

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

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March 29, 2024

Rebecca Markwick, Director of Planning and Building
City of Belvedere
450 San Rafael Avenue
Belvedere, CA, 94920

Dear Rebecca Markwick:

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

Thank you for submitting the City of Belvedere's draft housing element received for review on January 30, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on March 20, 2024 with you, City staff, and consultants. In addition, HCD considered comments from The Belvedere Land Company pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; 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.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. While the City has provided HCD with a copy of a recent ordinance, the element must clarify if rezones under Program 2-A (Provide Adequate Sites for Lower-Income Households on Nonvacant and Vacant Sites Previously Identified) have been completed in compliance with Government Code section 65583, subdivision (c) and Government Code section 65583.2 (h) & (i).

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 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>.

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 Sayed Murad, of our staff, at sayed.murad@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 BELVEDERE

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. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

While the element includes many revisions to Appendix E, it still includes general or otherwise vague statements that do not fully describe and evaluate actions from the prior planning period. For example, Program 4.5 (Create Home Sharing and Tenant Matching Opportunities) still provides a general statement on coordination with the Marin Housing Authority, with no additional information on how the City facilitated these opportunities. In addition, the element provides a general summary of past efforts to assist special needs groups (pgs. E-3-5) but should be revised to include quantified metrics and milestones, where applicable. As an example, the element describes actions to assist seniors and low-income households with rehabilitation but should be revised to include the types of funding assistance that were provided, and the number of residents or households served.

B. 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).)*

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 contributing factors other characteristics... (Gov. Code, § 65583, subd. (c)(5).)

Sites Inventory: In response to HCD's prior review, the element includes a general discussion of sites with respect to location and proximity to services (pg. A-32). However, a full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that affects the

existing patterns for all components of the assessment of fair housing (e.g., integration and segregation, access to opportunity). HCD will send samples under separate cover to assist with the analysis.

- 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. (Gov. Code, § 65583, subd. (a)(2).)*

Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)

Overpayment: While the element identifies the total number of households overpaying by tenure (B-36), it must still quantify lower-income households overpaying for housing by tenure (i.e., renter and owner).

Special Needs: While the element was updated to quantify the number of the elderly, farmworkers, and persons experiencing homelessness. The element must also analyze special housing needs for the elderly and persons experiencing homelessness. Please see HCD's prior review for additional information.

- 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 Regional Housing Needs Allocation (RHNA): HCD understands and acknowledges the Planning Commission approval of the Mallard Pointe project and continues to encourage and support the final approval of the project. As the element appears to continue to rely on the application for the Mallard Pointe project to determine the capacity on sites on Mallard Road, the element should also discuss the progress of the application currently under review on Mallard Road. The element must demonstrate their availability of these units in the planning period by explaining how the units will likely be built such as the status, anticipated completion, and any remaining barriers.

Parcel Listing: The element was not revised to address this finding. Please see HCD's prior review for additional information.

Realistic Capacity: In response to HCD's prior review, the element adds some additional discussion of capacity assumptions, notably on property owner interest (Appendix A). However, these revisions do not otherwise address HCD's finding. Please see HCD's prior review for additional information.

Small Sites: In response to HCD's prior review, the element was revised to include examples of multi-family development on small sites (pg. A-29). However, these projects predate the prior planning period, and it is unclear how these projects relate to the sites in

the inventory. The element should be revised to specify whether sites of equivalent size and number of lower-income housing units were successfully developed and relate these trends back to the analysis. The analysis should also clarify which sites have potential for lot consolidation and add or modify programs as needed. Additionally, the element identifies SB-10 as a mechanism to facilitate development on small sites. However, these sites do not comply with the requirements of Government Code section 65583.2, subdivisions (h) and (i). For example, sites must demonstrate the rezoned sites have a site capacity of at least 16 units, permit rental and owner multifamily development without discretionary review at minimum densities of 20 dwelling units per acre.

Suitability of Nonvacant Sites: In response to HCD's prior review, the element includes some discussion on the suitability of nonvacant sites, particularly with regard to property owner interest (Appendix A). However, additional information is required to fully address HCD's finding. First, the element should clarify whether owners are interested in redevelopment within the planning period and clarify the feasibility of such redevelopment with current zoning standards. For example, several sites have expressed property owner interest that relies on higher density than current zoning allows for. This includes the 6 Community Road and Lagoon sites (pg. A-18). Secondly, the analysis should also describe any outreach and coordination efforts with property owners and congregational leaders, particularly for the two church sites. This is especially significant because HCD received several public comments from the prior draft on the suitability of these sites, in addition to existing uses, which include a nursery school. Other comments identified potential flooding and historic preservation constraints and the element should be revised to address public comments. The element may need to add or modify programs based upon a complete analysis. Lastly, 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.

Accessory Dwelling Units (ADU): In response to HCD's prior review, the element now includes some additional information on ADU trends (pgs. A-9; 3-10). However, this data still does not support an assumption of 40 ADUs in the planning period. The element should be revised to include updated permit information for 2023 and 2024 to support the City's ADU assumptions or adjust projections to a lesser number of ADUs. In addition, the element must still add a program to amend the City's ADU ordinance upon HCD's review, if necessary, within six months.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element includes revisions on parking requirements for emergency shelters (pgs. 4-13; C-25). However, additional revisions are required to fully address HCD's findings. The element must still discuss available capacity, proximity to transportation and services, and any conditions inappropriate for human habitability in the R and C-1 zones. In addition, the City's three beds limitation for emergency shelters must still be analyzed as a potential constraint and Program 2-C (Zoning Ordinance Amendments) may need to be modified to remove this standard. Lastly, the element

notes that there is ambiguity on whether emergency shelters are currently permitted by-right (pg. C-24) and references Program 2-C, which commits the City to specific zoning actions by 2025. For your information, the City does not have a zone to permit emergency shelters without discretionary action and HCD cannot find the element in compliance until the appropriate zoning is available.

In addition, and for your information, Chapter 654, Statutes of 2022 (AB 2339) adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element will need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

- *Single-Room Occupancy (SRO) Units:* The element was not revised to address this finding. Please see HCD's prior review for additional information.
- *Manufactured Housing:* In response to HCD's prior review, the element notes that manufactured housing on a permanent foundation is not currently defined in Title 22 of the City's Zoning Ordinance (pg. C-19). However, the element must still demonstrate consistency with this requirement or add or modify programs as appropriate. Please see HCD's prior review for additional information.

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 includes some additional information on the City's land use controls (Appendix C) but it must still analyze them independently and cumulatively with other land use controls including the City's Objective Design and Development Standards (ODDS) to ensure that standards facilitate and not constrain the development of housing at densities allowed. As an example, maximum lot coverages for multifamily development less than 50 percent should be analyzed as a potential constraint on housing. As another example, the City's parking standards indicate that projects are required to provide two spaces for one-bedroom units or 1.25 for one-bedroom units (pgs. C-11-12). For your information, requiring smaller bedroom types (e.g., studio and one bedrooms) to provide more than one space per unit is generally considered a constraint. The element may need to add or modify programs based on a complete analysis.

Processing and Permit Procedures: The element includes some additional discussion of the City's permitting and processing procedures (pgs. C-26-28) but should also include an analysis of procedures for typical single-family and multifamily developments in the City. The analysis should address the approval body, the number of public hearings if any, approval findings and any other relevant information. The analysis should address impacts

on housing cost, supply, timing, and approval certainty. For example, the element references the city's objective design and development standards (ODDS); however, it should provide further explanation of the ODDS process. It is unclear to HCD whether the ODDS will apply to all projects and development standards appear to differ from the base zoning standards (pg. C-10). An analysis should also address the impacts of community opposition on the City's existing approval and design review procedures and may need to add or modify programs accordingly.

Reasonable Accommodation: In response to HCD's prior review, the element now includes additional information on the City's reasonable accommodation procedures (pgs. C-20-21). Program 3-G (Reasonable Accommodation Procedures) identifies commitments to remove constraints but should specifically include reference to removing approval findings regarding potential impacts on surrounding uses and neighborhood noticing requirements. In addition, Program 3-G should be updated to reflect timeframes for completion.

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... (Gov. Code, § 65583, subd. (c).)*

While the element includes several revisions to program actions in Chapter 4, additional information is required to fully address this finding. As an example, many programs identify an implementation date of January 31, 2024, and the element should be revised to clarify if these programs have been implemented or adjust timeframes, as appropriate. These include Programs 2-A (Provide Adequate Sites), 2-D (Mixed Use Zoning), 2-E (Lot Consolidation Incentives), and 2-F (R-3 Zone Incentives).

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 B3, 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 Finding B4, 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.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics 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).)*

As noted in Finding B1 the element requires a complete Affirmatively Furthering Fair Housing (AFFH) analysis. Depending upon the results of that analysis, the City may need to revise or add programs.

Goals, Actions, Metrics, and Milestones: In response to HCD's prior review, the element includes a general discussion of how programs AFFH and promote housing mobility in the City (pg. A-32; Chapter 4). However, it is unclear to HCD how many of the AFFH programs identified in Table 4-2 will create meaningful impact to overcome contributing factors to fair housing issues. As an example, many actions relate to conducting outreach or are necessary to comply with state law. Additionally, given the City's focus on ADUs as a core AFFH strategy, the element should prioritize other program actions that preserve ADU affordability and further incentivize ADUs, such as allowing additional Junior Accessory Dwelling Units (JADU), creating an ADU matching program, outreaching with ADU permit recipients, and partnering with non-profit organizations to facilitate ADU construction. The element could also consider strategies that prioritize and incentivize SB 9 development. Lastly, the element should include a mid-cycle review of these actions for promoting housing choices and commit to complete alternative actions by a specified date, if necessary.

D. 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 was not revised to address this finding. Please see HCD's prior review for additional information.