

## HCD 3/17/23 Comments on Revised Draft Housing Element with Responses

Comment Number	Comment	Response to HCD
<b>A. Review and Revision</b>		
1	As noted in the prior review, while the element provided a program-by-program review of the previous element, <b>the element must include an evaluation of the effectiveness of 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).</b>	Added accomplishment to Appendix C – Past Performance, including: 1. Information on the Rotating Safe Car Park Program 2. Detailed the SB 35 application approved for 90 units at Quito Village 3. Confirmed the City did not receive any requests for reasonable accommodation during the last planning cycle.
<b>B. Housing Needs, Resources, and Constraints</b>		
2	<u>Integration and Segregation</u> : While the element was revised to update data sources, <b>it still must analyze identified differences in income relative to the region including other relevant factors such as zoning and land use patterns, and investments.</b> In addition, the element should <b>describe and analyze any local concentrations or patterns of familial status geographically within the City.</b>	Added Figure 11 in Appendix D – AFFH that shows the geographic distribution of low- and moderate-income households in the region compared to the City of Saratoga. As shown in the map, Saratoga has one of the smallest shares of low- and moderate-income households among jurisdictions in Santa Clara County. Cupertino, Los Gatos, and Los Altos are the only jurisdictions with less than 50 percent of low- and moderate-income populations. These populations are instead concentrated in San Jose, San Carlos, Redwood City, East Palo Alto, and Stanford. Stanford likely has a larger share of low to moderate income residents due to the city’s large student population, most of which do not hold high paying jobs.
3	<u>Disparities in Access to Opportunity</u> : While the element was revised to provide some information on disparities in access to opportunity, <b>it must provide a regional analysis of disparities of the educational, environmental, and economic scores within the City compared to the region.</b> In addition, while the element stated that utilizing a car is common, <b>it must describe access to transit within the City and regionally.</b>	Modified Appendix D – AFFH to add Figure 28 that shows environmental opportunity scores vary by geographic location. Compared to surrounding cities and Santa Clara County overall, Saratoga residents are significantly more likely to have positive environmental outcomes. Residents in San Jose have less positive environmental outcomes with the majority of census tracts in the city scoring below 0.5. Saratoga’s comparatively higher environmental opportunity score is likely attributed to Saratoga’s positive environmental factors (Figure 29). As shown below, all census tracts in Saratoga have a score between 0 and 20. This is similar to Cupertino, Los Gatos, and Campbell (in part). Census tracts in San Jose with lower environmental opportunity scores have more negative environmental factors than Saratoga and Santa Clara County overall. Added discussion of transit within the city and regionally.
4	<u>Disproportionate Housing Needs including Displacement</u> : The element must <b>describe any geographic concentration of cost burden both locally (within the City) and regionally (City compared to the region).</b>	Added information in Appendix D – AFFH on cost burden. Renters overpaying for housing are mainly concentrated in the northern portion of the city (census tract 5074.01) though the city does not have a significant concentrations of cost burdened renters compared to the county and region overall (see figures 37 and 38). Cost burdened renters are mainly concentrated in San Jose, Redwood City, San Mateo, and San Francisco. Cost burdened owners are concentrated in the inner and western portions of the city with 40 percent to 60 percent of homeowners overpaying for their housing. These patterns are similar to the county and region though San Jose and Sunnyvale have greater populations of cost burdened owners (see Figures 39 and 40). Renters are significantly more likely to be cost burdened in Santa Clara County and the Bay Area region.
5	<u>Affirmatively Furthering Fair Housing (AFFH) and Identified Sites</u> : While the element was revised to summarize fair housing issues (Table 11), <b>it should analyze the data by area, including quantification and impact of the fair housing issues in the City.</b> The analysis should <b>specifically address isolation of the regional housing needs allocation (RHNA) by income group.</b> If sites exacerbate conditions or isolates the RHNA by income group, the element should identify further program actions (not limited to the RHNA) that will be taken to promote inclusion and equitable quality of life throughout the community (e.g., housing mobility and new opportunities in higher resource or relatively higher income areas).	Updated Table 11 in Appendix D – AFFH and provided quantified that proposed RHNA sites are fairly distributed throughout the city and will not exacerbate conditions or isolated the RHNA by income group.
6	<u>Other Relevant Factors</u> : While the element was revised to add additional information regarding the City’s incorporation as well as information from the regional Analysis of Impediments to Fair Housing Choice (AI), <b>it should describe the potential effects on fair housing issues if it sunsets in 2025.</b>	Updated Chapter 4 – Constraints with additional information on Measure G
7	<u>Progress in Meeting the RHNA</u> : While the element was revised to address affordability of the units built, approved, or pending since June 30, 2022, it must <b>demonstrate availability or likelihood of development during the planning period.</b> The element should discuss the status, any barriers to development, anticipated completion, drop-out rates, or other relevant factors to demonstrate availability of the units during the planning period.	Chapter 6 – Adequate Sites – Provided additional information on pending projects including the status, dropout rates and other relevant factors to demonstrate the likelihood of these units during the planning period.
8	<u>Small Sites</u> : The element was revised to include examples of development on small sites but should also <b>describe affordability of the examples and demonstrate similarities to sites identified in the inventory.</b> In addition, the element should <b>describe potential for lot consolidation and provide examples of past lot consolidations within the City.</b> Lastly, Table 6-7 should indicate which sites are assumed to be consolidated for development.	Chapter 6 – Adequate Sites – Added additional information on smaller sites and further described the existing uses on the sites. Noted that the Objective Design Standards for Mixed Use properties includes incentives for lot consolidation. Added language to Policy 1.2-4 Lot Consolidation Program to evaluate the success of the program and provide additional incentives if necessary.
9	<u>Suitability of Nonvacant Sites</u> : While the element includes adequate analysis for most sites, it should <b>specifically evaluate the potential for redevelopment on the Village East Site.</b> The element should <b>describe previous experience of conversion of residential to higher density development.</b> In addition, the element should <b>describe all existing uses on the site and whether they are an impediment to development.</b> The element should <b>describe the degree of underutilization, conditions and viability of the residential uses given market rents, any common ownership, or other indicators of the potential for lot consolidation.</b> The element should also <b>discuss the regulatory framework</b>	Chapter 6 – Adequate Sites – Provided information on the Village East sites and existing uses and suitability for the conversion to high density residential development. Added examples of similar sites redeveloping in Saratoga.

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	<p>and whether it is sufficient to encourage redevelopment, including but not limited to, experience with similarly situated sites.</p>	
	<p>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 regional housing need allocation.</p>	
10	<p><b>SB 9 Sites:</b> While the element states that there are currently 23 requests for lot splits utilizing SB 9, <b>it should clarify whether those units are included in the 80 anticipated SB 9 lot splits during the planning period.</b> The element must <b>list the potential SB 9 sites and demonstrate the likelihood of redevelopment, including whether existing uses constitute as an impediment for additional residential use.</b> The analysis should <b>describe how the City determined eligible properties, whether the assumed lots will have turnover, if the properties are easy to subdivide, and the condition of the existing structures.</b> The analysis should also <b>describe interest from property owners as well as experience.</b> The analysis should <b>provide support for the 80 units being developed within the planning period.</b> Based on the outcomes of this analysis, the element should <b>add or modify programs to establish zoning and development standards early in the planning period.</b> While Program 3.2-8 (Senate Bill 9 Monitoring) commits to monitoring SB 9 production, it must also include specific commitment to implement incentives to encourage and facilitate development.</p>	<p>Added information in Chapter 6 – Adequate Sites regarding SB9. Emphasized that the City has already received SB 9 applications account for 43 of the 80 units anticipated under SB 9 during this planning period. Additionally, there are currently 43 parcels in the city that are zoned for single family and are vacant. Conservatively, one unit is projected on these sites, but given they are vacant, it is possible that these could be subdivided under SB 9. Also noted that due to the larger lot sizes in Saratoga, many of the existing homes are located such that lots can be subdivided vertically to create side-by-side lots. On other lots, where the existing home is more centrally located on lot, the site can be subdivided by creating a flag lot. Updated Policy 3.2-8: SB 9 Monitoring to commit to adding addition incentives for SB 9 application is If trends indicate a potential shortfall in meeting the estimated SB 9 development in the Sites Inventory and/or identifying additional sites to expand site capacity to the extent necessary to accommodate the RHNA.</p>
11	<p><b>Accessory Dwelling Units (ADU):</b> The element notes a steady climb in the number of ADUs since 2019 but also describes a decrease in the number of permitted units in 2022. While the element describes this decrease as an anomaly and that numbers will continue at a higher rate of approximately 60 ADUs per year, <b>the element should consider reducing assumptions similar to recent averages (approximately 50 units per year) or increase the frequency of adjusting the ADU monitoring strategy (Program 3.1-5) to three times in the planning period.</b></p>	<p>In Chapter 6 – Adequate Sites – Adjusted the number of projected ADU's to 50 units per year as directed by HCD.</p>
12	<p><b>Availability of Infrastructure:</b> For your information, <b>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.)</b> Local governments are required to immediately deliver the housing element to water and sewer service providers. Please see HCD’s prior review for additional information.</p>	<p>Chapter 7 – Policy and Programs – Added Policy 1.4 to Upon adoption of the Housing Element, mail each water and sewer provider a letter that includes: The text of Government Code Section 65589.7 requiring water and sewer providers to grant priority for service allocations to proposed developments that include housing units affordable to lower (including very low and extremely low) income households. A link to the Housing Element</p>
13	<p><b>Zoning for a Variety of Housing Types (Emergency Shelters):</b> While the element was revised to describe the City’s capacity and potential for reuse, it must still <b>clarify whether emergency shelters are permitted without discretionary action.</b> The element should also <b>add or modify a program to comply with emergency shelter requirements including parking requirements.</b></p>	<p>In accordance with AB 2339, Emergency Shelters will be allowed by right in the newly created Mixed-Use districts. This is discussed in Chapter 5 – Resources. Also, in accordance with AB 2339, the parking standards in the Objective Standards for Emergency Shelters will be based on the maximum number of employees per shift (and not beds). See the discussion below for more details.</p>
14	<p>In addition, 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 may need to address these statutory requirements. For additional information and timing requirements, please see HCD’s memo at <a href="https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf">https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf</a>.</p>	<p>Chapter 5 – Resources – As discussed above, emergency shelters will be allowed by right in the newly created Mixed-Use Districts. Program 4.4 – Amend standards for Emergency Shelters to comply with AB 2339 includes the following: to comply with State Law AB 2339, the definition for emergency shelters in the municipal code will be amended to include other interim intervention, including, but not limited to, navigation centers, bridge housing, and respite or recuperative care. The new mixed-use districts will allow emergency shelters by right and include the following objective standards:</p>
		<p>(1) <i>Shelter capacity.</i> An emergency shelter for homeless persons shall contain no more than 20 beds and shall serve no more than 20 persons nightly. The physical size of the shelter shall not be larger than necessary for the number of persons the shelter serves.</p>
		<p>(2) <i>Parking.</i> On-site parking for residents shall be based on one space for every four beds, and staff parking shall be based on one space for each employee on the maximum staffed shift.</p>
		<p>(3) <i>Lighting.</i> Adequate external lighting shall be provided for security purposes. The lighting shall be stationary and designed, arranged and installed so as to confine direct rays onto the premises and to direct light away from adjacent structures and public rights-of-way. External lighting shall be of intensity compatible with the neighborhood.</p>
		<p>(4) <i>On-site waiting and intake areas.</i> An interior waiting and intake area shall be provided which contains a minimum of 200 square feet. Waiting and intake areas may be used for other purposes (excluding sleeping) as needed during operations of the shelter.</p>

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		<p>(5) <i>Common facilities.</i> The emergency shelter may provide one or more of the following specific common facilities for exclusive use of the residents and staff, provided that such facilities do not substantially increase the overall size of the shelter facility:</p> <ul style="list-style-type: none"> <li>a. Central cooking and dining room.</li> <li>b. Recreation room.</li> <li>c. Laundry facilities sized to serve only the occupants at the shelter.</li> <li>d. Other uses that are considered ancillary to the primary use such as office and storage, not to exceed 10 percent of the total floor area of the shelter facility, exclusive of the common facilities identified in subsections (m)(5)a, b, and c above.</li> </ul> <p>(6) <i>On-site staff.</i> At least one manager and one supporting staff member shall be on-site during all hours of operation of the facility. Such manager and staff member must be individuals who do not utilize the shelter's beds or other services and who reside off-site.</p> <p>(7) <i>Security.</i> Security personnel shall be provided during operational hours whenever clients are on the site. A security plan shall be submitted to and subject to the approval of the Community Development Department Director prior to issuance of a certificate of occupancy.</p> <p>(8) <i>Concentration of uses.</i> No more than one emergency shelter shall be permitted within a radius of three hundred feet of another emergency shelter.</p> <p>(9) <i>Emergency shelter operations.</i> All emergency shelters shall comply with the following requirements:</p> <ul style="list-style-type: none"> <li>a. <i>Hours of operation.</i> Clients shall only be on site and admitted to the facility between 5:00 PM and 8:00 AM.</li> <li>b. <i>Length of stay.</i> Each emergency shelter resident shall be allowed to stay for no more than 90 days (cumulative, not consecutive) in a 365-day period. Extensions up to a total stay of 180 days in a 365 - day period may be granted by the shelter provider if no alternative housing is available.</li> <li>c. <i>Management plan.</i> Prior to commencing operation, the shelter operator shall submit a written management plan to the Director of the Community Development Department which plan shall be subject to the Director's approval. The shelter operator shall comply with the management plan as approved by the Director and the management plan shall address: hours of operation, admission hours and process, staff training, neighborhood outreach and privacy, security, resident counseling and treatment, maintenance plans, residency and guest rules and procedures, and staffing needs.</li> <li>d. <i>Annual report.</i> The shelter operator shall provide to the Director of the Community Development Department an annual report of the use of the facility sufficient for the Director to make a determination of compliance with the City's development standards for the use.</li> </ul> <p>Should an emergency shelter be developed in the MU zone, the City will comply with the no net loss requirements (Government Code 65863) and ensure sufficient sites remain to meet the RHNA. If additional sites are needed to accommodate its share of housing need by income level, additional sites shall be made available within 180 days.</p>
15	<p><b>Land Use Controls:</b> While the element was revised to state that the C-N(RHD) zone is being replaced during the proposed rezone, it <b>should describe and analyze heights and maximum lot coverage in the proposed zone as well as describe and analyze heights and maximum lot coverages for the CN, C-V, CH-1, CH-2, and P-A zones.</b> In addition, the element <b>should analyze the 40 percent maximum lot coverage, setbacks, and two-story height limits in multifamily zones as a constraint on development and add programs as appropriate.</b> The element should <b>discuss minimum lot sizes and any impacts on identified sites to accommodate the RHNA.</b> While Program 3.3-1 (Objective Design Standards: SB 330 for Mixed-Use and Multi-Family Developments) was revised to review development standards, timing and actions only relate to SB 330 objective design standards. The actions should <b>specifically commit to reviewing and revising the constraints identified and include specific timing and commitment to revisions.</b></p> <p>Lastly, while the element was revised to list exceptions to parking requirements, it must <b>analyze the parking requirements (p. 4-13) of one garage space and 1.5 additional spaces per dwelling unit or one garage space and an additional 0.5 space for a one-bedroom unit.</b> This is particularly important since parking requirements were identified as a constraint in the prior housing element and the program appears to only have been partially implemented. Should the analysis determine the parking standards or permit procedures are a constraint on residential development, it must include a program to address or remove any identified constraints.</p>	<p>Chapter 4 - Constraints - The standards are in the MU/Multi-Family zoning ordinance and are being developed. For CN, CV Ch1 and Ch2 etc. Table 45 on page 4-11 summarizes the development standards including lot coverage, setbacks, height limits. Added language on pages 4-2, 4-10.</p> <p>Language added in Program 3.3-1 about specific commitment to review and revise constraints identified and include specific timing and commitment to revisions. Multi-family projects have been approved and constructed in the city with current parking requirements. However, to further reduce barriers for development, off street parking requirements are proposed to be reduced to one uncovered or covered space within a garage per bedroom for each dwelling unit, up to a maximum of two spaces, plus one-half additional spaces on the site for each dwelling unit and parking minimums will be removed for new commercial and housing development within ½-mile of transit in compliance with AB 2097.</p>

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16	Local Processing and Permit Procedures: While the element was revised to add design review findings, it should also <b>address the approval body, the number of public hearings if any, and any other relevant information.</b> The analysis should address impacts on housing cost, supply, timing, feasibility, and approval certainty.	The following information on timelines has been added to Chapter 4 – Constraints. For projects requiring Planning Commission approval, typically one public hearing is required unless the project is appealed to the City Council, then a second hearing would be required.
17	Codes and Enforcement: The element was not revised to address this finding. Please see HCD’s prior October 26, 2022 review.	Chapter 4 – Constraints regarding building codes and enforcement was amended to add the following information. The City amended the 2022 California Green Building Code to advance electrification measures by requiring all new buildings to have electric appliances with the exception of the cooking appliance and requiring specific level EV Chargers installed in single family and multi-family dwellings and at existing parking lots when applicable renovations are made. In addition, the City uses its code enforcement powers in a manner that does not constrain housing development or improvement. Code enforcement is primarily carried out in response to resident complaints or observation of non-permitted structures. The City does not have any unique or proactive code enforcement programs that could be construed as creating housing constraints
18	Constraints on Housing for Persons with Disabilities: While Program 3.2-7 (Group Homes) was added to allow group homes for six or fewer and seven or more residents by-right in residential zones, <b>the Program should be revised to permit them in all zones that allow residential uses, objectively with approval certainty similar to other residential uses of the same form.</b>	Chapter 7 – Policies and Programs – The policy has been amended as required by HCD to allow group homes in all zones that permit residential.
<b>C. Housing Programs</b>		
<i>As noted in Finding B2, 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:</i>		
19	<u>Sites Identified in Prior Planning Periods</u> : While Program 1.1-1 (Adequate Sites for Housing or RHNA Rezoning) states the City will up-zone reuse sites, <b>the element must clarify whether all previously identified sites will be rezoned.</b> The element identifies sites from the prior planning period and as a result must include a program to make the site available or remove the site. The program must be implemented within the first year or 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.	Chapter 7 – Program and Policies – Program 1.1-1 has been updated as follows: Rezone sites as identified within Section 6, Adequate Sites, to accommodate 1,994 residential units, representing the City’s RHNA of 1,712 units and a 16 percent buffer to allow for compliance with No Net Loss Provisions of SB 166. Housing sites identified in the previous Housing Element: Gateway South and Prospect Lawrence will be rezoned to Mixed Use (MU). The Downtown Village site from the previous housing element has been removed as a candidate site. All reuse sites will be upzoned (including Fellowship Plaza, Gateway South, and Prospect sites) to meet density requirements for lower-income households and allow by-right approvals for housing developments that include 20 percent or more of its units as affordable to lower-income households. The rezoning (and zoning text amendments referenced in Policy 1.1-2) will support housing development at the following income levels: VLI: 479, LI: 285, MI: 294, AMI: 856. This program is in compliance with Government Code Section 65583.2 (H) and (I).
20	<u>Program 4-3.1 (Development of Housing for Extremely Low Income (ELI))</u> : The Program should <b>include commitments and timing to implement the specified activities beyond meeting.</b>	Chapter 7 – Policies and Programs – Clarified the City will explore funding opportunities on a yearly basis, will offer incentives for ELI units as new projects are proposed, will continue to offer 10 percent increase in site coverage and allowable floor area for ADUs that are deed-restricted for below market rate households.
21	<u>Program 4-2.4 (Affordable Housing Incentives and Waivers)</u> : While the Program was revised to include all special needs groups, it must <b>include additional revisions to clarify whether the incentives listed are currently in place or include timing to implement the incentives.</b>	Chapter 7 – Policies and Programs – Added time frames to Program 4-2.4 per HCD request.
22	As noted in Finding B3, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised as follows:	Noted.
23	<u>Program 3-2.2 (Reduced Setbacks for Smaller Parcels)</u> : While the Program was revised to address the size of lots that would qualify for the program, it should <b>clarify the potential setback reduction.</b>	Chapter 7 – Programs and Policies – Added that the setback for these lots are 10 percent of the lot width or 6 feet, whichever is less.
24	As noted in Finding B1, the element must include a complete analysis of AFFH. The element must be revised based on the outcomes of a complete analysis. In addition, while the element includes general metrics for some programs, <b>the element must be revised to add or modify goals and actions based on the outcomes of a complete analysis.</b> Goals and actions must <b>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.</b> Actions must have specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity areas (throughout the City), place-based strategies for community preservation and revitalization and displacement protection. Lastly, the element should <b>add or modify housing mobility beyond meeting the City’s RHNA specifically in relatively higher income areas and concentrated areas of affluence.</b>	Noted.