

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

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September 9, 2025

Sarah Dennis-Philips, Director
San Francisco Planning Department
City and County of San Francisco
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Dear Sarah Dennis-Philips:

RE: San Francisco's 6th Cycle (2023-2031) Adopted Housing Element and Draft Rezoning Package

Thank you for submitting the City and County of San Francisco's (City) draft rezoning package (Package) related to implementation of the housing element. The Package includes various memos, draft ordinances, maps, spreadsheets and other documents intended to implement the housing element, particularly Programs 7.1.1 (Rezoning for the RHNA) and 8.4.4 (Sites Identified in Prior Planning Periods). The purpose of this correspondence is to communicate a preliminary review by the California Department of Housing and Community Development (HCD) and to assist the City in its decision-making process. The preliminary review is limited to Programs 7.1.1, 8.4.4 and related Programs.

On February 1, 2023, HCD found the City's adopted housing element in substantial compliance with State Housing Element Law (Gov. Code, § 65580 et seq). This finding was based on, among many other things, commitments to accommodate the City's regional housing need allocation (RHNA) and actions to address identified constraints and affirmatively further fair housing (AFFH). As of this date, the City continues to substantially comply with State Housing Element Law.

Among other requirements, Program 7.1.1 committed to accommodate the RHNA shortfall with a buffer (approximately 36,282 new units, including 20,327 for lower-income households) primarily in Well-Resourced Neighborhoods, in proximity to transit and commercial corridors. Further, Program 8.4.4 committed to make prior sites available and establish a nondiscretionary approval for housing developments with 20 percent affordability for lower-income households.

HCD is pleased to preliminarily find that the Package is consistent with statutory requirements and meets the objectives and commitments of Programs 7.1.1 and 8.4.4.

For example, the Package addresses the shortfall of capacity to accommodate the RHNA for lower-income and permits multifamily development with 20 percent affordability to lower-income households without discretionary action, requires minimum densities, meets residential performance standards, and primarily identifies sites in Well-Resourced Neighborhoods, in proximity to transit and commercial corridors. HCD encourages the City to continue expeditious implementation of these Programs in a similar manner to meet statutory requirements, including meeting rezoning deadlines.

However, HCD cautions the City to continue decision-making, implementation and making adjustments that meet programmatic commitments and statutory requirements, as follows:

- *Sites Identified in Prior Planning Period:* Currently, Section 207.9 (Minimum Dwelling Unit Densities and Minimum Office Intensities) allows housing developments with 20 percent affordability to be permitted without discretionary action. This section should also reference the sites identified in prior planning periods on a publicly available and accessible website. HCD further encourages the City to proactively promote the availability of these sites to housing developers.
- *Section 207.9 (Minimum Dwelling Unit Densities and Minimum Office Intensities):* The Section should provide additional clarity in the purpose and applicability subdivisions to apply to identified sites to accommodate the lower-income RHNA and sites identified in prior planning periods as well as complying with all statutory requirements pursuant to Government Code section 65583, subdivision (c)(1) and section 65583.2, subdivisions (c), (h) and (i), including residential performance standards.
- *Program 7.1.1 (Rezoning for the RHNA) Components:* The City must continue to meet all Program 7.1.1 commitments generally including but not limited to: (1) identifying sites in Well-Resourced Neighborhoods, (2) accounting for site's likelihood of development during the planning period using an analytical model, (3) not adding constraints that reduce financial feasibility as determined by an analysis prior to rezoning enactment, (4) implementing a rezone program that exceeds the RHNA and reducing the need and size of any subsequent rezoning triggered by Action 8.1.5 and (5) making any conforming amendments to relevant area plans in the City's General Plan. Taking action inconsistent with these components or altering these components or the spirit of Program 7.1.1 could trigger an amendment to the housing element or a review of impacts on the City's compliance status. Please see below for additional discussion.
- *Analytical Models:* As part of Program 7.1.1 and using analytical models to account for site's likelihood of development in the planning period, the City should continue to explore additional and multiple methods and make adjustments as appropriate.
- *Exceeding the RHNA:* As part of Program 7.1.1 and reducing the need and size of any subsequent rezoning and as noted in HCD's prior reviews, the City should adopt the most aggressive rezoning strategies to ensure that adequate sites are

available throughout the planning period, especially for lower- and moderate-income households. Also, where appropriate, HCD urges the City to continue using conservative assumptions (e.g., unit size, economic factors) that facilitate the highest housing outcomes.

- *Not Adding Governmental Constraints:* If changes are proposed to any additional rules, regulations, restrictions, land use controls, procedures or other related matters, HCD cautions the City to carefully consider whether to make any changes and ensure that governmental constraints do not reduce financial feasibility or unduly impact housing supply, cost or approval certainty.
- *Development and Design Standards and the Local Program:* As part of the remaining process, HCD encourages the City to continue evaluating development and design standards as potential constraints and, in particular, engage the housing development community and make adjustments to remove or mitigate governmental constraints. As part of this engagement, the City should also engage the housing development community to evaluate the potential effectiveness of the Local Program and make adjustments, as appropriate.
- *Housing Sustainability Districts (HSD):* HCD understands that HSD's are optional and are not required on identified sites to accommodate the RHNA or sites identified in prior planning periods. As noted in HCD's prior review, please note that HSDs or other similar ordinances do not substitute the City's obligation to complete its rezone program and should not be required on sites in the Package that are intended to accommodate the RHNA.
- *Rezoning Deadlines:* The City must complete rezoning to accommodate the RHNA and make prior identified sites available by January 31, 2026. HCD encourages the City to continue diligent efforts to meet this deadline. Missing the deadline will result in HCD review of the City's compliance status. Upon completion of all necessary rezoning, a copy of the resolution, ordinances and all related documents should be transmitted to HCD. HCD will review the documentation for compliance with statutory requirements, including program objectives and commitments.

For your information, implementation of the housing element, including public participation and the local decision-making process, is integral to achieving the goals and objectives of the housing element and addressing the housing need of all segments of the population. Maintaining the spirit, integrity, or specifics of the housing element that was found in substantial compliance by HCD is also of the utmost importance. Any changes to the way in which housing element programs are implemented should be carefully evaluated for potential impacts on HCD's finding of substantial compliance. For example, changes could negatively impact HCD's finding of substantial compliance and therefore could require a compliance review or an amendment to the housing element that is subject to HCD review.

Changes to program implementation that may impact HCD's finding of substantial compliance or trigger an amendment to the housing element include but are not limited to introducing potential constraints on development, omitting or altering the specifics in

the housing element program, or switching provisions with new provisions that are inconsistent with the integrity or specifics of the housing element program. Examples include adding labor provisions, removing and replacing sites, reducing capacity, affordability requirements, removing sites from Well Resourced Neighborhoods, introducing constraining development standards and adding permit procedures, such that the changes have the effect of, among other issues, reducing housing supply, increasing housing costs, failing to AFFH, or decreasing the ability to promote approval certainty or achieving maximum densities.

Additionally, the City must continue timely and effective implementation of all programs, including but not limited to Programs related to (1) addressing and removing constraints to housing development, (2) expanding housing choices, rezoning and making available adequate sites to accommodate the RHNA, (3) fostering equitable communities and AFFH, (4) preventing and eliminating homelessness, (5) serving special needs groups and (6) stabilizing tenants and rental housing. For example, Program 8.1.5 (Evaluation of RHNA Progress) requires additional rezoning and constraints reductions among several other actions if a specified number of building permits are not issued by January 31, 2027. HCD encourages the City to implement programs in a manner that considers this trigger and the critical nature of California's housing needs. HCD will be closely monitoring the City's housing element implementation efforts throughout the planning period including key milestones, deadlines, and annually for compliance with State Housing Element Law.

The City must monitor and report on the results of all programs through the annual progress report, required pursuant to Government Code section 65400. Please be aware, Government Code section 65585, subdivision (i), grants HCD authority to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or Housing Element Law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local government's actions do not comply with state law.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criterion. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Affordable Housing and Sustainable Communities program, 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 and timely implementation, the City continues to meet housing element requirements for these and other funding sources.

HCD recognizes the challenges and opportunities to implement the housing element and applauds the efforts of the City in addressing the housing needs of all segments of the community. HCD looks forward to following the City's progress in implementation and appreciates the opportunity to assist the City in its decision-making. If you have any questions or need additional assistance, please contact me at paul.mcdougall@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager