

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

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May 1, 2023

Robert Zadnik, City Manager  
City of Belvedere  
450 San Rafael Avenue  
Belvedere, CA, 94920

Dear Robert Zadnik:

**RE: City of Belvedere's 6<sup>th</sup> Cycle (2023-2031) Draft and Adopted Housing Element**

Thank you for submitting the City of Belvedere's (City) draft and adopted housing element. The California Department of Housing and Community Development (HCD) received the City's housing element (adopted on January 24, 2023) for review on January 31, 2023. As noticed to the City on February 5, 2023, and acknowledged by the City on February 6, 2023, HCD considered the submitted element an initial draft and is reporting the results of its review pursuant to Government Code section 65585, subdivision (b) and (h). As you are aware; Government Code section 65585, subdivision (e) requires local governments to submit as draft housing element and consider HCD's findings prior to adopting the housing element. Therefore, as the City failed to comply with this requirement, the City must consider HCD's findings on the adopted element consistent with requirements pursuant to Government Code sections 65585, subdivisions (e) and (f). In addition, HCD considered comments from South Bay YIMBY, YIMBY Law and Greenbelt Alliance, Matthew Gelfand, Kevin Hessel, Riley Hurd, Jenny Silva, Chuong Vu, and one individual (unknown). pursuant to Government Code section 65585, subdivision (c).

The adopted element addresses some 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. 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, 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 (January 31, 2023), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. 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).

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, 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 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 Chelsea Lee, of our staff, at [REDACTED]

Sincerely,



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).)*

The review requirement is one of the most important features of the element update. The review of past programs should describe progress in implementation of previous actions, including results compared to objectives and evaluate the effectiveness of actions to make appropriate adjustments in the current planning period. In several cases, Table E-1 includes general or vague statements that do not describe and evaluate actions from the prior planning period. As an example, Program 4.1 (Engage in Countywide Efforts to Address Homeless Needs) indicates "the City continues to participate in regional solutions" but does not discuss the attempts, success, or effectiveness of the City's efforts to engage in regional collaboration to combat homelessness. As another example, Program 4.3 (Create Home Sharing and Tenant Matching Opportunities) focuses on developing and promoting innovative housing home-sharing models but provides a general statement on coordination with the Marin Housing Authority that provides no detail on how the City facilitated these opportunities. To address this requirement, the element must fully describe past commitments, progress in implementation, evaluate effectiveness, and then discuss appropriate adjustments in the current planning period.

In addition, the element must provide an evaluation of the cumulative effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness) and revise programs as appropriate.

## **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).)*

Local Data and Knowledge and Other Relevant Factors: The element includes state and federal data but must utilize other sources of local data and knowledge to supplement the data and mapping including planning documents such as locally adopted ordinances, other elements of the general plan, infrastructure assessments, and mobility assessments to fully describe the impacts on fair housing patterns and trends. In addition, the element must discuss other relevant factors such as historical land use (zoning, initiatives, growth control) that impacted socio-economic patterns.

Contributing Factors: The element identifies several contributing factors to fair housing issues (pgs. A-8-9). The element should prioritize these factors to better formulate policies and programs and carry out meaningful actions to affirmatively furthering fair housing (AFFH).

Sites Inventory: The element must include an assessment of fair housing in relation to the sites identified in the inventory. The analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. 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., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies).

2. *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. (Gov. Code, § 65583, subd. (a)(1).)*

*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).)*

Extremely Low-Income Households (ELI): The element identifies the total number of existing ELI households (p. 3-4), but it must also quantify them by tenure (i.e. renter and owner).

Overpayment: The element identifies the total number of households and lower-income households overpaying for housing (pp. 3-4 and 3-7), but it must also quantify them by tenure (i.e. renter and owner).

Overcrowding: The element must quantify and analyze the number of households by tenure living in overcrowded conditions.

Housing Conditions: The element includes regional data and analysis on the age and condition of the housing stock (pp. A-61-62), but it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including nonprofit housing developers or organizations.

Special Needs: While the element quantifies most of the City's special needs populations (pp. B-35-42), it must also quantify the number of elderly, farmworkers, and persons experiencing homelessness. Further, the element must analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (available senior housing units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding help address those gaps.

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): The element must demonstrate the affordability and availability of pipeline projects in the planning period. The element should demonstrate affordability based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). In addition, 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 potential barriers. The element should also discuss the progress of the application currently review on Site04B on Mallard Road (P. D-14).

Parcel Listing: The element lists parcels by various factors such as size, zoning, and existing use (Table D-5 and pp. D-7-27) but must also include parcels by general plan designation. In addition, many parcels appear to be missing Assessor Parcel Numbers (APNs). Lastly, the description of existing uses is generic and must include sufficient detail to facilitate an analysis of the potential for addition development on nonvacant sites.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. In addition, the element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses, but to support this assumption, the element must analyze the likelihood of residential development in zoning where 100 percent nonresidential uses are allowed. The analysis should be based on factors such as development trends including nonresidential, performance standards requiring residential uses or other relevant factors such as enhanced policies and programs.

Small Sites: The element identifies several sites at less than a half-acre in Table D-5. These sites are not eligible absent a demonstration that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless other evidence is provided. If the inventory indicates some sites can be consolidated it should also provide analysis demonstrating the potential for consolidation. For example, the analysis could describe the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for lot consolidation, or information from the owners of each aggregated site.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes in general the existing use of each nonvacant site. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element must analyze the extent that existing uses may impede additional residential development. The element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. The element could also consider indicators such as age and condition of the existing structure, expressed developer interest, existing versus allowable floor area, low improvement to land value ratio, and other factors. For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

The element continues to include parcels in the Boardwalk Shopping Center as part of its inventory of sites to meet the RHNA. This parcel has been in the past two housing elements as a potential site for housing but has yet to actualize into housing. As referenced

in the housing element, the site shares boundaries with both Belvedere and Tiburon. A portion of this site also is listed on the Town of Tiburon's housing element site's inventory. The element should clarify if the site capacity listed is just for that portion of the site within Town boundaries and how it has or will coordinate with Tiburon to fully develop the site including allowable densities, by-right development, and development standards.

In addition, specific analysis and actions are necessary if 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.

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, it must identify whether the current residential uses are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

Accessory Dwelling Units (ADUs): The element presents confounding information on its ADU trends and assumptions (pp. D-28-31). The element references 41 residential owners expressing their intentions in developing ADUs in the planning period and includes a "realistic capacity" determination of 30 of these units for inclusion in the sites inventory (p. 4-5). However, the element must include substantial evidence to support this conclusion, especially considering even the most favorable recent trends would result in a significantly lesser number of ADUs in the planning period. For your information, HCD records show an average of only one ADU unit per year. For example, the element should discuss the survey tool, how the survey was administered, list the actual responses, and evaluate the likelihood of owners converting intentions into permitted ADUs in the planning period, including availability for rent. This analysis could incorporate past surveys and analyses as a result of programs in the prior planning period. If the above analyses necessitate identifying sites to accommodate the RHNA, including by income group, the identification of sites and analysis must meet all requirements pursuant to Government Code section 65583.2, including but not limited to parcel listing, map of identified sites, identified sites and AFFH, environmental and other constraints, infrastructure, size of sites, nonvacant sites, calculation of realistic residential capacity and appropriate zoning to accommodate housing for lower-income households.

## Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element mentions emergency shelters are permitted in the R zone. Firstly, the element should clarify shelters are permitted without discretionary action in a zone that allows a residential use and discuss available capacity, proximity to transportation and services, and any conditions inappropriate for human habitability in the R zone. Secondly, the element must demonstrate the permit processing, development, and management standards for emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Thirdly, the element limits emergency shelters to up to three beds (p. C-9). While housing element law does allow a jurisdiction to limit the number of beds or persons permitted to be served nightly by a facility, standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. The element must analyze the 3-bed limit as a potential constraint for the development of emergency shelters and add or modify programs as necessary to remove constraints. Lastly, the element acknowledged parking requirements for emergency shelters as a constraint (p. C-10). However, no corresponding program in the element could be found to remove this constraint and the element must be revised to address this requirement.
- *Low Barrier Navigation Centers (LBNCs):* The element references a program to develop by-right procedures for processing LBNCs (p. C-10). However, no corresponding program was found. Low Barrier Navigation Centers shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65660.
- *Permanent Supportive Housing:* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element includes some discussion of supportive housing (p. C-9) but must demonstrate compliance with these requirements and include programs as appropriate.
- *Employee Housing:* The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone.
- *Accessory Dwelling Units:* After a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. HCD will provide a complete listing of ADU noncompliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance in order to comply with state law. For more information, please consult HCD's ADU Guidebook, updated in July 2022, which provides detailed information on new state requirements surrounding ADU development.



- *Single Room Occupancy (SRO) Units*: While the element indicates SROs are conditionally permitted in the C-1 zone, it must also include analysis of how the City's development standards and permitting procedures facilitate and encourage the development of SROs. This is a particularly relevant and significant housing type given the City's total area size and its unique geographical constraints.
- *Manufactured Housing*: Manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling would be subject to. While the element includes a discussion of manufactured housing (p. C-8), it must also demonstrate consistency with this requirement or add or modify programs as appropriate.

Availability of Infrastructure: The element must include a discussion on water, sewer, and dry utility providers in the City. It must also clarify whether there is sufficient total water, sewer, and dry utility capacity (existing and planned) to accommodate the regional housing need and include programs if necessary.

Water and Sewer Priority: For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element should discuss compliance with these requirements and if necessary, add or modify programs to establish a written procedure by a date early in the planning period.

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: While the element includes some discussion of land use controls such as lot coverages and minimum unit sizes (pp. C-1-7), it must identify and analyze all relevant land use controls for impacts as potential constraints on a variety of housing types. The element should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to parking, heights, lot coverage and limits on allowable densities. As an example, the analysis should address parking requirements for single-family and multifamily (e.g., closed and covered parking in the R-3 zone, 2 off-street spaces for each single-family dwelling, discretion of Planning Commission in the C-1 zone) as potential constraints on housing. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Processing and Permit Procedures: While the element includes a general discussion of the City's permitting and processing procedures (pp. C-14; 16-17), it must still list and evaluate by design review and site development permits, including timing, typical approval findings, and typical number of hearings for their impacts on housing supply, cost, feasibility, and approval certainty. Depending upon the outcomes of this analysis, the element may need to add or modify programs to address identified constraints. HCD also understands that in a letter on inconsistency related to the application on Mallard Point, the City found that the R-2 zone prohibits the use of apartment homes. Not only is this inconsistent with the General Plan, but also is inconsistent with the density and capacity estimates cited on page D-14. The element should clarify what types of housing is allowed in the R-2 zone and include a program to correct any inconsistency with the land use and housing element of the General Plan.

Constraints on Housing for Persons with Disabilities: The element must include an analysis of potential constraints on housing for persons with disabilities, as follows:

- *Reasonable Accommodation:* The element must describe the City's reasonable accommodation procedures. The element should describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities.
- *Family Definition:* The element must describe the City's definition of family and evaluate its potential impacts, including impacts on the number of persons or unrelated persons, as potential constraints on housing for persons with disabilities.
- *Group Homes:* The element broadly mentions residential care homes are allowed (pg. C-9) but it should specifically identify which zones allow the uses, how the uses are allowed (e.g., permit type), any other relevant factors and evaluate potential constraints. The analysis should be conducted for both group homes for six or fewer persons and seven or more persons. For more information on Group Homes, please refer to HCD's Group Home Technical Advisory at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

SB 330: The element should demonstrate how the City complies with SB 330 and add or modify programs if necessary. For example, the element should address actions that result in lesser intensification pursuant to Government Code section 66300 as well as provisions related to the Housing Accountability and Permit Streamlining Acts.

Building Codes: The element states it is currently utilizing the 2019 Building Code (p. C-3) but should also discuss the more recent Building Code, any local amendments made to the more recent Building Code, and add or modify programs, if necessary.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development.

On/Off-Site Improvements: While the element includes a general discussion of site improvements (p. C-18), it must identify typical subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1).

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... 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... (Gov. Code, § 65583, subd. (a)(6).)*

Approval Times: The element includes a general discussion of approval times (p. C-21) but must still identify the actual length of time between receiving approval for housing development and submittal of application for building permits and discuss any hindrances on construction.

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. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element indicates that the City has three affordable units but notes that none are at high or very high risk of conversion. However, records also indicate that the units at Farley Place are subject to expiring affordability restrictions by 2028. As such, the element must include an assessment of conversion risk, estimate and analyze the cost for replacing versus preserving the units, and identify funding sources to assist with maintaining its affordability.

## **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).)*

To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs must have discrete timing early in the planning period (e.g., at least annually or by 2025) and specific commitment to housing outcomes (e.g., refrain

from language such as “explore”, “develop”, “consider”). Examples of programs to be revised include, but are not limited to: 1.3 (Streamline Permit Processing for Multi-family and Mixed-Use Projects), 1.4 (Work Towards Becoming a Pro-Housing Community), 3.1 (Identify Existing Employee Housing Opportunities), 4.2 (Assure Good Neighborhood Relations Involving Emergency Shelters and Residential Care Facilities), 4.6 (Assist in the Effective Use of Available Rental Assistance Programs), and 4.8 (Proactively Announce Upcoming Affordable Unit Vacancy).

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

- Sites Identified in Prior Planning Periods: The element must include a program for vacant sites identified in two of more consecutive planning periods’ housing elements or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be implemented within the first three years of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households and allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households (Gov. Code, § 65583.2, subd. (c).).
- Adequate Sites: Based on HCD’s analysis and public comment received on several sites within the inventory, the element appears to suggest that rezoning is necessary to accommodate the RHNA. For your information, if appropriate zoning is not in place at the beginning of the planning period and if rezoning is necessary to accommodate adequate sites in the planning period, sites must permit housing by right pursuant to Government Code sections 65583, subdivision (c)(1) and 65583.2, subdivisions (h) and (i). In addition, if relying on sites with zoning allowing less than 30 units per acre to accommodate the housing needs of lower-income households, the element must include an analysis pursuant to Government Code section 65583.2, subdivision (c).

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).)*

The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to extremely low-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.

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 Findings B4 and B5, 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.

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).)*

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

Goals, Actions, Metrics, and Milestones: The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. 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 commitments, metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

Housing Mobility: Although the element includes actions to AFFH, land use, displacement, gentrification, and economic enhancement, it should also include robust housing mobility programs. Given that most of the City is considered a racially concentrated area of affluence (RCAA) characterized by high housing costs and limited affordable housing opportunities. In addition, given limited public transit options are available to residents, the City should prioritize housing mobility, including choices and affordability into and throughout the community.

#### **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).)*

While the element includes quantified objectives, it currently targets no objectives for conservation or preservation and should be revised accordingly. For example, quantified objectives could incorporate numerical targets or anticipated outcomes from the following programs: 2.1 (Enforce Condominium Conversion Ordinance), 2.2 (Preserve Rental Housing), 3.2 (Work with the Marin Housing Authority), and 3.14 (Unpermitted Dwelling Unit Amnesty Program).

#### **E. 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).)*

While the element includes a summary of public participation including outreach to the community (Appendix F), it should employ additional methods of public outreach and participation moving forward to include all segments of the community in the public participation process, including engaging organizations which represent lower-income and special needs groups. In addition, the element should address public comments related to ADUs and site feasibility and include discussion of how they were incorporated in the element.