

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

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August 4, 2009

Mr. Richard Marks, Director
Community Development Department
610 Foster City Blvd.
City of Foster City
Foster City, CA 94404

Dear Mr. Marks:

RE: Review of Foster City's Draft Housing Element

Thank you for submitting Foster City's draft housing element received for review on June 5, 2009 along with additional revisions on July 30, 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 July 28, 2009 with you, Ms. Leslie Carmichael, Planning Manager, Messrs. Curtis Banks, Senior Planner, Colin Clarke, Intern, and Jeffery Baird, the City's consultant, facilitated the review.

Foster City is commended for the recent approval of the Pilgrim-Triton site to accommodate housing affordable to lower-income households. The draft element addresses most statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). Specifically, the element must include a complete analysis of potential governmental constraints. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department is committed to assist Foster City in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Raquel Medina, of our staff, at (916) 324-9629.

Sincerely,

Cathy E. Creswell
Deputy Director

Enclosure

APPENDIX CITY OF FOSTER CITY

The following changes would bring Foster 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 the Department's website at 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, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Analyze 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. 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 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Local Processing and Permit Procedures: Given the reliance on the Planned Development (PD) process to approve housing to accommodate the regional housing need, particularly for multifamily development, the element must include a description of the process and specific analysis to demonstrate how the PD process impacts certainty, predictability, timing and cost of development. For example, the element could indicate if the City utilizes tools such as default development standards providing a minimal threshold for approvable heights and parking to promote approval certainty and could describe timing, approval rates and the impacts of any conditions on approval.

Constraints on Persons with Disabilities: While the element includes a program to establish a reasonable accommodation procedure, it must include an analysis of potential constraints on the development, maintenance, and improvement of housing for persons with disabilities. The analysis should address zoning, development standards, building codes, and approval procedures for the development of housing for persons with disabilities. Examples of standards and requirements that could be analyzed include: (1) any definitions of family in the zoning code; (2) spacing or concentration requirements; and, (3) whether the City reduces parking requirements for housing for persons with disabilities. Refer to the Department's memo and the *Building Blocks'* sample analysis at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

Inclusionary Requirements: The element indicates the City implements inclusionary housing requirements designed to increase opportunities for affordable housing and also lists incentives offered to developers (page 4-42). It must also describe and analyze the implementation framework, including levels of mandated affordability and other

requirements for impacts on the cost and supply of housing. For example, the element should discuss options for meeting the requirements and analyze any in-lieu fees. This is particularly important given current market conditions and the cumulative impact of local regulations. The City could engage the development community to facilitate this analysis.

B. Housing Programs

1. *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)).*

Extremely Low-Income (ELI) Households: While the July 30, 2009 revisions modify existing programs, these programs do not include specific actions to "assist" in development of housing for ELI households. For example, while home sharing programs (Program H-E-6-a) can be effective in addressing the needs of the elderly or single persons, it does not appear to address the range of housing needs for ELI households including families. Also, Program H-F-1-b (Anti-Discrimination) does not appear to commit to any policies beyond existing law pursuant to Government Code Section 65008. Pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should be expanded, or programs added, to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. For example, Program H-D-3-b could prioritize some funding for the development of housing affordable to ELI households, offer additional financial incentives or regulatory concessions to encourage the development of housing for ELI households. Also, the element could include programs to amend zoning with development standards and promote single-room occupancy units, which address the needs of this income group. In addition:

Program H-D-3-b (page 4-61): Describe when or how often the City will rezone sites to increase the supply of rental units.

Program H-D-8 (page 4- 61): Describe when the City will promote residential opportunities in the redevelopment project areas.

Program H-E-3-b (page 4- 64): Include a specific date or schedule (e.g., annually) when the City will provide technical assistance to project sponsors to encourage them to apply for available funding programs for projects.

2. *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 A1, 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.

Program H-E-3-a (page 4-64): The City should update its current density bonus ordinance for compliance with recent statutory amendments (Chapter 1928, Statutes of 2004, and Chapter 454, Statutes of 2008) to State density bonus law (Government Code Section 65915). A copy of the current law is available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65915-65918>.

C. Water Sewer Priority

For your information, Government Code Section 65589.7 requires water and sewer providers to establish specific procedures and grant priority water and sewer service to developments with units affordable to lower-income households. The statute also requires local governments to immediately deliver the housing element to water and sewer providers. The Department recommends including a cover memo describing the City's housing element, including the City's housing needs and share of the regional housing need (see enclosed memo).