

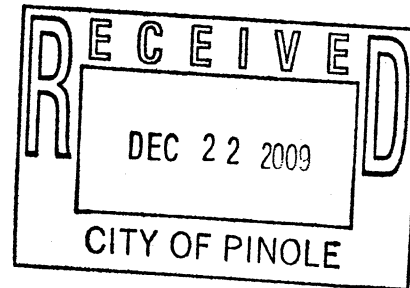
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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December 17, 2009

Mr. Winston Rhodes
Planning Manager
City of Pinole
2131 Pear Street
Pinole, CA 94564



Dear Mr. Rhodes:

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

Thank you for submitting Pinole's draft housing element received for review on October 21, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). Communications with you and Ms. Leslie Carbahal, Redevelopment Analyst, facilitated the review.

The Department commends Pinole's efforts to promote mixed-use, infill and pedestrian and transit-oriented developments through a variety of strategies including shared and/or reduced parking standards. 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). In particular, the element must include a complete analysis to demonstrate the adequacy of sites to accommodate the City's regional housing needs allocation. The enclosed Appendix describes this and other revisions needed to comply with State housing element law.

The Department appreciates the cooperation and assistance provided by you and Ms. Carbahal throughout the course of the review and is committed to assist Pinole in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Erik Gropp, of our staff, at (916) 322-4268.

Sincerely,

Cathy E. Creswell
Deputy Director

Enclosure

**APPENDIX
CITY OF PINOLE**

The following changes would bring Pinole'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).*

Candidate Sites for Rezoning

The element identifies a shortfall of capacity to accommodate the regional housing need for lower-income households (page HE-50). While the element identifies candidate sites for rezoning and includes programs to address a shortfall of adequate sites, pursuant to Section 65583(c)(B), it must include an analysis of the suitability and availability of candidate sites for rezoning with all components specified in Section 65583.2, as follows:

Multiple Parcels and Lot Consolidation: Many sites listed in Table 38 are comprised of multiple parcels. For example, Site 34 is made up of fifteen individual parcels. While the inventory may aggregate parcels, it must also describe each parcel in the aggregated list by size, zoning, general plan designation, and existing use. In addition, while not described in the element, based on the December 15, 2009 conversation, identified opportunity sites with multiple parcels are anticipated to be consolidated and developed comprehensively. The element should describe the potential for lot consolidation, including conditions rendering parcels suitable and ready for redevelopment. Further, to demonstrate lot consolidation potential, the element could describe trends or information on the number of owners and indicate where sites have been assembled. The element should also include policies, programs, or incentives to encourage lot consolidation.

Non-Vacant Sites: While the element provides very general descriptions of existing uses on non-vacant sites (Table 38), it must also demonstrate the potential for redevelopment and evaluate the extent to which existing uses may impede additional residential development. The evaluation should consider development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. For sites with residential uses, the inventory could generally describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses.

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. Refer to the sample analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#nonvacant.

In estimating the residential capacity of non-vacant sites, the methodology must account for the extent to which existing uses may impede development in the planning period. Projected residential development capacity should not, for example, assume all non-vacant sites will develop in the planning period.

Emergency Shelters: The element contains Program HIP-17 to amend the zoning ordinance to allow emergency housing by-right in at least one zoning district; however, pursuant to Chapter 633, Statutes of 2007 (SB 2), it should identify the zone(s), describe the characteristics and suitability of the zone(s) and capacity for emergency shelters. For example, the element could describe the acreage, including amount vacant, parcel sizes, availability of existing structures that could be adapted for emergency shelters and other allowable uses and development standards in the zone. Refer to the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_variety.php#Emergency.

Transitional and Supportive Housing: The element did not address this requirement. Pursuant to SB 2, transitional and supportive housing must be permitted as a residential use and only subject to those requirements that apply to other residential uses of the same type in the same zone. The element should either describe zoning consistent with these provisions or include programs as appropriate.

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)).*

Local Processing and Permit Procedures: While the element includes some information regarding permit processing times (page HE-43), it should describe and analyze processing procedures for typical single- and multi-family projects, including the type of permit, level of review, and any discretionary approval procedures or design review requirements. For example, the analysis should include decision-making criteria such as required findings of approval and an analysis of the impacts on housing costs, timing, and approval certainty. See the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php.

The element also describes that Pinole requires a conditional use permit (CUP) for multifamily development in multifamily zones (page 43). Additional review and complex discretionary findings in a CUP can add significant time and uncertainty to the approval process and impact the cost and supply of housing, particularly housing affordable to

lower-income households. The element should describe the CUP requirement, including approval findings, analyze its impact on timing, cost, and approval certainty and include program(s) as appropriate.

On/Off-Site Improvements: While the element (page HE-42) describes on- and off-site improvements are required, it must identify and analyze actual standards (street widths, curb, gutter, and sidewalk requirements, etc.). Refer to the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_offsite.php.

Housing for Persons with Disabilities: While the element addresses some potential constraints on housing for persons with disabilities, such as permit procedures for group homes, it does not include a complete analysis of potential constraints on the development, maintenance, and improvement 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) parking requirements; and, (3) spacing or concentration requirements. Refer to the Department's memo and the *Building Blocks'* sample analysis at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

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 quantified objectives by income group for very low-, low-, moderate-, and above moderate-income (page HE-66), pursuant to Chapter 891, Statutes of 2006 (AB 2634), it must also include objectives for extremely low-income (ELI) households.

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 may need to add or revise programs based on the outcomes of the analysis. In addition:

Adequate Sites: The element identifies a shortfall of sites to accommodate the City's housing needs for lower-income households (132 units). To address the shortfall, the element identifies several candidate sites (page HE-55) and includes Programs 5 and 9.

Pursuant to Government Code Sections 65583(c)(1) and 65583.2(h) and (i), programs to address a shortfall of sites must permit owner-occupied and rental multifamily uses by-right. Pursuant to 65583.2(i), by-right means local government review must not require a CUP, planned unit development or other discretionary review or approval. In addition, identified sites must allow a minimum of 16 units per site. One identified site allows less than 16 units per site and cannot be utilized toward the identified shortfall. Programs 5 and 9 should also be revised to:

- include reference (i.e., table number) to actual sites being rezoned or under consideration;
- clarify acreage by zone;
- describe proposed development standards to ensure standards will facilitate and encourage the development of housing for lower-income households;
- require a minimum density of 20 units per acre; and
- demonstrate at least 50 percent of the regional housing need for lower-income households will be accommodated on sites designated for residential use only.

In addition:

Lot Consolidation: Given the reliance on sites necessitating consolidation (Table 38) to accommodate the City's regional housing need for lower-income households, the element should include policies, programs, or incentives based on the outcomes of the analysis noted in Finding A-1.

Program HIP-17 (Housing for the Homeless): Commits to amend zoning to permit emergency shelters within one year of adoption; however, the Program must also:

- identify the specific zone(s) for permitting emergency shelters (see Finding A-1);
- clarify by-right to permit emergency shelters without a CUP or other discretionary action; 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 uses within the identified zone.

Transitional and Supportive Housing: The element should add or revise programs as appropriate based on the outcomes of the analysis noted in Finding A-1 to comply with SB 2 for transitional and supportive housing.

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)).*

The element must include specific commitment to assist in the development of housing for lower-income households, as follows:

General: The element does not include specific actions to assist in the development of multifamily or rental housing for lower-income households. Programs to assist the development of rental and multifamily housing are particularly important given the lack of new construction affordable to lower-income households in the previous planning period.

For example, the element could include programs to initiate contact with developers and list subsequent steps Pinole will take to facilitate development of rental housing such as assisting with site acquisition, fee waivers, priority processing and providing funding or supporting applications for funding. See the Department's *Financial Assistance Program Directory* at http://www.hcd.ca.gov/fa/LG_program_directory.pdf.

ELI Households: Pursuant to 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. 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 units, multifamily and supportive housing which address the needs of this income group.

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)).*

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 add or revise programs and address and remove or mitigate any identified constraints. In addition:

Program HIP-15 (Accessible Units for the Physically Disabled): The element states the City does not have a reasonable accommodation procedure "in place for the application of zoning, permit processing, and building laws" (page 48). The element includes Program HIP-18; however, it appears limited to physical modifications. The element should add or revise programs to establish reasonable accommodation in broader zoning and land-use. Refer to sample program language, a model ordinance, and examples from other jurisdictions on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/PRO_mitigate.php.

4. *The housing program shall promote equal housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin or color (Section 65583(c)(5)).*

Program HIP-18 (Prevention of Housing Discrimination): Should include specific commitment to ensure fair housing information is available throughout community. For example, the element could list community locations to disseminate information or conduct education through community events and targeted neighborhood efforts. The Program should commit to establish or continue a process for handling or referring fair housing complaints. Please see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/PRO_eho.php.

D. 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 lists various organizations consulted, it should describe how input was solicited, considered, and incorporated into the element to demonstrate diligent efforts to achieve public participation for all economic segments of the community. Engaging the community and organizations and service providers representing lower-income households is important in developing, adopting and implementing an effective housing element. The City should continue to engage the community through the adoption of the housing element, by making revisions available with sufficient notice to comment and considering and incorporating, where appropriate, comments. Please see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/GS_publicparticipation.php.

E. General Plan Consistency

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. The element must include an evaluation of how internal consistency will be achieved and maintained during the planning period. The element could include a program to conduct an internal consistency review as part of its annual general plan implementation report required under Government Code Section 65400. This annual report can also assist future updates of the housing element. For more information, see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/OR_costal.php#Model_Analyses.

F. 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. In addition, the City could request priority granting of water and sewer services to second units. Refer to the Department's technical assistance memo at http://www.hcd.ca.gov/hpd/memo_sb1087.pdf.

G. Flood Management

Pinole should also note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 2007 [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. For more information, refer to Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf.

