

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



March 27, 2023

Afshan Hamid, Director
Planning Department
Town of Moraga
329 Rheem Boulevard
Moraga, CA 94556

Dear Afshan Hamid:

RE: Town of Moraga's 6th Cycle (2023-2031) Adopted Housing Element

Thank you for submitting the Town of Moraga's (Town) housing element adopted January 25, 2023 and received for review on January 26, 2023. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from David Bruzzone, East Bay for Everyone and David Kellogg, pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses most statutory requirements described in HCD's November 10, 2022 review; however, revisions will be necessary to substantially comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)

Goals, Priorities, Metrics, and Milestones: Promoting housing mobility removes barriers to higher opportunity areas and strategically enhances access to housing choices and affordability. Given, among other things, that the Town is entirely highest category in access opportunity, the element must include some actions to promote housing mobility within the Town and relative to the region to promote an overall inclusive community. While the element included programs related to accessory dwelling units (ADU), homesharing, SB9 and some other efforts related to the regional housing need allocation (RHNA), it must include significant and

robust suite of actions to promote housing mobility and increasing housing choices and affordability throughout the Town but especially in lower-density neighborhoods. Additionally, for the existing actions and programs, the revised element should still either include numerical objectives or metrics or increase several numeric targets for programs focused on housing mobility and increased housing opportunities and affordability.

2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory... (Gov. Code, § 65583, subd. (c)(1).)

Previously Identified Nonvacant and Vacant Sites: The element now indicates which sites were reused from the prior planning period. Specifically, the element notes that Sites D1 and D2 are being reused from previous planning periods for lower-income households. Additionally, while the element acknowledged that these sites already meet the appropriate densities to utilizing them to for the lower-income RHNA, pursuant to Government Code section 65583.2, subdivision (c), it must also include a program to allow residential use at appropriate densities by right for housing developments in which at least 20 percent of the units are affordable to lower-income households. The element should include a program as appropriate.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the Town must submit an electronic sites inventory with its adopted housing element. The Town must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The Town can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types: The element noted while the Town allows certain uses, it is not explicitly listed in the Town's zoning code. This is noted on footnote (1) of Table 5-6 on page 5-27. HCD's prior review found that the element must include a program to revise the Town's zoning code to expressly note the permitted uses such as around manufactured homes, group homes and transitional and supportive housing. In addition, while the element did include a program to address group homes, it should be revised to include a commitment expressly

allowing other permitted uses e.g., manufactured homes and supportive and transitional housing.

Programs: As noted above, 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 Town may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

3. *An analysis of 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... ..including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)

Land Use Controls (R-20 and Scenic Corridors): While the element was revised to include a cumulative analysis of several land use controls and added some programs, it still should evaluate potential constraints to housing. Specifically, while the element included Program 4 and 32 committing to review and revise certain requirements for the scenic corridor and in the R-20 zone(s), it should evaluate all development standards for potential constraints to better formulate an appropriate programmatic response. Based on a complete analysis, the element should modify programs with specific commitments to addressing constraints and encouraging and facilitating maximum achievable densities.

Local Processing and Permit Procedures: HCD's prior review found that the Town has several discretionary permits required for certain types of projects or zones. While the element included some additional information on approval findings and a program to streamline development, it must analyze these requirements for impacts on promoting certainty, timing and any other relevant factors. For example, the element could discuss the availability of concurrent reviews or dual permit processing. Based on a complete analysis, the element may need to revise programs to address any potential constraints. Please see HCD's prior review for more information.

Finally, the element should address public comments on this submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

Fees: The element indicated that the Town has high fees for multifamily projects. HCD's prior review found that the element must evaluate and address constraints for excessive fees to certain housing types. The revised element included more information and analysis noting that most of the high fees are attributed to impact fees. Additionally, the analysis notes that park fees makeup a large portion of the Town's impact fees. The element must analyze park fees and any disproportionate impacts on housing types (e.g., multifamily, single room occupancy, transitional and supportive housing) and different development types (e.g., infill). Based on a complete analysis, the element may need to revise programs to address any identified constraints.

Constraints on Housing for Persons with Disabilities (Group Homes for Seven or More Persons): The element noted in prior reviews that group homes of seven or more persons are excluded from several low-density residential zones (pp. 5-27 and 5-29) and the Town will include a program to address this constraint. The element was revised to include Program 37, where it states that it will "consider" allowing these uses in the Towns lower-density zoning. As found in the prior review, this program should commit to allowing group homes of seven or more in all residential zones and allowing them with objectivity and certainty similar to other residential uses of the same form. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted, if necessary, to substantially comply with the above requirements pursuant to Government Code section 65585.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the RHNA shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Please be aware, if the Town fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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 <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the Town should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the Town will meet housing element requirements for these and other funding sources.

We are committed to assisting the Town in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jamillah Williams, of our staff, at jamillah.williams@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager