

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

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May 21, 2009

Mr. William Meeker  
Community Development Director  
City of Burlingame  
City Hall – 501 Primrose Road  
Burlingame, CA 94010-3997

Dear Mr. Meeker:

**RE: Review of the City of Burlingame's Draft Housing Element Update**

Thank you for submitting Burlingame's draft housing element update received for review on March 23, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on May 19, 2009 with Ms. Maureen Brooks, Planning Manager, and Ms. Julie Moloney, the City's consultant, facilitated the review.

The Department commends the City for its thorough analysis of Burlingame's housing needs and continued efforts to develop and implement transit oriented land-use and housing strategies. While the draft element addresses many statutory requirements, some revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element should include a complete analysis to determine the adequacy of identified sites to accommodate the regional housing need for lower-income households. The enclosed Appendix describes this and other revisions needed to comply with State housing element law.

The Department would be happy to provide any assistance needed to facilitate your efforts to bring the element into compliance. If you have any questions or would like assistance, please contact Janet Myles, of our staff, at (916) 445-7412.

Sincerely,

  
Cathy E. Creswell  
Deputy Director

Enclosure

cc: Julie Moloney, Consultant, Metropolitan Planning Group

## **APPENDIX CITY OF BURLINGAME**

The following changes would bring Burlingame'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 the Department's website at [www.hcd.ca.gov/hpd](http://www.hcd.ca.gov/hpd). Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at [www.hcd.ca.gov/hpd/housing\\_element2/index.php](http://www.hcd.ca.gov/hpd/housing_element2/index.php), the Government Code addressing State housing element law and other resources.

### **A. Review and Revise**

The review requirement is one of the most important features of the housing element update. While the element summarizes several key programs (pages 89), it does not describe specific results for any programs from the previous planning period. A complete program-by-program review is necessary to evaluate the effectiveness of Burlingame's programs in addressing housing goals. A thorough evaluation should describe the outcomes of programs and an analysis of significant differences between what was projected or planned and what was achieved. In addition, the element should provide a description of how the goals, objectives and programs of the updated element incorporate what has been learned from the results of the prior element.

### **B. Housing Needs, Resources, and Constraints**

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 (Section 65583(a)(2)).*

*Projected Extremely Low-Income (ELI) Households:* While the element quantifies the number of existing ELI households (page 30), in accordance with Chapter 891, Statutes of 2006 (AB 2634), the element must also include an estimate of the projected number of ELI households. The element may either use available Census Data to calculate the number of ELI households, or presume 50 percent of the very low-income households identified through the regional housing needs process qualify as ELI households. To assist the analysis, see the enclosed sample analysis from the *Building Blocks'* website at [http://www.hcd.ca.gov/hpd/housing\\_element2/EHN\\_extremelylowincome.php](http://www.hcd.ca.gov/hpd/housing_element2/EHN_extremelylowincome.php).

*Housing Stock Conditions:* The element includes some general information on the age of housing stock; however it should also include an estimate of the number of units in need of rehabilitation and/or replacement. The estimate should consider local estimates including information from the City code enforcement agency. For further information, refer to the housing stock characteristic section of the *Building Blocks'* website at [http://www.hcd.ca.gov/hpd/housing\\_element2/EHN\\_HousingStockChar.php](http://www.hcd.ca.gov/hpd/housing_element2/EHN_HousingStockChar.php)

2. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

The City has a regional housing need allocation (RHNA) of 650 housing units, of which 285 are for lower-income households. To address this need, the element relies on approved projects within high density residential zones, as well as vacant, underutilized and potential reuse sites. However, to demonstrate the adequacy of the sites and strategies to accommodate the City's share of the RHNA, the element must include a complete analysis, as follows:

*Realistic Capacity:* Table V-1 indicates all sites were calculated assuming development at maximum capacities; however the element must support this conclusion. The estimate of residential capacity must consider land-use controls and site improvements, including the *cumulative impact* of development standards such as maximum lot coverage, height, open space, parking, floor area ratios, and site improvement requirements on the ability to achieve maximum densities. The City could also consider examples of recently built mixed-use projects and their build-out densities. Please also note, when establishing the realistic capacities on non-residentially designated sites, the analysis should specifically account for the extent to which uses other than residential are allowed on identified sites.

*Suitability of Sites:*

- The element identifies underdeveloped sites to address a significant portion of the regional housing need. The element only generally describes the existing uses (i.e., older, single-story office). To demonstrate development potential, the element must more specifically describe the use and analyze the extent to which existing uses may impede additional residential development. In addition, the element must include a description, relative to identified sites, of the development trends, market conditions, and regulatory incentives and standards employed to facilitate redevelopment. For example, the element identifies several sites with older office buildings but does not indicate their condition or whether they are occupied by existing businesses. This analysis could assess interest from property owners, describe recent characteristics and circumstances leading to redevelopment, such as discontinuing uses, and apply findings to identified sites to demonstrate their suitability in the planning period. Refer to the sample analysis on the *Building Blocks'* website at [http://www.hcd.ca.gov/hpd/housing\\_element2/SIA\\_home.php](http://www.hcd.ca.gov/hpd/housing_element2/SIA_home.php).
- While the inventory includes potential reuse sites within the existing office and light industrial C-1 and C-2 zones (pages 66-77 and 83) for exclusively high-density residential (R-4 Overlay), mixed-use and live-work development, it appears there is neither zoning in place nor a program to rezone sites to allow and encourage these uses. If relying on these sites to accommodate a portion of the City's RHNA for lower-income households, the element must include a program to rezone sites, pursuant to Government Code Section 65583.2(h) by a date certain, early enough in the planning period to allow development.

*Opportunities for Lot Consolidation and Suitability of Small Sites:* It appears the City will need to rely on small sites to accommodate a portion of its remaining need for lower-income households (Table V-1). While it may be possible to build housing on small parcels, the nature and conditions necessary to construct the units often render the provision of affordable units to lower-income households infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units. The element, therefore, should include an analysis of the potential for lot consolidation for groups of sites, and/or consider development trends on small sites demonstrating their potential residential capacity and ability to facilitate housing for lower-income households, along with policies or incentives to facilitate such development.

*Sites with Zoning for a Variety of Housing Types:*

*Emergency Shelters:* While the element includes program H (D-5) to allow emergency shelters by right in portions of the RR, C-1 and/or C-2 zones, it must demonstrate the appropriateness of this zone to accommodate emergency shelters. The zone must provide sufficient opportunities for at least one emergency shelter in the planning period. In addition, the element must demonstrate that existing or proposed permit processing, development, and management standards encourage and facilitate the development of, or conversion to, emergency shelters. To assist in addressing this requirement, please refer to the Department's Chapter 633, Statutes of 2007 (SB 2) memo at [http://www.hcd.ca.gov/hpd/sb2\\_memo050708.pdf](http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf).

*Transitional and Supportive Housing:* The element does not specifically address transitional housing or supportive housing. Pursuant to SB 2, zoning must demonstrate both transitional and supportive housing will be treated as residential uses subject only to the same permitting processes as other similar residential uses in the same zone without undue special regulatory requirements. The element must be revised to include programs to allow both uses, as described above, within the planning period.

*Single-Room Occupancy (SRO) Units:* While the element indicates board and care facilities are allowed with a conditional use permit (CUP), the element does not indicate whether zoning exists to allow SROs. The element should specify if, and where, this housing type is explicitly allowed in the zoning code and describe how development standards and permit procedures encourage and facilitate the use.

*Factory-Built and Mobilehome Units:* The element should specify how the City permits these housing types, consistent with Government Code Section 65852.3(a), subject only to the same development standards as would apply to a conventional single-family residential unit in the same zone.

3. *Analyze potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 (Section 65583(a)(5)).*

Land Use Controls: The element must describe and analyze development standards for mixed-use developments in Specific Plan areas (zoned TW, ECN and CR). In addition, Program H (B-2) proposes to amend the zoning code to require the inclusion of “communal amenities” in new rental developments. The element must evaluate the impact of the new requirements on the City’s ability to achieve maximum densities and on the financial feasibility of developing housing affordable to lower-income households.

Permit Processing and Procedures: The element indicates residential uses over 35 feet -- including within the C-1 and C-2 zones -- must be approved through a CUP. The CUP process must be analyzed for its impact on approval certainty, timing, and cost. The City may need to include a program to address this permitting requirement. Refer to the sample analysis on the *Building Blocks*’ website at [http://www.hcd.ca.gov/hpd/housing\\_element2/CON\\_permits.php](http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php).

In addition, the element should describe the formal Federal Aeronautics Administration (FAA) approval process and timeframe for residential development within the North Burlingame Area (as defined on page 36).

#### 4. Quantified Objectives

*Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame (Section 65583(b)(1 & 2)).*

The element should be expanded to include an estimate of the number of rehabilitated and conserved units by income category. Refer to the sample analysis on the *Building Blocks*’ website at [http://www.hcd.ca.gov/hpd/housing\\_element2/PRO\\_overview.php](http://www.hcd.ca.gov/hpd/housing_element2/PRO_overview.php)

### C. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in finding B2, the element does not include a complete site analysis and 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 strengthen programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

For your information, where the inventory does not identify adequate sites pursuant to Government Code Sections 65583(a)(3) and 65583.2, the element must provide a program to identify sites in accordance with subdivision (h) of 65583.2 for 100 percent of the remaining lower-income housing need with sites zoned to permit owner-occupied and rental multifamily uses by-right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 20 units per acre. Also, at least 50 percent of the remaining need must be planned on sites that exclusively allow residential uses.

As the element appears to be relying on a mixture of small, non-vacant sites to accommodate its regional housing need for lower-income households, it should include specific program commitments to facilitate lot consolidation and/or policies and incentives to promote, encourage and facilitate higher density and mixed-use development on these sites.

For example, Program H(F-1) should include a description of the City's role in facilitating partnerships to promote lot consolidation, including a list of available financial and regulatory incentives. In addition, the City should expand Program H (F-3) to describe the proposed modifications to the Specific Plan area intended to encourage mixed-use and include specific incentives for infill and mixed-use development including, but not limited to, organizing special marketing events geared towards the development community, posting the sites inventory on the local government's webpage, identifying and targeting specific financial resources and reducing appropriate development standards.

The City should provide dates certain for specific actions for each program. For example, Program H (F-3) includes numerous specific actions; however, the implementation timeline for the program is indicated as "2009-2014." All actions related to the development potential of sites necessary to accommodate the City's regional need, should include specific implementation dates (i.e., end of 2010) and early enough in the planning period to allow for development to address the City's regional housing needs. For example, the element should expand Programs H (F-1) through H (F-3) to establish appropriate zoning in the C-1 and C-2 zones, and include specific densities and standards to facilitate development within the planning period.

Program H (D-5)-b should be revised to complete necessary rezoning to allow emergency shelters by-right within one year of adoption of the element.



2. *The housing element shall contain programs which "assist in the development of adequate housing to meet the needs of extremely low-, low- and moderate-income households (Section 65583(c)(2)).*

The element must include specific actions to assist in the development of a mix of housing types, including rental multifamily, for extremely low-, very low-, low- and moderate-income households, and special housing need households.

Specific actions should be provided to promote the development of rental housing for lower-income family households, including for ELI families. The element could revise programs to offer financial incentives or regulatory concessions to developers who agree to include a portion of their units affordable to ELI households or to encourage the development of housing types, such as SRO units, which address the particular needs of this income group.

3. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in finding B3, the element requires a more detailed analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to strengthen or add programs and address and remove or mitigate any identified constraints.

In addition, Program H (D-2) should be revised to clearly establish a reasonable accommodation procedure, separate from a variance or CPU, for providing exception in zoning and land-use for housing for persons with disabilities by a date certain. The process should not be limited to the installation of accessibility improvements, and should provide exception to broader zoning and land-use for maintenance improvement and development of housing for persons with disabilities. To assist the City, a model ordinance and examples from several cities are available on the Department's *Building Blocks*' website at [http://www.hcd.ca.gov/hpd/housing\\_element2/PRO\\_mitigate.php](http://www.hcd.ca.gov/hpd/housing_element2/PRO_mitigate.php).

#### **D. 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 (Section 65583(c)(6)(B)).*

While the element includes a general summary covering the public participation process, more information is needed to demonstrate how the City has or will make a diligent effort to achieve the involvement all economic segments of the community through the adoption process. The element should be revised to specifically describe the City's efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and individuals and to involve such groups and persons in the development. The element should also describe how and where comments from the stakeholders and general public were considered and incorporated in the element. For additional information, see the *Building Blocks*' website at [http://www.hcd.ca.gov/hpd/housing\\_element2/GS\\_publicparticipation.php](http://www.hcd.ca.gov/hpd/housing_element2/GS_publicparticipation.php).