

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

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January 27, 2023

Brian Oh, Director  
Community Development Department  
City of Petaluma  
11 English Street  
Petaluma, CA 94952

Dear Brian Oh:

**RE: Review of the City of Petaluma's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of Petaluma's (City) draft housing element received for review on October 31, 2022, along with revisions received on January 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 Margaret DeMatteo, Legal Aid of Sonoma County, Public Interest Law Project, NAACP Santa Rosa-Sonoma, Fair Housing Advocates of Northern California, Sonoma County Tenants Union, Generation Housing, TransForm, YIMBY Law, East Bay YIMBY, and Greenbelt Alliance pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

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 programs; 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 meets 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 responsiveness, dedication, and collaboration of the City's housing element team during the course of our review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Ayala, of our staff, at [Jose.Ayala@hcd.ca.gov](mailto:Jose.Ayala@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy  
Proactive Housing Accountability Chief

Enclosure

## APPENDIX CITY OF PETALUMA

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. *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).)*

Accessory Dwelling Units (ADUs): While the element now adds information regarding ADU permits issues in 2022 to establish a baseline for ADU assumptions during the planning period, the element must also incorporate ADUs permitted in 2018 (five ADUs). Per HCD's Sites Inventory Memo, jurisdictions may opt to use trends in ADU construction since January 2018 to estimate new production; currently, the element estimate production beginning with 2019 ADU permit information. The element must reconcile this information and add 2018 ADU permitting information to estimate production for the planning period.

Realistic Capacity: The element appears to assume residential development on sites with zoning that allow 100 percent nonresidential uses. While the element mentions the identified sites represent a substantial opportunity for housing and the area is adjacent to, or within, the Downtown Core, it must still account for the likelihood of non-residential uses. The element should include analysis based on factors such as development trends, performance standards, or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs, and adjust residential capacity calculations, policies, and programs accordingly. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/analysis-sites-and-zoning>.

Suitability of Nonvacant Sites: The element lists various factors (e.g., age of structure, improvement to land value ratio, existing density versus potential density) utilized to indicate the potential for redevelopment in the planning period (p. C-0); however, it

should support the validity of these factors. To support these factors, the element should evaluate development trends or recent experience in redevelopment relative to the factors. For example, the element could utilize Table C-6 (Trends to Determine Realistic Density) and list the values of the factors for prior uses. The element must be able to make a connection between past redevelopment and sites listed in the inventory by citing similar characteristics by describing existing uses, development trends, market conditions, and development incentives.

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](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Sites with Zoning for a Variety of Housing Types:

- *Permitted Uses – Single Room Occupancy (SRO) Units:* Table B3 (page B-16) and subsequent analysis describes permitted uses for a variety of housing types but do not address how single room occupancy (SROs) units are allowed. The element must include a description of how the uses are allowed and conformity with applicable state laws.
2. *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. 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 Government Code 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). (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: While the element describes development standards and some land use controls, it must also analyze those land use controls for impacts on housing supply (number of units), costs, financial feasibility, timing, approval certainty, and ability to achieve maximum densities without exceptions (e.g., conditional use permits, variance, planned development).

In addition, the element (page B-10) states the minimum open space requirement could preclude the development of multifamily rental apartments but does not commit to addressing this constraint in Program 7. Therefore, the element must include actions that commit the City to remove this constraint.

Furthermore, the element (pages B-10 and B-11) clarifies covered/uncovered parking requirements for multifamily residential projects. However, the element does not fully describe the requirement for a project to provide an overall ratio of at least 1.5 spaces per unit as a potential constraint to smaller-unit residential projects. Therefore, the element should analyze this parking requirement and add or modify programs to address this constraint.

Local Processing and Permit Procedures: While the element (page B-28) describes typical planning application and processing timelines, it should also describe the approval body, the number of public hearings if any, and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty.

Constraints on Housing for Persons with Disabilities: While the element modifies Program 7 to permit residential care facilities for seven or more persons in residential zones subject to a conditional use permit (CUP) with findings that promote objectivity and certainty, the element does not address the current requirement for residential care facilities to be permitted on an upper floor or behind a ground floor street fronting use in the MU1A, MU1B, MU1C, C1, and C2 zones. This requirement is a constraint on housing for persons with disabilities being built and the element must add or modify a program to remove this constraint.

3. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Developed Densities: The element must be revised to analyze requests to develop housing at densities below those anticipated in the sites inventory, including hindrance on the construction of a locality's share of the regional housing need.

4. *Analyze the opportunities for energy conservation with respect to residential development. (Gov. Code, § 65583(a)(8).)*

While the element provides some information on energy conservation (page B-31) by describing Building Code amendments, the element must provide a full analysis of opportunities for energy conservation.

## **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).)*

All programs should be evaluated to ensure meaningful and specific actions, objectives, and commitments. Multiple programs do not have any quantifiable metric to track and measure program success and must be revised to incorporate a quantifiable metric or outcome. In addition, programs containing unclear language (e.g. “Evaluate”; “Consider”; “Explore”; etc.) must be amended to include more specific and measurable actions. These programs include Program 1 (Adequate Sites for regional housing needs allocation (RHNA) and Monitoring of No Net Loss), Program 2 (Replacement Housing), Program 3 (Accessory Dwelling Units), Program 4 (Efficient Use of Multi-Family Land), Program 5 (Flexible Development Standards), Program 6 (Religious and Institutional Facility Housing Overlay), Program 7 (Zoning Code Amendments), Program 12 (Housing-Commercial Linkage Fee), Program 20 (Historic Preservation), Program 21 (Condominium Conversion), Program 25 (Adequately Sized Rental Housing for Families), Program 26 (Universal Design and Visitability), Program 27 (Housing for Farmworkers and Hospitality Workers), and Program 29 (Tenant Protection Strategies).

In addition, many program actions involve a review of existing standards, procedures, and practices, and additional actions “as appropriate”. For example, the programs should list the specific trigger for additional action for allocating resources to Program 3 (Accessory Dwelling Units) and revising the minimum open space requirement and parking requirements in Program 7 (Zoning Code Amendments). Additional programs include Program 4 (Efficient Use of Multi-Family Land), The element should review all programs with such language, and describe what action, or lack thereof, would trigger additional program changes.

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 A1, 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.

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 Findings A2 and A3, the element requires a complete analysis of potential governmental and nongovernmental 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.

### **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 conserved over the planning period. Conservation objectives could be incorporated using anticipated outcomes from Program 19 (Mobile Home Rent Stabilization).