

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

651 Bannon Street, Suite 400  
Sacramento, CA 95811  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



January 14, 2025

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 6<sup>th</sup> Cycle (2023-2031) Adopted Housing Element**

Thank you for submitting the City of Belvedere's (City) housing element that was adopted November 12, 2024 and received for review on November 15, 2024. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on December 19, 2024 with you, City staff, and consultants. In addition, HCD considered comments from Marin Housing Activist pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses many statutory requirements described in HCD's March 29, 2024 review; however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows:

- 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).)*

Suitability of Nonvacant Sites: HCD's prior review found that the element must analyze the likelihood that the identified units will be developed as noted in the inventory. In response, the element includes additional discussion on the suitability of nonvacant sites, particularly with regard to Floor Area Ratio, trends from neighboring jurisdictions, and the number of new units on each site (Appendix A). However, these revisions do not fully address HCD's finding. Specifically, the discussion relies mostly on the potential for additional residential development on sites with existing single-family and multifamily uses but should also support the

assumption that candidate sites will redevelop at the assumed densities. The element should be revised to reflect the number of new units that can be added through a new net ratio and consider the impact of additional incentives provided in the R3 zone. 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.

#### Zoning for a Variety of Housing Types:

*Emergency Shelters:* The element includes revisions on available capacity, proximity to services, and hazardous conditions in the mixed use (MU) zone. However, additional revisions are required to fully address HCD's findings. Specifically, the element notes that the City has implemented a three-bed limitation on emergency shelters. HCD identifies this as a constraint on housing and Program 2-C (Zoning Ordinance Amendments) must be modified to revise this standard. Lastly, the element notes that there is ambiguity on whether emergency shelters are currently permitted by-right (p. C-24) and references Program 2-C, which commits the City to specific zoning actions by 2025. For your information, the City does not appear to 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>.

- 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... (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, the element was not revised to analyze maximum lot coverages for multifamily development as a potential constraint on housing redevelopment. As another example, inconsistencies between the City's ODDS and R-3 development standards should be analyzed as a potential 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 (pp. C-32-33) but should still include an analysis of procedures for typical single-family and multifamily developments in the City. For example, the element references the city's objective design and development standards (ODDS) but should provide further explanation of the ODDS process. The analysis should address the approval body, the number of public hearings if any, approval findings and any other relevant information. Further, while the element clarifies when ODDS will apply to projects, it must still address why development standards appear to differ from the base zoning standards (p. C-10). The analysis should address impacts on housing cost, supply, timing, and approval certainty and programs may need to be added or modified to remove constraints.

- 3. 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).)*

Goals, Actions, Metrics, and Milestones: In response to HCD's prior review, the element includes an updated discussion of how programs will promote housing mobility in the City (p. A-32; Chapter 4) and includes additional programs to encourage home-sharing and the development of SB 9 units for moderate- and lower-income households. However, it is unclear to HCD how many of the affirmatively furthering fair housing (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. As another example, Program 1-G (SB 9 Units) will "allow up to five units what was originally the single family parcel prior to any lot split if the property owner commits to making one of the units affordable to moderate income households or up to six units if the property owner commits to making one of the units affordable to low income household" further stating that "If a property owner

takes advantage of these bonus units, no more than three units would be allowed on either of the newly created lots”. Restricting development to 3 units on either newly created lots does not go beyond current state law and does not AFFH. The element should be revised to allow for additional units beyond state law. Additionally, while SB 9 actions have been updated, the element should consider strategies that further prioritize and incentivize SB 9 development, including outreaching with permit recipients, partnering with non-profit organizations to facilitate development, offering fee waivers, and developing pre-approved plans. In addition, the element should include an action to provide pre-approved accessory dwelling unit (ADU) designs in accordance with AB 434. Statutes of 2023.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted to comply with the above requirements.

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. As this year has passed and Programs 2-E (R-3/ T4SN.S Zone Incentives) has not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while 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.

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>.

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.

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](mailto:Sayed.Murad@hcd.ca.gov).

Sincerely,

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

Melinda Coy  
Proactive Housing Accountability Chief