

STATE OF CALIFORNIA BUSINESS TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER Governor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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September 30, 2009

Mr. Carlos De Melo, Director
Community Development Department
City of Belmont
- One Twin Pines Lane, Suite 110
Belmont, CA 94002

Dear Mr. De Melo:

RE: Review of the City of Belmont's Draft Housing Element

Thank you for submitting Belmont's draft housing element received for review on August 3, 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 September 3, 2009 with you, Ms. Laurie Shiels, Housing Specialist and Ms. Poppy Gilman, consultant, with Dyett & Bhatia facilitated the review.

The Department commends Belmont for facilitating the development of the Belmont Apartments which provide 24 studio units affordable to very low-income persons with disabilities and establishing a minimum density in the Villages of Belmont. 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 an analysis of potential governmental constraints. The enclosed Appendix describes this and other revisions needed to comply with State housing element law.

The Department appreciates yours, Ms. Shiels, and Ms. Gilman's cooperation and assistance throughout the course of the review. We are committed to assist Belmont in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Robin Huntley, of our staff, at (916) 323-3175.

Sincerely,

Cathy E. Creswell
Deputy Director

Enclosure

cc: Poppy Gilman, Dyett & Bhatia

APPENDIX CITY OF BELMONT

The following changes would bring Belmont'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. *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).*

Belmont has a regional housing need allocation (RHNA) of 399 housing units, of which 156 are for lower-income households. To address this need, the element relies on vacant sites, and non-vacant sites predominantly in the Villages of Belmont and the El Camino Real Corridor. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include analyses, as follows:

Progress in Meeting the RHNA: The element indicates nine units affordable to low-income households have been approved between July 2006 and March 2009 and indicates the level of affordability is based upon density (Table 2-43 on page 2-51). As you know, the City's RHNA may be reduced by the number of new units built since January 1, 2007; however, affordability of units should be credited based on the anticipated rent and sales prices or information on financing or other mechanisms establishing affordability and not, as the element proposes, on allowed density. Government Code Section 65583.2(c)(3)(A)&(B) requires the analysis of the land inventory to demonstrate the appropriateness of zoning to encourage and facilitate the development of housing affordable to low-income households. This requirement is relevant to analyzing sites in the inventory available for development and not a substitute for describing the anticipated or proposed rents or sales prices of actual projects constructed or entitled. The element should also clarify when the project was approved.

Lot Consolidation/Small Sites: The Villages of Belmont and El Camino Real Corridor include sites comprised of multiple, small parcels. While the inventory may aggregate parcels, it must describe the potential for lot consolidation on sites with multiple parcels. In addition, while it may be possible to build housing on small lots, the nature and conditions (i.e., development standards) necessary to construct the units often

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render the provision of affordable housing infeasible. For example, most assisted housing developments utilizing State or federal financial resources typically include at least 50 to 80 units. While the element contains Program 2.5 with actions specific to two sites within the Villages of Belmont (Emmett Square and Belmont Station), given additional sites are necessary to accommodate the City's RHNA, it should include actions to promote lot consolidation for the remaining Villages of Belmont sites and the six opportunity sites identified in the El Camino Real Corridor. This is particularly important given the necessary economies of scale to facilitate development of housing affordable to lower-income households.

Suitability of Non-Vacant Sites: The element must evaluate the extent to which existing uses may impede additional residential development. For many sites, the element includes only very general information (e.g., restaurant, commercial, retail) about existing uses. To address this requirement, the element should describe existing uses sufficient to demonstrate potential for redevelopment and could include information on the condition and age of structures and whether the use is operating, marginal, or discontinued. For example:

Villages of Belmont: The element indicates the Redevelopment Agency owns the Firehouse Square target site on which the historic firehouse is located. The element should describe the impact of the historic building on the availability of the site for development or redevelopment. In addition, the element identifies Safeway as being the largest landowner within the Emmett Plaza site and indicates the use as a high-producing grocery store. The element should describe the impact of the existing uses on potential residential development.

El Camino Real Corridor: The element identifies six targeted sites in this area. Each site contains multiple non-vacant parcels (i.e., site #6 includes a 7-11, a Dollar Tree and an IHOP restaurant). The element should analyze the extent existing uses may impede development within the planning period. For non-residential sites, the inventory could generally describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

Realistic Capacity: For non-residential or mixed-use sites, the calculation of residential capacity should specifically account for the extent to which uses other than residential are allowed. Projected residential development capacity should not, for example, assume residential-only development on non-residentially zoned sites. For non-vacant sites, the element should also estimate potential residential capacity considering not all non-vacant sites will redevelop within the housing element planning period. For example, the element could base estimated capacity on those sites determined to have the greatest potential for redevelopment.

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Adequate Sites Alternative: The element proposes to credit six rehabilitated housing units toward meeting Belmont's share of the regional housing need for lower-income households. Pursuant to Government Code Section 65583.1, to credit these units, the element must include a complete analysis describing how each of the provisions has been addressed. Please see the Department's AB 438 checklist at http://www.hcd.ca.gov/hpd/housing_element2/examples/655831Checklist.pdf.

Sites with Zoning for a Variety of Housing Types (Emergency Shelters): While the element includes a program to identify an appropriate zone where emergency shelters will be permitted without discretionary review (Program 3.6), pursuant to Chapter 633, Statutes 2007 (SB 2), it must specifically identify the zone(s) or potential zone(s) and demonstrate sufficient capacity to accommodate the need for emergency shelters. The element should also describe the 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.

B. 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)).

While the element includes new construction objectives by income group for very low-, low-, moderate- and above-moderate income (page 4-24), it must also include objectives for extremely low-income (ELI) households. In addition, the element must estimate the number of housing units estimated to be conserved and rehabilitated for all income groups, including ELI. For technical assistance, please see the Department's *Building Blocks* website at 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 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, Belmont 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:

Program 3.6 (see Finding A-1) proposes to amend the Zoning Ordinance to address emergency shelters. The programs must also:

- identify the specific zone(s) being considered for emergency shelters;
 - 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; and
 - allow emergency shelters without a CUP or other discretionary action.
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)).*

While the element includes some programs to assist in the development of very low-, low-, and moderate-income households, pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should either be expanded or new programs added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this requirement, the element could revise programs 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 (SRO) units, which address the needs of this income group. For example, the element could include a program to expressly define Apartment Hotel or SRO, in the zoning code, establish development standards and zone sites as R-5 or amend zoning to allow the development of Apartment Hotels or SROs in other zoning districts.

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)).*

Housing for Persons with Disabilities: The element includes Program 5.2 to establish an over-the-counter procedure for granting reasonable accommodations. The reasonable accommodation 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. Please see the *Building Blocks* website for sample program language, a model and sample procedures at http://www.hcd.ca.gov/hpd/housing_element/PRO_mitigate.php.

Design Review: The element identifies the City's process and principles for design review as "not very clear or specific" and "...can be a constraint because it can lead to confusion about what will satisfy the City's design standards" (page 3-22). While the element includes Program 2.3 to replace the Downtown Specific Plan area with new base zoning and to adopt design guidelines for the Villages of Belmont Area, it should add a program or revise Program 2.3 to mitigate the identified constraint to housing in other areas of the City.

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Multifamily Development: The element includes Program 4.7 to "consider" amending the Zoning Ordinance to remove the conditional use permit (CUP) requirement for multifamily development projects in high-density residential zones. Given the element identifies the CUP as a potential constraint, it should commit to remove the CUP requirement and identify specific zone(s) where multifamily will be permitted without a CUP.

D. Flood Management

Belmont should also be aware of recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 207 [AB 162]) which requires amendment of the safety and conservation elements of the general plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009 (see the Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf).