

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

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October 14, 2011

Mr. Brian Dolan, Director
Community Development Department
City of Pleasanton
P.O. Box 520
Pleasanton, CA 94566-0802

Dear Mr. Dolan:

RE: Review of the City of Pleasanton's Draft Housing Element

Thank you for submitting Pleasanton's draft housing element received for review on August 16, 2011. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on September 28, 2011 with you, Ms. Janice Stern, Planning Manager, and Mr. Jeffery C. Baird of Baird + Driskell, the City's consultant, facilitated the review. In addition, the Department considered comments from Citizens for a Caring Community and Public Advocates, pursuant to Government Code Section 65585(c).

The Department commends Pleasanton for its achievements and continuing efforts to provide affordable housing for lower-income individuals with developmental disabilities by funding local agencies, including Resources Education Activities Community and Housing (REACH) and Bay Area Community Services (BACS). The Department also recognizes the City's hard work and extensive outreach as part of evaluating candidate sites for rezoning to higher densities to accommodate the regional housing need. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must include complete analyses of adequate sites and potential governmental constraints. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department is committed to assist Pleasanton in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Jess Negrete, of our staff, at (916) 323-3185.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen A. Campora".

Glen A. Campora
Assistant Deputy Director

Enclosures

APPENDIX
CITY OF PLEASANTON

The following changes would bring Pleasanton'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 the Department's website at www.hcd.ca.gov/hpd. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at www.hcd.ca.gov/hpd/housing_element2/index.php and the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households (Section 65583(a)(1)).*

The element indicates the total number of existing extremely low income (ELI) households. However, in accordance with Chapter 891, Statutes of 2006 (AB 2634), it must also include an analysis of their housing needs. The analysis of needs could consider tenure and rates of overpayment and overcrowding. This analysis will assist in formulating policies and programs for ELI households. Please see the enclosed data for your assistance. For more information and a sample analysis, see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/EHN_extremelylowincome.php.

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition (Section 65583(a)(2)).*

The element must include an estimate of the number of lower-income households, by tenure, paying more than 30 percent of their income on housing. For your information, CHAS data indicates 1,416 lower-income renter households and 1,178 lower-income owner households paid more than 30 percent of their income on housing (approximately 71 percent of total lower-income households). This information should be incorporated into the element to facilitate policies and programs to assist in the development of housing affordable to lower-income households. For additional information, refer to the overpayment section of the *Building Blocks'* at http://www.hcd.ca.gov/hpd/housing_element2/EHN_Overpayment.php.

3. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Pleasanton has a regional housing need allocation (RHNA) of 3,277 housing units, of which 1,804 are for lower-income households. In addition, the element identifies an unaccommodated need of 871 units for lower-income households from the prior planning period. To address these needs, the element relies on constructed and approved units, vacant and underutilized sites, and candidate sites for rezoning to higher density residential uses. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA and unaccommodated need, the element must include analyses as follows:

Addressing Unaccommodated Need from the Previous Planning Period: The element acknowledges rezoning was not completed to make adequate sites available during the previous planning period and indicates the unaccommodated need of 871 units for lower-income households (page 50). While the element references the Hacienda rezonings (Sites 22, 23 and 24), a complete analysis is needed to demonstrate whether adequate sites were rezoned to accommodate the unaccommodated regional housing need from the prior planning period. Specifically, the element must describe the availability of Sites 22, 23 and 24 to accommodate the unaccommodated need of 871 units for lower-income households from the prior planning period. For example, the element should describe the development status of Sites 22, 23 and 24 such as whether the sites had previously approved or pending projects or other conditions were known that would preclude these sites from being available to accommodate the entire unaccommodated need. This analysis is particularly important since, pursuant to Government Code Sections 65584.09 and 65583(c)(1) (AB 1233), the City must zone or rezone sites to accommodate the unaccommodated need within the first year of the 2009-2014 planning period. As this timeframe has lapsed, the Department cannot find the element in compliance until the required rezoning is complete and the element has been amended to reflect that rezoning.

Sites Inventory: The element aggregates various parcels into candidate sites for rezoning (Table III-2). However, the inventory must also list *each individual parcel* by size, zoning, General Plan designation, existing uses for any non-vacant sites, and include a calculation of realistic capacity (see *Building Blocks*' at http://www.hcd.ca.gov/hpd/housing_element2/SIA_land.php).

Suitability of Non-Vacant Sites: The parcel listing (Table III-2) provides general descriptions of existing uses on non-vacant sites (e.g., shopping center, hotel) and the element includes a snapshot of each site based on criteria such as recommended action, key considerations and proximity to transit. While the approach to provide a snapshot of each site (pages 62 - 78) can be useful and adequate to address statutory requirements, the element still must include an analysis to demonstrate potential for redevelopment of non-vacant sites to residential use. The analysis must consider the extent to which existing uses may impede residential development on the identified sites, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development. For example, one site's existing use is described as a hotel, while another site lists the existing use as a shopping center. The element could describe whether the use is operating, marginal or discontinued, the condition of the structure and any expressed interest in redevelopment of these sites. Also, if the existing use is anticipated to continue, the element should include an evaluation of the potential of adding residential units on these sites such as by describing whether there is interest in redevelopment or

what development trends have occurred on sites with similar circumstances. Refer to the sample analysis in the *Building Blocks'* at

http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#nonvacant.

Realistic Capacity: The element must include an estimate of the number of units that can be accommodated on each site in the inventory. The estimate may rely on minimum density standards or describe the methodology, including adjustments based on land-use controls and site improvement requirements. Based on discussion in the background portion of the element, it appears to rely on minimum density standards. However, Program 11.1 does not include a commitment to establish specific minimum densities. If Program 11.1 is revised to commit to minimum densities, the element may use those minimum densities to estimate residential capacity. Otherwise, the element must include a description of the methodology as described above. For more information, please see the *Building Blocks'* at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.

Sites with Zoning for a Variety of Housing Types:

Emergency Shelters: While the element indicates various zoning districts were considered to accommodate emergency shelters, such as the Service Commercial (C-S) zone (page 46), pursuant to Chapter 633, Statutes of 2007 (SB 2), it must demonstrate sufficient capacity in the proposed zone(s) to accommodate the need for emergency shelters. The element should also consider what other uses are permitted in the proposed zone(s) and whether the zone(s) is suitable and appropriate for emergency shelters. For example, an industrial zone with heavy manufacturing may have environmental conditions rendering it unsuitable for shelter uses. For more information, see the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

Employee Housing: The element indicates farm employee housing is an allowed use in the Agricultural (A) zone (page 42). However, Health and Safety (H&S) Code Section 17021.5 generally requires housing for six or fewer employees to be treated as a single-family home and permitted by-right. In addition, H&S Code Section 17021.6 generally requires employee housing to be permitted in *zones permitting agricultural uses* and not limited to agricultural zones. The element does not mention which zones in Pleasanton allow agricultural uses or whether zoning is consistent with Sections 17021.5 and 17021.06. The element must demonstrate consistency with these requirements and include programs to amend zoning as appropriate. For more information, see the *Building Blocks'* at http://www.hcd.ca.gov/hpd/housing_element2/SHN_farmworkers.php.

4. *Analyze 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. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Land-Use Controls: While the element identifies various residential development standards (page 84), it must include a cumulative analysis of their potential impacts on the cost and supply of housing and the ability to achieve maximum densities. For more information, see the *Building Blocks*' at http://www.hcd.ca.gov/hpd/housing_element2/CON_landuse.php.

Growth Management Ordinance (GMO): The element includes a general overview of the GMO and Urban Growth Boundary (UGB) (page 93). However, it must include a specific description and analyses of the GMO and UGB, their requirements and processes for impacts on cost, supply, timing and affordability of housing, including, but not limited to:

- The approval process of the City Council and any other approving or recommending bodies, including the Growth Management Subcommittee that could override the annual housing allocation limitations in order to meet the City's regional housing need and unaccommodated need.
- The apportionment of new residential categories of projects (e.g., affordable projects, major projects, and first-come, first-serve projects).
- The exemption process, if any, for projects with an affordable component, including its effectiveness to-date in accommodating lower- and moderate-income households.
- Whether the GMO allows or prohibits carryover of unused allocations. If there is a prohibition on carryover, the element must analyze the impact on the cost, supply and availability of sufficient allocations to accommodate the City's RHNA throughout the planning period.
- Any limit to the number of allocations which could be received by a project in a single year and the process for obtaining allocations for phased projects (multi-year development), and the effect on financing required for infrastructure.
- Length of time for approval of allocations and how the approval process relates to other entitlements, including evaluating cumulative impacts on timing and costs.
- The impacts of any scoring criteria on costs and timing of development.

- The GMO process, including the Growth Management Subcommittee, on the certainty and predictability of approval of housing development applications.
- The impacts of annual limits on the overall cost and supply of housing. For planning purposes, this analysis should consider the RHNA as the minimum amount of housing need. It does not represent a maximum need or building cap. The analysis should address potential impacts on overall housing supply in addition to accommodating the RHNA.

Please see the enclosed samples for your assistance.

Inclusionary Housing: While the element generally describes the framework of inclusionary requirements and available alternatives (page 94), it should also include a complete analysis of the cost impact of the inclusionary requirements on the cost and supply of housing. For example, the analysis could discuss the extent incentives or regulatory concessions mitigate any cost impacts of the inclusionary requirements. The element should also evaluate the impacts of the discretionary approval process for requesting alternatives and granting incentives, on development timing, predictability, and certainty.

Mid-point Density: The element briefly mentions (page 93) the mid-point density is a density for "...which project amenities are provided to compensate for the added density..." and has minimal impact on the High Density designation. However, the element should include a complete description of the requirement and an evaluation for its impacts on the cost and supply of housing. For example, the evaluation could address what types of amenities are required to exceed the mid-point, how the allowable density above the mid-point is determined and any outcomes of prior development applications.

Density Bonus: The City should also review its density bonus ordinance for compliance with recent statutory amendments (Chapter 1928, Statutes of 2004) to State density bonus law (Government Code Section 65915) and add or revise programs as appropriate. A copy of the current law is available on the Department's website at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65915-65918>.

Fees and Exaction: The element lists some impact fees and aggregates Building Permit and Building Plan Check fees (pages 87-88). However, the element should specifically list all applicable planning and processing fees for residential development. In addition, while the element indicates total impact and building permit and plan check fees, it should analyze the total effect or proportion of planning and impact fees and exactions on development costs for typical single- and multi-family housing developments. For more information, see the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php.

Local Processing and Permit Procedures: While the element generally describes some processing and permit procedures and generally concludes they are not a constraint (page 90), it must specifically describe and analyze the City's permit processing and approval procedures by zone and housing type. For example, see the sample table in the *Building Blocks'* at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php. Also, the element should list and evaluate decision-making criteria such as approval findings for impacts on housing cost and supply and approval certainty.

Planned Unit Development (PUD): The element generally describes the PUD process and indicates most housing developments are processed under the procedure (page 88). However, the element must include a complete analysis of the components of this requirement for impacts on housing cost and supply and approval certainty. Most notably, the element (page 85) states "The Zoning Ordinance does not specify any development standards for PUDs, instead creating standards on a case-by-case basis...". The element should evaluate the lack of specific development standards for the PUD regarding impacts on housing as described above. This analysis should also address the approval process, including approval bodies and decision-making criteria for city-initiated PUDs, or where existing sites have development standards under an approved PUD.

On/Off-Site Improvements: While the element generally describes required on/off-site improvement standards (page 90), it must identify specific subdivision level improvement, such as minimum street widths, and analyze their potential impact on the cost and supply of housing. For more information, see the *Building Blocks'* at http://www.hcd.ca.gov/hpd/housing_element2/CON_offsite.php.

Constraints on Persons with Disabilities: The element describes the various requirements and the processes for approving accessibility retrofits (page 92). To complete an analysis, it should also identify and describe the reasonable accommodation procedure for providing an exception in zoning and land-use for housing for persons with disabilities and include programs as appropriate. For more information, see a model ordinance on the *Building Blocks'* at http://www.hcd.ca.gov/hpd/housing_element2/PRO_mitigate.php.

Water Sewer Priority: For your information, Government Code Section 65589.7 requires local governments to immediately deliver the housing element to water and sewer providers. Also, when a city is the water and sewer provider, specific procedures must be established to grant priority water and sewer service to developments with units affordable to lower-income households. The housing element should demonstrate compliance with Government Code Section 65589.7. For more information, see the *Building Blocks'* at http://www.hcd.ca.gov/hpd/housing_element2/OR_water.php.

5. *Analyze any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, families with female heads of households, families, person in need of emergency shelter, and persons with developmental disabilities. (Section 65583(a)(7) and e).*

For your information, Chapter 507, Statutes of 2010 (SB 812), amended State housing element law to require an analysis of the special housing needs of persons with developmental disabilities. The term developmental disability refers to a severe and chronic disability attributable to a mental or physical impairment, such as cerebral palsy, epilepsy, or autism, that begins before individuals reach adulthood (Welfare and Institutions Code, Section 4512). The analysis could include the following:

- a quantification of the total number of persons with developmental disabilities, including the number of households and tenure;
 - a description of the types of developmental disabilities;
 - a description of the housing need, including a description of the potential housing problems, and an assessment of unmet housing needs for persons with developmental disabilities; and
 - a discussion of resources, policies and programs including existing housing and services, for persons with developmental disabilities.
6. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions (Sections 65583(a)(8) through 65583(a)(9)(D)).*

While the element identified 40 units at-risk of converting to market-rate rents (page 47), it must also include the following information and analysis:

- Estimated total cost for producing, replacing and preserving the units at-risk.
- Identification of public and private non-profits known to the City to have the legal and managerial capacity to acquire and manage at-risk units. According to information provided to the Department, entities which may be interested within Pleasanton are indicated on a roster on the *Building Blocks'* website at <http://www.hcd.ca.gov/hpd/hrc/tech/presrv/hpd00-01.xls>. The element should reference this or other appropriate resources for this information.
- Identification and consideration of use of federal, State and local financing and subsidy programs.

Additional information and sample analyses are available in the *Building Blocks'* section on Identification and Analysis of Developments At-risk at http://www.hcd.ca.gov/hpd/housing_element2/EHN_atrisk.php. You may wish to contact the California Housing Partnership Corporation for assistance at <http://www.chpc.net>.

B. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame (Section 65583(b)(1 & 2)).

While the element includes quantified objectives by income group for very low-, low-, moderate- and above moderate-income (page 4-5), it must also include objectives for ELI households pursuant to Chapter 891, Statutes of 2006 (AB 2634).

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 (Section 65583(c)).*

Programs should be revised for compliance with Government Code Section 65583 in order to ensure the beneficial impacts of the programs within the planning period. Specifically, some programs should include: (1) a description of the City's specific role in implementation; (2) definitive completion or implementation timelines; and (3) objectives, quantified where appropriate.

For example, Program 6.2 (Affordable Rental 2nd Units) proposes to develop incentives to create affordable second unit rental opportunities and has a timeline of "2011-2014." The Program should have a definite timeline for completion, such as "July 2012." Program 38.3 (RFP for Housing for Lower-Income Households) should include a quantified objective, such as "150 units during the planning period." Additional programs to be revised with definitive timelines and objectives include, but are not limited to the following:

1.1 (Discourage Redesignation of HDR Sites), 6.3 (2nd Unit Administrative Design Review), 9.1 (Review and Revise Growth Management Program), 9.3 (Preserve At-Risk Units), 9.4 (Funds for Lower Income Housing Development), 9.5 (Provide Incentives for Lower Income Housing Development), 11.4 (Encourage Innovative Design, Regulations and Construction), 11.5 (Employee Housing), 17.4 (Use of Lower-Income Housing Fund), 25.1 (Encourage Housing for Lower Income Households on HDR Sites), 25.2 (Support of Non-Profit Housing Providers), 36.1 (Rezone Infill Sites), 36.3 (Incentives and Design Guidelines for Mixed-Uses), 36.5 (Incentives for Relocating Non-Residential Uses), 38.3 (RFP for Housing for Lower Income Households), 41.1 (Special Needs Housing), 41.6 (Group Home Development), and 44.2 (Conservation Programs).

2. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A-3, the element does not include a complete site inventory or analysis and 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:

Unaccommodated Need and Shortfall of Sites: The element identifies an unaccommodated need of 871 units for lower-income households from the previous planning period (page 49), along with a current RHNA of 1,804 for lower-income households. To address the unaccommodated need and shortfall, the element identifies several candidate sites (Table III-2) and includes Program 11.1 (Rezone Sites). Pursuant to Government Code Sections 65583(c)(1), 65583.2(h) and (i), and 65584.09, Program 11.1 must commit to:

- permitting owner-occupied and rental multifamily uses by-right, without a conditional use permit (CUP), planned unit development or other discretionary review;
- ensuring at least 50 percent of the lower-income needs to be accommodated on sites designated for residential use only;
- clarifying the rezoned sites will require at least a minimum density of 20 units per acre and permit a minimum of 16 units per site; and
- selecting from the identified candidate sites (Table III-2) for rezoning.

Program 46.1: The Program proposes to amend the City's Municipal Code within one year of adoption of the housing element to permit emergency shelters consistent with SB 2. However, pursuant to SB 2, the program must identify the proposed zone(s) to permit the development of emergency shelters without a CUP or other discretionary approval, commit to establish development standards to encourage and facilitate the use, and only subject shelters to the same development and management standards that apply to other permitted uses within the proposed zone(s).

The Program should also clarify amending zoning to permit transitional housing and supportive housing as a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone. See the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

Programs 14.6 (Assess Infrastructure Constraints), 14.7 (Assess Infrastructure Needs), and 29.2 (Review and Amend Growth Management Ordinance) should include a discrete timeline (e.g., biennially, every three years) for implementation or completion of the assessments and review, as well as describing specific actions to take once assessments and review are complete.

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 (Section 65583(c)(2)).*

While the element includes some programs to assist in the development of low-, and moderate-income households, pursuant to AB 2634, existing programs should either be expanded or new programs added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this requirement, the element could revise programs, such as Programs 17.5 (Priority Funding), 41.3 (Special Needs Housing) and 41.4 (Housing for Persons with Disabilities), to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, and single-room occupancy (SRO) units, which address some of the needs of this income group.

4. *The housing element shall contain programs which address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing (Section 65583(c)(3)).*

As noted in Finding A-4, 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 to address and remove or mitigate any identified constraints. In addition:

Program 16.2 (Review of Inclusionary Zoning Ordinance) and Program 29.2 (Review of Growth Management Ordinance) should propose to review the ordinances as a potential constraints to housing and include specific actions (e.g., annual review and amendments as necessary) and discrete timelines (e.g., annually, biannually) to implement or complete the specific actions.

D. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).

The element must include a discussion of how consistency between the housing element and other General Plan and community goals will be achieved and maintained during the planning period. The program could also propose to conduct an internal consistency review as part of its annual General Plan implementation report required under Government Code Section 65400. This annual report can also assist future updates of the housing element.

The City should also note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 207 [AB 162]) which requires amendment of the safety and conservation elements of the General Plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009. For additional information, please refer to Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf.