

~~STATE OF CALIFORNIA BUSINESS TRANSPORTATION AND HOUSING AGENCY~~

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

~~ARNOLD SCHWARZENEGGER Governor~~

**Division of Housing Policy Development**

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**FAX TRANSMITTAL FORM**

**DATE:** August 31, 2009

**TO: Mr. Al Savay**

**FAX NUMBER:** 510-848-4315

**Community Development Director**

**FROM: Raquel Medina**

**Dept. of Housing**

**Housing Policy**

**Development Division**

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**No. of Pages (Including Cover):** 6

**Subject:** Review of City of San Carlos Draft Housing Element

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

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DIVISION OF HOUSING POLICY DEVELOPMENT**

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August 31, 2009

Mr. Al Savay, Director  
Community Development Department  
City of San Carlos  
600 Elm Street  
San Carlos, CA 94070

Dear Mr. Savay:

**RE: Review of the City of San Carlos' Draft Housing Element**

Thank you for submitting San Carlos' draft housing element received for review on July 2, 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 August 17, 2009 with you, Messrs. Mark Sawicki, Economic Development and Housing Manager, and your consultant, Ben Noble, of Design, Community and Environment (DCE), facilitated the review.

San Carlos is commended for success in developing infill housing within proximity to services and transit along El Camino Real. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). For example, the element must include analyses of residential capacity and 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 San Carlos 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,

A handwritten signature in black ink, appearing to read "Cathy E. Creswell".

Cathy E. Creswell  
Deputy Director

Enclosure

## APPENDIX CITY OF SAN CARLOS

The following changes would bring San Carlos'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. Housing Needs, Resources, and Constraints

1. *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).*

San Carlos has a regional housing needs allocation (RHNA) of 599 housing units, of which 235 are for lower-income households. To address this need, the element relies on underutilized sites located in three planning areas. However, to demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include the following analyses:

Progress in Meeting the RHNA: The element indicates that 22 units affordable to very low-income households, 31 units affordable to low-income households are approved, under construction, or proposed. As you know, the City's RHNA may be reduced by the number of new units built since January 1, 2007; however, it must describe the City's methodology for assigning these units to the various income groups based on actual or anticipated sales price or rent level of the units or other mechanisms (i.e., financing) ensuring their affordability.

Small Sites: All but eight of the underutilized parcels (Appendix B) only accommodate less than 20 units and most are significantly less than one half acre in size. The element must include an analysis of these small sites, demonstrating their potential for more intense residential development capacity in the planning period, including the potential of lot consolidation. The element could use development trends to facilitate this analysis. This is particularly important given the dependence on small sites to accommodate San Carlos' RHNA for lower-income households and the necessary economies of scale to facilitate development of housing affordable to lower-income households. For example, most assisted housing developments utilizing State or federal financial resources typically include at least 50 to 80 units.

Realistic Capacity: The element assumes 75 percent of non-vacant sites will redevelop and mixed-use projects will develop at approximately 70 percent of maximum densities (page 54), but should also include analysis to support these assumptions. For mixed-use sites, the analysis must account for the extent to which non-residential uses are allowed.

Projected residential development capacity should not, for example, assume residential-only development of all mixed-use or non-residentially zoned sites. For non-vacant sites, the element should estimate potential residential capacity considering not all non-vacant sites will redevelop within the housing element planning period. For example, the element could evaluate sites determined to have the greatest potential for redevelopment in the planning period.

Zoning for a Variety of Housing Types (Emergency Shelters): While the element includes a program to permit emergency shelters without discretionary action, pursuant to Chapter 633, Statutes 2007 (SB 2), it must specifically identify the zone(s) or potential zones and demonstrate sufficient capacity to accommodate the need for emergency shelters. The element should also describe the characteristics and suitability of the zone(s) for emergency shelters. See the Department's SB 2 technical assistance memo at [http://www.hcd.ca.gov/hpd/sb2\\_memo050708.pdf](http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf).

2. *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)).*

Land-Use Controls (Parking): The element should specifically analyze the three spaces for a two-bedroom apartment parking requirement (page 42) for its potential impact on the cost and supply of housing and the ability to achieve maximum densities.

Inclusionary Housing: The element indicates the City implements a 15 percent inclusionary housing requirement for developments containing seven or more units through its Below Market Rate Program (pages 43-44). The element should describe and analyze the implementation framework and requirements for impacts on the cost and supply of housing. For example, among other things, the element should discuss options for meeting the requirements. 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.

Local Processing and Permit Procedures: While the element includes some information about processing times, it must specifically describe and analyze the City's permit processing and approval procedures by zone and housing type. To address this requirement, the element should discuss and analyze processing procedures for typical single- and multi-family projects, including type of permit, approval body and decision-making criteria, such as approval findings for impacts on costs and approval certainty. For additional information, please 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).

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**Fees and Exactions:** While the element estimates fees for a typical single- and multi-family development (page 44), it should list the relevant planning and impact fees and analyze their total effect or proportion on development costs for multi- and single-family housing. Please refer to the *Building Blocks*' at [http://www.hcd.ca.gov/hpd/housing\\_element2/CON\\_fees.php](http://www.hcd.ca.gov/hpd/housing_element2/CON_fees.php).

**Constraints on Persons with Disabilities:** The element includes Action HOU-7.10 to develop and adopt a reasonable accommodation procedure for housing for persons with disabilities, but it must also include a complete 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) spacing or concentration requirements; (2) definition of family; and, (3) whether there are relaxed parking standards for housing for persons with disabilities. Refer to the Department's memo and sample analysis on the *Building Blocks*' website at [http://www.hcd.ca.gov/hpd/housing\\_element2/CON\\_disabilities.php](http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php).

## **B. 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 A-1, 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 revise programs as follows:

**Action 3.3 (Lot Consolidation):** This Program is particularly important given the reliance on small, underutilized sites to accommodate the City's regional housing need for lower-income households. The element should be revised to clearly commit to establish a program by a date certain instead of "consider developing." In addition, given the importance of this program, the Department recommends revising the Program to regularly evaluate its effectiveness.

**Action 3.2 (Infill Development):** The Program should be revised to clarify the circumstances or conditions for granting fee reductions or waiver and could add actions to encourage infill development such as offering incentives and concessions beyond the State density bonus law.

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Action 5.3 (RDA Land Acquisition): This Program is critical to demonstrating adequate sites to accommodate the City's RHNA. As a result, the Program should include specific actions beyond "consider" with objectives for the planning period.

Action 7.7 (Emergency Shelters): This Program commits to amend zoning to permit emergency shelters without discretionary action within one year of adoption; however, the Program must be amended to:

- identify the specific zone(s) for permitting emergency shelters (see Finding A-1); and
- commit to establish development standards that encourage and facilitate the use and only subject shelters to the same development and management standards that apply to other allowed uses within the identified zone.

2. *Describe the amount and uses of fund in the redevelopment agency's Low and Moderate Income Housing Fund (Section 65583(c)).*

The element should include an estimate of the moneys expected to accrue in the Low and Moderate Income Housing Fund (LMIHF) through the end of the planning period and the planned use of these funds (i.e., new construction, rehabilitation) relative to programs in the element, where possible. For your information, Community Redevelopment Law (Health & Safety Code Section 33413(b)(4)) requires a redevelopment implementation plan to be consistent with a community's housing element. The integration of applicable information from the redevelopment agency's current housing implementation plan into the housing element will assist in the development of an effective housing element. For further information, refer to the *Building Blocks* website at [http://www.hcd.ca.gov/hpd/housing\\_element2/OR\\_lowmod.php](http://www.hcd.ca.gov/hpd/housing_element2/OR_lowmod.php).

3. *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)).*

Pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing actions should either be revised or new actions added to specifically assist in the development of a variety of housing types to meet the housing needs of extremely low-income (ELI) households. To address this requirement, the element could revise actions to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as single-room occupancy units, which address the needs of this income group. In addition:

Actions 7.1 and Action 7.6 (Financial Assistance) should be revised to include specific dates for implementation.

4. *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 A-2, the element requires 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.

### **C. 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)(7)).*

While the element includes a brief description of the public participation process (pages 3-4), it does not demonstrate how San Carlos made a diligent effort to achieve the involvement all economic segments of the community. For example, the element could describe the City's efforts with the affordable housing developers and stakeholder, service providers and organizations representing low- and moderate-income households, and generally describe public comments and how they were considered and incorporated in the element.

### **D. Consistency with General Plan**

*The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).*

The element did not address this requirement. As part of the housing element update, the City should describe how internal consistency was achieved and will be maintained. The City could consider an internal consistency review as part of its annual general plan implementation report required under Government Code Section 65400.

For your information, Government Code Section 65302 requires cities and counties in California to amend the safety and conservation elements of their general plan to include analysis and policies regarding flood hazard and flood management information upon the next revision of the housing element on, or after, January 1, 2009. Government Code Section 65302 also requires cities and counties in California, effective January 1, 2008, to annually review the land-use element for those areas subject to flooding identified by flood plain prepared by the Federal Management Agency or the State Department of Water Resources (DWR).

Any amendments to the safety, conservation, and land-use elements, based on the requirements of Government Code Section 65302, will require a review of the housing element for internal consistency, which may in turn, require amendments to the housing element. Local jurisdictions should contact DWR's Department of Flood Management for assistance in obtaining the most current floodplain mapping information needed for the analysis. Contact information is available at <http://www.dwr.water.ca.gov/floodmgmt/lrafrmo/fmb/>.

### **E. Priority Water and Sewer Services**

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 such as San Carlos, which are not water and sewer providers, 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. For more information, please refer to the Department's technical assistance memo at [http://www.hcd.ca.gov/hpd/rmemo\\_sb1087.pdf](http://www.hcd.ca.gov/hpd/rmemo_sb1087.pdf).