program) were revised, Program H-2.1 (Code Enforcement) and Program H-2.3 (Monitor and Preserve Affordable Housing) must still be revised with discrete timelines to address this requirement.

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

- *Program H-1.2 (By Right Development):* While the element includes a general commitment to complying with Government code section 65583.2, it must include all the requirements including allow 16 units per site and comply with

residential only or residential performance standards, including allowing 100 percent residential development, minimum acreage, anticipated capacity and establishing or amending development standards appropriate to facilitate achieving maximum densities. Additionally, it appears that the Program H-1.1 is needed to implement the required rezones and as such should also commit to all the requirements noted above.

- *Program H-1.10 (Surplus Land)*: While the Program was revised to commit to additional steps to encourage development on City-Owned sites, it must still commit to provide incentives and actions along with a schedule to facilitate development of City-Owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing, financial assistance, and alternative actions by a specified date if the sites do not progress toward development in the planning period.
- *Program H-2.6 (Development of Large Lots)*: The element was not revised to address this finding from HCD's prior review. Please see HCD's October 3, 2023 review for additional information.

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: While Program H-3.6 was revised to include proactive actions to assist in the development of housing for special needs persons and households, including collaborating with nonprofit organizations and seeking funding and incentives to encourage the development of housing for special needs and Extremely Low-Income (ELI) households, the Program should include discrete timing and numeric objectives for these actions.

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 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.

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 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 included minimal revisions to address this finding and HCD's prior reviews. Additionally, 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.

While a complete analysis is still needed, the assessment of fair housing including data and maps demonstrates that the City is predominantly high and highest resource, higher income, and some neighborhoods are considered RCAA. As a result, the element must include a significant suite of programs to promote housing mobility or housing choices and affordability throughout the City. These programs should not be limited to the RHNA and, instead, target significant and meaningful change. While the element was revised to include some metrics or numeric objectives, geographic targeting, and a few actions such as accessory dwelling units (ADU) and carriage homes, it should include additional actions that promote housing choices and affordability throughout the City. Additional examples include promoting more housing choices and affordability in other lower-density areas (e.g., missing middle housing types), identifying additional multifamily areas, additional religious institutional sites, and enhancing ADU's, junior accessory dwelling units (JADU) or additional conversion of existing space, and home sharing strategies.

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).)

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>.