

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

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January 30, 2024

Elise Semonian, Director
Community Development Department
City of Larkspur
400 Magnolia Avenue
Larkspur, CA 94939

Dear Elise Semonian:

RE: City of Larkspur's 6th Cycle (2023-2031) Revised Draft Housing Element

Thank you for submitting the City of Larkspur's (City) revised draft housing element received for review on December 1, 2023. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The revised draft element addresses many statutory requirements described in HCD's May 1, 2023 review; however, revisions will be necessary to substantially comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due January 31, 2023. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City 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.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government does not 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 regional housing needs allocation (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). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City does not 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.

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 City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at:

<https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and collaboration you and the City's housing element team provided during the review. Further, HCD appreciates the City's attention to implementation with the recent adoption of several ordinances. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF LARKSPUR

The following changes are necessary to bring the 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 HCD's website at <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, Building Blocks for Effective Housing Elements (Building Blocks), available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

A. Housing Needs, Resources, and Constraints

1. *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).)*

Suitability of Nonvacant Sites: While the element now evaluates the potential for redevelopment on most sites, it should still evaluate the extent existing uses impede additional development on Sites H, I, K and M. For example, the element could discuss the age of the structure, condition, lack of recent improvements, vacancy or existing versus allowable floor area. Based on the outcomes of this analysis, the element should add or modify programs, as appropriate.

In addition, the housing element relies on nonvacant sites to accommodate more than 50 percent of the regional housing need allocation (RHNA) for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Small Sites: While the element demonstrates the potential for consolidation and past development on smaller sites, it still must demonstrate the potential to facilitate development affordable to lower-income households. For example, typical state funded developments range from 50 to 150 units. The identified small sites range from 7 to 11 units. This analysis is not required for the City-Owned site. To address this requirement, the element could assume application of the City's inclusionary requirements.

Availability of Infrastructure: While the element now explains dynamics and history related to water supply and treatment capacity, it should still clarify whether there is sufficient total water and sewer capacity (existing and planned) to accommodate the RHNA. Based on the outcomes of this analysis, the element should add or modify programs as appropriate.

Environmental Constraints: The element add information related to fire hazards but should still describe any other known constraints that preclude development in the planning period. Examples include shape, access, easements, property conditions, compatibility with other land use controls, environmental overlays, and contamination.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City 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 City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element now includes Programs H.2.H and H.3.K, it must still evaluate sufficient capacity in the Administrative-Professional (A-P) Zone, including addressing the extent existing use impeded additional development and proximity to transportation and services. Further, the element should expand the discussion of parking requirements which are generally limited to the amount sufficient for staff. Based on the outcomes off this analysis, the element should add or modify programs.
 - *Accessory Dwelling Units (ADU):* Upon a cursory review of the City's recently adopted ADU ordinance, HCD found some inconsistencies with ADU law. Please continue to coordinate with HCD to resolve any inconsistencies with State ADU Law. In addition, the element should add or modify programs to amend the ordinance and comply with state law by a specified date.
 - *Permanent Supportive Housing:* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.
2. *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 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... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element now generally states the City's land use controls do not constrain development but still must include analysis. This analysis should

specifically address allowable densities, heights and parking in higher density zones and evaluate impacts on the cost and supply of housing and ability to achieve maximum densities.

In addition, as noted in the prior review, the element is proposing to adopt a priority housing overlay zone and should list and analyze development standards. In response, the element generally describes some process for the overlay but should still list and analyze development standards for impacts on housing supply and cost and ability to achieve maximum densities. Further, upon a cursory review of the draft ordinances for the priority housing overlay zones, the ordinance does not appear to meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). Specifically, the ordinance should address affordability (20 percent affordable to lower-income households) and residential only performance standards (e.g., 50 percent).

Design Review: The element now describes the objective development and design standards and lists some decision-making criteria for design review but still must analyze those criteria. Further, some criteria appear mis-characterized based on a review of the City’s municipal code (LMC 18.64.55). For example, the element does not mention overall design criteria such as “attractive and visually cohesive”. The element should list the actual approval findings and other related criteria and evaluate the impacts on housing supply and cost and approval certainty and add or modify programs as appropriate. For example, the element could add a program to amend the municipal code and clarify that meeting the objective development and design standards is also deemed to meet the approval findings.

Inclusionary Housing: The element now explains that the City’s recently adopted inclusionary requirements are greater than most other nearby communities and includes information on potential feasibility. However, the element must still evaluate the cost impacts of the requirement, including describing any off-setting measures such as alternatives means of compliance, exemptions, incentives and how the ordinance compliments State Density Bonus Law. Based on the outcomes of this analysis, the element should add or modify programs to address identified constraints.

Constraints on Housing for Persons with Disabilities: The element now explains the City adopted Ordinance 1071, including amending the definition of family. The ordinance defines family as “One or more individuals living together where the residents are a close group with social, economic and psychological commitments to each other and living together as a relatively permanent household” (LMC Section 18.08.240.) Requiring families to be a close group with commitments such as social, economic, and psychological can be a constraint on housing for persons with disabilities. The element should evaluate this definition and add or modify programs to address identified constraints.

B. Housing Programs

1. *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 completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)

As noted in Finding A1, 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 City 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 1.L (Downtown Parking Lot for Affordable Housing) should specifically commit to the anticipated schedule for development and remove the word “sample” in the title of the schedule. In addition, the Program should specify a date of completion for alternative actions if the site does not develop as anticipated.

- 2. The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element has modified Program H3.M to assist in the development of affordable housing for extremely low-income (ELI) residents. However, the Program should still commit to how often it will pursue funding and partner with local organizations to develop housing. For example, the Program should commit to proactively reach out to affordable housing developers and pursue development opportunities at least every other year, including providing incentives, priority processing and funding.

- 3. 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).)*

As noted in Finding A2, 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.

In addition, the element (p. C-51) notes the City is conducting a fee study to determine appropriate levels. To address potential constraints, the element should include a program to utilize the fee study and revise fee levels in a manner that does not constrain housing development, particularly for housing choices (e.g., multifamily, small lot infill) and lower-income, including ELI, and special needs households.

4. *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).)*

Promoting housing mobility removes barriers to higher opportunity and higher income areas and strategically enhances access to housing choices and affordability to promote more inclusive neighborhoods, cities, and regions. Among other factors, the City is predominantly a high resource and higher median income jurisdiction, including predominantly a racially concentrated area of affluence (RCAA) in contrast to the rest of the region. As a result, the element should include a significant and robust suite of actions (not limited to the RHNA) to promote housing mobility and increase housing choices and affordability throughout the City. The element includes some meaningful programs; however, it should increase objectives and should include additional actions to promote more housing choices and affordability throughout the City. Additional examples include promoting more housing choices and affordability in lower-density areas and additional conversion of existing single-family space.

In addition, to affirmatively further fair housing (AFFH), the element should be revised, as follows:

- *Program H1.A (SB 9 Subdivisions)*: The Program should increase the metric or numeric target for the planning period.
- *Program H1.I (Housing in Commercial Zones)*: The Program should increase the metric or numeric target for the planning period.
- *Program H1.K (Utilize Grants and Financing)*: The Program should include geographic targeting (e.g., throughout the City)
- *Program H3.A (Religious and Institutional Facility Housing)*: The Program should proactively assist religious institutions with the entitlement, funding and non-profit partnerships and add geographic targeting and a metric or numeric target for the planning period.
- *Program H3.G (Rental Assistance)*: The Program should include a metric for the planning period.
- *Program H3.L (Single Room Occupancy (SRO))*: The Program could include geographic targeting.
- *Program H5.D (AFFH Neighborhood Improvements)*: The Program should include a metric or numeric target (e.g., 1-2 improvements per year) and could consider additional place-based strategies.