



# City of Palo Alto

## City Council Staff Report

(ID # 5191)

---

**Report Type: Action Items**

**Meeting Date: 11/10/2014**

**Summary Title: Council Adoption of HE**

**Title: PUBLIC HEARING: Resolution Adopting the 2015-2023 Housing Element of the Comprehensive Plan and Associated Mitigated Negative Declaration and Mitigation Monitoring Program**

**From: City Manager**

**Lead Department: Planning and Community Environment**

### **Recommendation**

Staff recommends that the City Council approve a Resolution (Attachment A) to adopt: 1) the Mitigated Negative Declaration, 2) the Mitigation Monitoring and Reporting Program, and 3) the Revised 2015-2023 Housing Element Update Public Review Draft as the Housing Element of the City's Comprehensive Plan.

### **Executive Summary**

Every local jurisdiction in California is required to maintain the housing element of its general plan in keeping with State housing laws. According to those laws, Palo Alto and other Bay Area jurisdictions must complete the update of their housing elements for the planning period 2015-2023 and gain State "certification" before the end of January 2015. The City has been working on its Housing Element update since early 2014, and need to make very few adjustments to its existing Housing Element, which was adopted quite recently -- in August 2013.

Nonetheless, the City has held public meetings at the City Council, the Planning & Transportation Commission (PTC), the City Council's Regional Housing Mandate Committee, and a Community Panel, as well as public workshops. There have also been considerable staff and consultant efforts, an on-line questionnaire, consultation with staff of the State Department of Housing and Community Development (HCD), and correspondence with the housing advocates who monitor the City's progress in meeting State requirements.

The City Council provided their direction regarding housing sites to be included in the Housing Element Update on June 2, 2014 meeting, and elected to include only sites that were consistent with existing zoning (i.e. no zoning changes would be required). The Council also directed staff to include a program in the Housing Element committing the City to examine eliminating some sites in South Palo Alto and substituting other, more transit accessible sites after State

certification. Based on this direction, staff submitted an Administrative Draft to HCD for their initial consultation on July 7, 2014.

Following a series of conference calls between staff of HCD and the City's staff/consultant to discuss necessary revisions to the draft Housing Element, HCD provided a September 5, 2014, letter to the City stating that the draft Housing Element, with revisions, is in statutory compliance with Housing Element law. A summary of the HCD discussions are noted later in this report and HCD's letter is provided as Attachment B.

The Administrative Draft was revised to reflect the necessary revisions discussed with staff of HCD, as well as programs and text changes recommended by the Community Panel and supported by the Regional Housing Mandate Committee and the PTC over the course of the summer. The resulting Public Hearing draft was distributed to the Council, posted on the City's website, and disseminated to interested parties on September 19, 2014.

The Housing Community Panel (October 30, 2014), the Planning and Transportation Commission (October 1, 2014) and the Regional Housing Mandate Committee (October 9, 2014) have recommended that the City Council adopt the Public Hearing Draft with several revisions as noted in the proposed resolution. Council adoption of the Public Hearing draft would be the final step in the update process for its 2015-2023 Housing Element and would put the City on schedule to meet the statutory deadline for State certification at the end of January 2015. If adopted, staff will submit the Draft to HCD for their certification at the end of November. The Public Hearing draft can be viewed online at: <http://www.cityofpaloalto.org/civicax/filebank/documents/43978>.

## **Background**

The City of Palo Alto is required to update its Housing Element per State Housing Element Law. The State deadline to complete the update process, which concludes with HCD certification, is January 31, 2015. (There is a 120 day grace period however if certain requirements are met.) If the deadline for certification is not met, there are significant penalties including loss of eligibility for transportation funding and having to have a certified housing element every four years. The greatest penalty for not complying with the law is the risk of legal challenge, with its associated costs (i.e. mandatory attorney's fees) and potential loss of local control over land use matters if the court were to assume jurisdiction, as provided for in the statute. Finally, if the City fails to adopt a housing element in this cycle, the units assigned for this cycle will be carried forward to the following cycle further increasing the City's fair share.

As stated, California State Housing Element law requires each city and county to update its housing element every eight years to ensure that all localities provide adequate development sites for sufficient new housing to be built to meet their fair share of the regional housing need. As part of the Regional Housing Needs Allocation (RHNA) process overseen by the Association of Bay Area Governments (ABAG), the City of Palo Alto was assigned a quantified goal of 1,988 units, which represents the City's "fair share" of projected housing need for the 2015-2023

planning period, distributed among the following income groups: very low (345 units), low (346 units), moderate (278 units) and above moderate (587 units) income categories.

Housing Element law is the State's primary strategy to increase housing supply, choice and affordability. The housing element identifies the existing and projected housing needs of all economic segments of the community, including the homeless and persons with disabilities, and promotes a variety of housing types, including multifamily rental units, transitional and other types of supportive housing. The housing element also defines the policies and programs that the community will implement to achieve its housing goals and objectives developed to address its housing needs.

It is important to note that Housing Element law only requires the City to provide residential zoning opportunities to accommodate its RHNA allocation. It does not require the City to approve or construct such housing. If the City fails to identify or make available adequate sites to accommodate its RHNA assignment, the City may be required to carry those units over into the next planning cycle, thus increasing the number of sites required to be identified in the future.

On June 2, 2014, the City Council authorized staff to submit the Draft 2015-2023 Housing Element to HCD for review, and the document was submitted to HCD on July 7, 2014. Based on Council direction, the Administrative Draft Housing Element made use of sites from the current housing element (where they were still available), existing units and second units (to the extent permitted by the law), and other housing sites necessary to accommodate the City's RHNA (i.e. identification of 1,988 units on potential housing sites and a surplus of about 199 units) *without requiring rezoning of any property within the City.*

The sites selected are concentrated in the Downtown, the California Avenue area, El Camino Real corridor and the San Antonio Ave. corridor, and the Council directed staff to explore trading out the San Antonio and El Camino Real sites for additional sites and densities in Downtown and the Cal Ave area during the Comprehensive Plan Update process (i.e. after Housing Element certification).

The State law requires community input as part of the housing element update process and a Housing Element Community Panel (Panel) was formed with representatives from the Palo Alto Unified School District, neighborhood groups, both affordable and market rate housing developers, and interested residents. This group met on a monthly basis at meetings that were open to the general public. In addition, two advertised Housing Affordability workshops, as part of the Our Palo Alto process, were held on April 28 and April 30 at different times and areas in the City, and an online questionnaire was prepared to solicit responses from residents on a number of land use topics including housing affordability, jobs/housing issues, and possible siting of future housing sites. Over 420 persons participated in the questionnaire. A Housing Element website was also created so that the public could access a number of Housing Element documents and resources. All Community Panel meetings were open to the public and the

public was given the opportunity to speak at each meeting.

The City is eligible for HCD's streamlined review process. Through the streamlined process, HCD will only review proposed revisions between the current Housing Element and the Public Hearing draft instead of reviewing the entire submitted draft. In addition, the streamlined draft process provides HCD a maximum of 60 days to certify the draft. Without the streamlined process, HCD is allowed 90 days to review and certify a housing element.

## **Discussion**

### HCD Negotiation and September 5, 2104 HCD Correspondence

Staff talked to HCD staff a number of times during their review process, and each time learned what HCD's concerns were with the Administrative Draft, and discussed ways they could be addressed via changes to the text of the draft and proposed addition of housing programs. Some of the concerns related to the absence of a lot consolidation program and the need to revise emergency shelter, transitional housing and supportive housing requirements to meet State requirements. HCD also noted that many of the City's housing sites were on small sites and many were already developed with commercial uses.

Many of the HCD comments were based on public comments on the City's draft that were received by HCD during the HCD review period. HCD received six letters from the public. Those letters and the City's responses are included as Attachment C. Public comments about the City draft included:

- The City's Planned Community zone district "timeout" is a constraint to housing development.
- There is a lack of "commitment" in program language
- Concern about the reliance on small sites for affordable housing development

Based on HCD's concerns, staff proposed additional text recognizing that the PC zone was an important tool in the development of affordable housing. Staff also modified the language of many proposed programs with "adopt as appropriate" type language to strengthen the commitment language in the programs.

On September 5, 2014, the City received a letter from HCD stating that the City's draft, with the proposed changes, is in compliance with State housing law. A key component of the compliance was the proposed revision to Program 2.1.9 in which the City committed to amend the zoning code to provide lot consolidation incentives for 100% affordable housing developments. By including this program, staff addressed HCD's concern about development potential of small lots. A copy of the HCD letter has been included as Attachment B.

### Public Hearing Draft

The Public Hearing draft includes all the recommended programs and text changes since the submittal of the July 7 Administrative draft. Any new changes are highlighted in blue in the

Public Hearing draft. Most of the changes are text being added to the draft. Deleted text is represented with a ~~striketrough~~. Some of the additional programs added after the release of the July 7 Administrative draft include:

<b>New Program (Page #)</b>	<b>Program Summary</b>
Program 2.1.11 (133)	Consider implementing the Pedestrian and Transit Oriented Development overlay for University Ave.
Program 2.1.12 (133)	Evaluate developing specific or precise plans for Downtown, California Ave. and El Camino Real areas
Program 2.2.6 (135)	For extremely small parcels zoned for mixed use, consider exclusive residential through the transfer of zoning requirements between adjacent parcels to create horizontal mixed used project.
Program 2.2.8 (135)	Assess potential of removing maximum residential densities in mixed use zoning to encourage the creation of smaller units within the allowable Floor Area Ratio
Program 3.3.7 (143)	Prepare a local parking demand database to determine different parking standards for different housing uses.

These changes include text and program revisions in response to the HCD comments, and two minor adjustments to the sites inventory (eliminating four units on one site and adding three to another).

#### September 10 and October 1 Planning and Transportation Commission

At the September 10, 2014 meeting, the PTC reviewed a summary of proposed programs and text changes as recommended by the Community Panel and RHMC, as well as feedback from HCD. Some of the PTC comments included:

- For Program 2.2.6 (horizontal mixed use), a ground floor retail requirement should be considered.
- For Program 2.1.9 (lot consolidation incentives for affordable housing), identify possible incentives for lot consolidation.

Individual commissioners also offered suggestions about protecting R-1 neighborhoods from impacts of adjacent multi-family development, and suggested the City explore the idea of putting a limit on the size of new dwelling units.

The meeting was continued to October 1, 2014 for the PTC's final recommendation, and on that date, the PTC recommended approval with no revisions to the Public Hearing Draft.

#### October 9, 2014 Regional Housing Mandate Committee

The RHMC met on October 9, 2014 to review the Public Hearing Draft. The RHMC recommended some minor revisions to the draft. The following summarizes the revisions recommended by the RHMC, which are reflected in the attached resolution.

1. Program 2.1.3 (Page 131 of Public Hearing Draft) has been revised to state “Amend the zoning code to specify the minimum density of eight dwelling units per acre in all RM-15 districts. Consider amending the zoning code to specify minimum density for other multifamily zoning districts”
2. Remove the phrase “setback modifications” from Program H2.1.9 (Page 133).
3. Add a sentence stating “There is a concern that the commercial developers are not paying an equitable share of funds for housing (see Program 3.1.6).” after the last sentence in the first paragraph on page 78 under the heading “Local Funds,” in Chapter 3 of the Public Hearing draft.

With the revisions, the Regional Housing Mandate Committee recommended to the City Council adoption of the Public Hearing Draft of the 2015-2023 Housing Element, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

#### October 30 Housing Community Panel

The Housing Community Panel met on October 30, 2014 to make their Housing Element recommendation. The Panel recommended that the City Council adopt the Public Hearing Draft of the 2015-2023 Housing Element without the proposed RHMC revisions by a vote of 10-2. The two dissenters supported recommending approval of the Public Hearing Draft with the RHMC revisions.

#### **Environmental Review**

An initial study and Mitigated Negative Declaration have been prepared for the Draft 2015-2023 Housing Element (Attachment D) and the 30 day public review period began on August 29, 2014. A Mitigation Monitoring and Reporting Program has also been prepared (Attachment E). Based on the findings of the Initial Study, mitigation measures were included to require site-specific review for traffic and hazardous materials related impacts when specific housing development projects are proposed. All of the sites identified for housing are already zoned for residential use and are located in infill areas. The review period ended on September 30, 2014. Some comments were received from CalTrans and the California Public Utilities Commission after the September 30<sup>th</sup> date. Their comments are included as Attachment F.

#### **Timeline**

With the favorable review of the September 5, 2014 HCD letter, the City can move ahead with adopting the Public Hearing draft without any additional significant revisions. As mentioned, the Community Panel, Planning and Transportation Commission and Regional Housing Mandate Committee have all made their recommendations for the Council to adopt the Public Hearing draft. If adopted, staff will make the recommended changes and submit a final revised version to HCD for their final review. By law, HCD has a maximum of 60 days to review and certify the submitted element.

## **Resource Impact**

Substantial staff time has been involved in updating the Housing Element for the 2015-2023 period, along with a contract of approximately \$57,000 with MIG Consultants. Additional staff resources will be required to implement Housing Element programs and to provide annual updates to HCD in accordance with State requirements.

## **Policy Implications**

Housing Element updates are State mandated. Cities and counties which do not meet the statutory deadline for the housing element update will be faced with the requirement to update their housing elements more frequently. Also, without compliant housing elements, jurisdictions may be faced with costly legal challenges pursuant to housing element law and/or fair housing law. Based on a legal challenge, a court may restrict local jurisdictions from issuing building permits and may assume jurisdiction over zoning and land use decisions necessary to bring the jurisdictions into compliance with the law. Also, if the City fails to identify or make available adequate sites to accommodate its RHNA assignment within a given planning cycle, the City may be required to carry those units over into the next planning cycle, thus increasing the number of sites to be identified in the upcoming cycle.

### **Attachments:**

- Attachment A: Resolution to Adopt 2015-2023 Housing Element (PDF)
- Attachment B: HCD Palo Alto review letter September 5, 2014 (PDF)
- Attachment C: Housing Element Public Comments and City Responses (PDF)
- Attachment D: Initial Study/Mitigated Negative Declaration - Palo Alto Housing Element, August 29, 2014 (PDF)
- Attachment E: Mitigation Monitoring and Reporting Program (DOCX)
- Attachment F: CEQA Comments Received from State Agencies (PDF)
- Attachment G: Public Comment (PDF)

Not Yet Approved

Resolution No \_\_\_\_\_

Resolution of the Council of the City of Palo Alto Adopting the Revised  
2015-2023 Housing Element of the Comprehensive Plan and  
Associated Mitigated Negative Declaration and Mitigation Monitoring  
and Reporting Program

RECITALS

A. The City of Palo Alto is required to update its Housing Element per State Housing Element law every eight years to ensure adequate development sites for sufficient new housing be built to meet the fair share of the Regional Housing Needs Allocation (RHNA).

B. Palo Alto was assigned a quantified goal of 1,988 units, which represents the City's "fair share" of projected housing need for the 2014-2022 RHNA planning period.

C. The Housing Element identifies the existing and projected housing needs for all economic segments of the community, including the homeless and persons with disabilities.

D. The Housing Element defines the policies and programs that the community will implement to achieve its housing goals and objectives developed to address its housing needs.

E. On June 2, 2014, the City Council authorized staff to submit the Administrative Draft 2015-2023 Housing Element to the Department of Housing and Community Development (HCD) for review, electing to carry forward sites from the existing Housing Element, use existing units and second units to the extent allowable, and include additional sites that are consistent with existing zoning.

F. On July 7, 2014, the City submitted its Administrative Draft of the 2015-2023 Housing Element to HCD.

G. In addition to housing sites, the Administrative Draft Housing Element included policies and programs to encourage the production of housing.

H. City staff conducted a series of conversations with staff of HCD to understand their concerns and propose additional text and program modifications to address those concerns.

I. On September 5, 2014, the HCD issued a finding that the Draft of the 2015-2023 Housing Element, with the proposed revisions, would comply with State Housing Element Law when adopted by the Council.

J. On September 18, 2014 City staff prepared and disseminated a revised Public Hearing Draft of the Housing Element, containing the revisions discussed with staff of



## Not Yet Approved

HCD as well as some additional text and programs developed by the Housing Community Panel and reviewed and accepted by the Regional Housing Mandate Committee.

K. On October 1, 2014, the Planning and Transportation Commission conducted a hearing on the 2015-2023 Housing Element and recommended that the City Council adopt the Housing Element.

L. On October 9, 2014, the Regional Housing Mandate Committee conducted a hearing on the 2015-2023 Housing Element and recommended that the City Council adopt the Housing Element with the three changes specified in Section 1 below.

M. On October 30, 2014, the Housing Community Panel recommended that the City Council adopt the Public Hearing Draft as published.

N. On November 10, 2014, the City Council reviewed the Mitigated Negative Declaration and associated Mitigation Monitoring Plan and conducted a public hearing on the 2015-2023 Housing Element.

O. The Council desires to adopt the revised 2015-2023 Housing Element of the Comprehensive Plan to comply with State Housing Element law.

The Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. The Public Hearing Draft of the 2015-2023 City of Palo Alto Housing Element dated September 18, 2014, is hereby adopted and incorporated into the Palo Alto Comprehensive Plan, subject to the following modifications recommended by the Regional Housing Mandate Committee:

1. Program 2.1.3 (Page 131 of Public Hearing Draft) is revised to state “Amend the zoning code to specify the minimum density of eight dwelling units per acre in all RM-15 districts. Consider amending the zoning code to specify minimum density for other multifamily zoning districts”
2. The phrase “setback modifications” is removed from Program H2.1.9 (Page 133).
3. A sentence is added after the last sentence in the first paragraph on page 78 under the heading “Local Funds,” in Chapter 3 of the Public Hearing draft stating “There is a concern that the commercial developers are not paying an equitable share of funds for housing (see Program 3.1.6).”.

SECTION 2. City staff may perform minor, non-substantive edits to the 2015-2023 City of Palo Alto Housing Element without additional Council review.

Not Yet Approved

SECTION 3. This Element supersedes the adopted August 15, 2013 Housing Element.

SECTION 4. The City Council hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for this project in accordance with the California Environmental Quality Act.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Senior Asst. City Attorney

\_\_\_\_\_  
Director of Planning and  
Community Environment

**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



September 5, 2014

Ms. Hilary Gitelman  
Director of Planning and Community Environment  
City of Palo Alto  
250 Hamilton Avenue, 7<sup>th</sup> Floor  
Palo Alto, CA 94301

Dear Ms. Gitelman:

**RE: Review of the City of Palo Alto's 5<sup>th</sup> Cycle (2015-2023) Draft Housing Element**

Thank you for submitting the City of Palo Alto's draft housing element update received for review on July 9, 2014 and draft revisions received August 29, September 2, and September 4, 2014. Pursuant to Government Code Section 65585(b), the Department is reporting the results of its review. Our review was facilitated by telephone conversations with Mr. Tim Wong, Senior Planner, and Ms. Genevieve Sharrow, the City's consultant.

The draft element, with revisions, meets the statutory requirements of State housing element law. This finding was based on, among other reasons, the City's commitment to facilitate development of units affordable to lower-income households through program actions such as Program H-2.1.9 which commits the City to amend the zoning code to create incentives that encourage the consolidation of smaller lots and developments with 100 percent affordable units. The revised element will comply with State housing element law (Article 10.6 of the Government Code) when revisions are adopted and submitted to the Department, in accordance with Government Code Section 65585(g).

As part of the review, the Department considered comments from Public Advocates, Palo Alto residents, Public Interest Law Firm, and BIA Bay Area, pursuant to Government Code Section 65585(c). Some draft revisions to the element were received by the Department late in the review period without time for sufficient public review. As a result, the Department will consider any comments on these revisions as a part of the next housing element submittal.

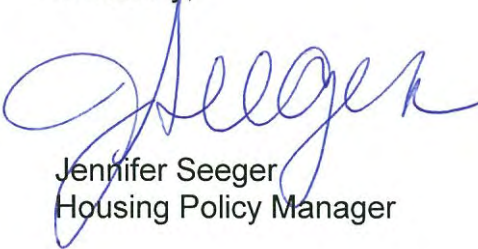
Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

Please note, the element includes several program actions where the City indicates it will explore, consider or assess implementation of programs and "adopted as appropriate". Successful implementation of these and other programs early in the planning period is critical to the success of the City's housing strategies to meet its regional housing need allocation, partially for lower income households. The City must monitor and report on the results of this and other programs through the annual progress report, required pursuant to Government Code Section 65400.

Pursuant to GC Section 65863, local governments must ensure the inventory of sites accommodate the regional housing need throughout the planning period of the element. In addition, no local government action shall reduce, require or permit the reduction of the residential density for any parcel, or allow development of any parcel, at a lower residential density than identified in the site inventory or program unless the local government makes written findings. For example, findings must demonstrate the reduction is consistent with the adopted general plan, including the draft housing element and the remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need.

The Department appreciates the hard work and dedication of Mr. Wong and Ms. Sharrow, in preparation of the housing element and looks forward to receiving Palo Alto's adopted housing element. If you have any questions or need additional technical assistance, please contact James Johnson, of our staff, at (916) 263-7426.

Sincerely,



Jennifer Seeger  
Housing Policy Manager

cc: Sam Tepperman-Gelfant, Public Advocates  
Edie Keating, Palo Alto Resident  
Nadia Aziz, Public Interest Law Firm  
Peter Campos, BIA Bay Area



## Board of Governors

**Joan Harrington, Chair**  
Santa Clara University  
School of Law

**Fred W. Alvarez**  
Jones Day

**Denelle M. Dixon-Thayer**  
Mozilla Corporation

**Martin R. Glick**  
Arnold & Porter LLP

**Bruce Ives**  
Hewlett-Packard Company

**Dolores Jimenez**  
Kaiser Permanente

**Leo P. Martinez**  
UC Hastings College of the Law

**Jahan Sagafi**  
Outten & Golden LLP

**Rohit K. Singla**  
Munger, Tolles & Olson LLP

**Abdi Soltani**  
ACLU of Northern California

## Staff

**Guillermo Mayer**  
President & CEO

**John T. Affeldt**  
**Richard A. Marcantonio**  
Managing Attorneys

**Liz Guillen**  
Director of Legislative  
& Community Affairs

**Deborah Harris**  
Director of Development

**Wynn Hauser**  
Director of Communication

**Sumi Paik**  
Director of Finance &  
Administration

**Angelica K. Jongco**  
**Samuel Tepperman-Gelfant**  
Senior Staff Attorneys

**Marybelle Nzegwu**  
**David Zisser**  
Staff Attorneys

**Rigel S. Massaro**  
Policy & Legal Advocate

**Brandon Greene**  
**Hilary Hammell**  
Attorneys & Law Fellows

**Rebecca Durlin Smith**  
Development Manager

**April Dawn Hamilton**  
Office Assistant

**Patty Leal**  
Finance Manager

**Princess Masilungan**  
Legal Administrative Coordinator

**Jesse White**  
Communication & Development  
Coordinator

June 23, 2014

**James Keene**  
City Manager  
Palo Alto City Hall  
250 Hamilton Avenue  
Palo Alto, CA 94301

Dear Mr. Keene:

Palo Alto adopted its Housing Element for the 2007–2014 planning period on June 17, 2013, four years after the statutory deadline. That Housing Element committed the City to implement within one year of adoption two programs critical to meeting its affordable housing goals and satisfying legal requirements: Programs H2.1.10 and H2.2.7. More than a year after adoption, however, the City admits that implementation of these Programs has not been completed. We write on behalf of Urban Habitat, San Francisco Organizing Project/Peninsula Interfaith Action (SFOP/PIA), and others to request prompt implementation of these programs.

Program H2.2.7 committed the City to “Rezone property at 595 Maybell Avenue from the RM-15 and R-2 zone districts to the PC zone district to allow for development of 60 units of extremely low to low income senior affordable rental housing units and 15 market rate units.” In Table 2-58, the Housing Element deducts these 60 units (50 Very-Low Income and 10 Low Income) from the City’s unmet housing need on the basis that they were “entitled/in process.”

Program 2.1.10 committed the City to “Amend the Zoning Code to create zoning incentives that encourage the consolidation of smaller lots identified as Housing Inventory Sites, such as development review streamlining, reduction in required parking for smaller units, setback modifications, or graduated density when consolidated lots are over one-half acre.” We understand that the intent of these incentives was to reduce the cost of development and facilitate the development of affordable homes on larger, consolidated, parcels that would have been infeasible on small sites.

Both Programs were essential components of Palo Alto’s plan to identify sites with adequate zoning and sufficient size to feasibly accommodate

its affordable housing need as required by Government Code §§ 65583, 65583.2, and 65913.1. Sixty-nine percent of the development capacity identified in the Housing Element was on sites under one acre in size (1,161 out of 1,680 units), making rezoning of the larger Maybell site and consolidation of small sites into larger parcels essential to accommodating lower-income housing needs.

In reviewing the City's Housing Element for statutory compliance last year, the California Department of Housing and Community Development (HCD) specifically highlighted the importance of timely implementation of these programs. *See* Letter from HCD, dated March 29, 2013 (basing its conclusion that "[t]he revised draft element meets the statutory requirements" on "successful implementation of Programs H2.1.10, H2.2.2, H2.2.7 and H2.2.9.") (copy attached).

Program H2.2.7: The failure to implement this program by rezoning the Maybell site not only renders the Housing Element out of compliance, but also leaves the City with a deficit of sites on which to accommodate an additional unmet need for 50 extremely-low income units and 10 low income units. The City's decision not to implement this rezoning program evidently resulted from the rejection of Measure D on November 5, 2013. That referendum, however, did not purport to amend the City's Housing Element, and the City remains obligated to implement this Program. To accommodate fully its housing need for the planning period, the City must either rezone the Maybell site as this Program requires, or identify and rezone an alternative site to accommodate the extremely-low and low income units that were to have been built on the Maybell site. Gov. Code §§ 65863(a), 65913.1

Program 2.1.10: This Program, intended to generate more sites large enough to feasibly accommodate affordable housing development, was also critical to the legal adequacy of the Housing Element. Affordable housing development on sites smaller than one acre is generally infeasible. Challenges of scale, development constraints, and building code requirements make multi-family housing construction on small infill sites very difficult, and generate such high per-unit costs that affordable development is usually impossible. Because of this, state guidelines require that jurisdictions relying on small sites for affordable housing to affirmatively demonstrate that these sites are reasonably likely to result in affordable development within the planning period. *See* Gov. Code. 65583.2(c); HCD Requisite Analysis for Realistic Development Capacity of Sites *available at* [http://www.hcd.ca.gov/hpd/housing\\_element2/SIA\\_zoning.php](http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php). Policies or incentives to facilitate such development, such as lot consolidation, are generally needed. *Id.* The effectiveness of consolidation is illustrated by the ad hoc consolidation of sites in two places during this Housing Element period that are expected to result in 8 affordable units and 28 market rate units. Ad hoc consolidation, however, does not meet the requirements of the Housing Element Law or the commitments the City made in this Program in its General Plan.

As the planning period comes to an end, the City's failure to implement this Program amounts to a failure of the Housing Element to accommodate in full its lower-income housing need on sites feasible for development within the planning period. Gov. Code §§ 65583, 65913.1.

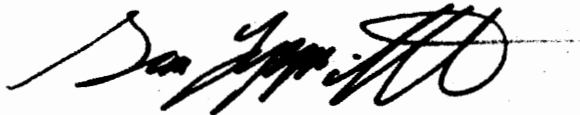
The implementation of Housing Element programs necessary to accommodate the need for affordable housing is a mandatory duty that the courts will enforce. *See Urban Habitat v. City of*

James Keene, City Manager  
June 23, 2014

Page 3 of 3

*Pleasanton.* Kindly respond no later than July 11, 2014, to inform us of your timetable, including a reasonable deadline for: (1) rezoning the Maybell site, or rezoning an alternative site to accommodate the affordable units attributed to that site in the Housing Element, and (2) taking all actions necessary to incentivize the consolidation of enough small sites to feasibly accommodate the unmet affordable housing need that is not already accommodated on large sites. We will assess the need for further action based on your response.

Sincerely yours,



Sam Tepperman-Gelfant  
Senior Staff Attorney, Public Advocates Inc.

Michael Rawson  
Director, Public Interest Law Project

Cc: Nancy Shepherd, Mayor  
Members of the City Council  
Molly S. Stump, City Attorney  
Hillary E. Gitelman, Director of Planning and Community Environment

Encl.: HCD Letter of March 29, 2013

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

1800 Third Street, Suite 430  
P. O. Box 952053  
Sacramento, CA 94252-2053  
(916) 323-3177 / FAX (916) 327-2643  
www.hcd.ca.gov



March 29, 2013

Mr. Curtis Williams  
Director of Planning and Community Development  
City of Palo Alto  
250 Hamilton Ave  
Palo Alto, CA 94303

Dear Mr. Williams:

**RE: City of Palo Alto's 4<sup>th</sup> Cycle (2009-2014) Draft Housing Element Update**

Thank you for submitting the City of Palo Alto's revised draft housing element update received for review on February 2, 2013, along with additional revisions received on March 6, 14, 15, and 26, 2013. Pursuant to Government Code Section 65585(b), the Department is reporting the results of its review. Telephone conversations with Mr. Tim Wong, Housing Coordinator, and Ms. Maureen Brooks, the City's Consultant, facilitated the review. In addition, the Department considered comments from Public Advocates pursuant to Government Code Section 65585(c).

The revised draft element meets the statutory requirements described in the Department's October 18, 2012 review. This finding was based on, among other things, successful implementation of Programs H2.1.10, H2.2.2, H2.2.7 and H2.2.9, to encourage mixed use development on sites within the inventory, facilitate lot consolidation, and monitor the development of sites in the inventory. The City must monitor and report on the results of these and other programs through the annual progress report, required pursuant to Government Code Section 65400. The revised element will comply with State housing element law (Article 10.6 of the Government Code) when these revisions are adopted and submitted to the Department, pursuant to Government Code Section 65585(g).

The Department appreciates the hard work and dedication of Mr. Wong and Ms. Brooks, in preparation of the housing element and looks forward to receiving Palo Alto's adopted housing element. If you have any questions or need additional technical assistance, please contact Melinda Coy, of our staff, at (916) 445-5307.

Sincerely,

  
Glen A. Campora  
Assistant Deputy Director





OFFICE OF THE CITY MANAGER

CITY OF  
**PALO  
ALTO**

250 Hamilton Avenue, 7th Floor  
Palo Alto, CA 94301  
650.329.2392

June 30, 2014

Sam Tepperman-Gelfant  
Public Advocates, Inc.  
131 Steuart Street, Suite 300  
San Francisco, CA 94105-1241

Michael Rawson  
Public Interest Law Project  
131 Steuart Street, Suite 300  
San Francisco, CA 94105-1241

RE: Your Letter Regarding Palo Alto's Housing Element Implementation

Dear Mr. Tepperman-Gelfant and Mr. Rawson:

Thank you for your correspondence dated June 23, 2014 and your questions regarding implementation of the City's 2007-2014 Housing Element, which was adopted on June 17, 2013 and certified by the Department of Housing and Community Development (HCD) on August 15, 2013.

The City has been diligent in implementing its Housing Element programs since it received HCD's certification and has approved 312 housing units (including 5 affordable units) since that date.

Housing element programs that we have implemented include approval of zoning ordinance amendments to:

1. Adopt a density bonus ordinance (Program H3.1.10),
2. Increase the density of Commercial Neighborhood (CN) zoned sites identified in the Housing Element from 15 units per acre to 20 units per acre (Program H2.2.5).
3. Amend the ROLM(E) zoning district to allow emergency shelters by right (Program H3.5.1),
4. Allow transitional and supportive housing to be treated as multifamily permitted use (Program H3.3.8) and;
5. Establish a City-wide reasonable accommodation procedure (Program H4.1.6).



CityOfPaloAlto.org

The City Council also approved rezoning of the Maybell site for low income senior housing (Program 2.2.7) in June of 2013, but this rezoning was reversed with the defeat of Measure D by City voters in November 2013. Note that the Maybell site is currently zoned for housing and remains on the City's housing inventory, but at a lower density than contemplated by Program 2.2.7.

Your letter suggests that the City has failed to implement its Housing Element program to rezone the Maybell site, and that it "leaves the City with a deficit of sites..." citing both Government Code Section 65863(a) and 65913.1. You have also cited these sections with regard to the City's failure thus far to complete the implementation of Program 2.1.10, which will amend the zoning ordinance to create incentives for small lot consolidation. We respectfully disagree and believe that the City's current Housing Element retains an inventory of sites sufficient to accommodate its regional housing needs allocation for the 2007-2014 planning period. Indeed, with the City's recent implementation of Program H-2.2.5, the City has a large surplus of residentially zoned sites on its housing inventory appropriate for lower income housing.

At time of HCD certification, the City had designated sufficient sites with allowable densities of > 20 du/acre to accommodate a total of 1,109 units. After subtracting out approved or built affordable units which included the 60 Maybell units, the City's total remaining need for low and very-low income units was 982 units. Even with including the 60 affordable Maybell units to the remaining need total, the City still has sufficient sites to accommodate its lower income unit requirements. The January 2014 increase in densities for CN zoned sites from 15 units to 20 units per acre means these sites are deemed appropriate to accommodate an additional 532 lower income households per CGC Section 65583.2(c)(3)(B).

In its 2013 Housing Element Annual Progress Report to HCD, the City reported about the results of the Maybell referendum. For reference, the HCD report has been attached.

As you note, the City has yet to complete the zoning ordinance amendment needed to incentivize lot consolidations. However, we believe the strong real estate market in Palo Alto is already providing the necessary incentives for developers to pursue lot consolidation opportunities. In the past 2 years, the City has approved three mixed use project that include lot consolidations, and there is a fourth that was recently recommended for approval by the Planning and Transportation Commission. The projects ranged from consolidation of 2-6 lots involving parcels as small as 3,900 sq. ft., up to parcels as large as 0.77 acres, and will provide a total of 60 net units. Program 2.1.10 remains on the planning department's "to do" list, however there does not appear to be the urgency there was when it was included in the Housing Element, particularly given the staff resources we are currently devoting to updating the Housing Element for the period 2015-2023.

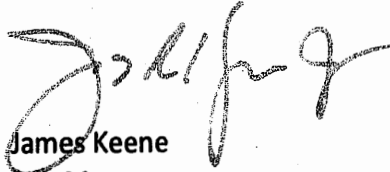


Since early this year, staff has been working with various housing stakeholders, the Planning and Transportation Commission, and the City Council to revise the Housing Element for submittal to HCD in compliance with the statutory deadline. As part of the update process, we are evaluating programs in the current Housing Element to determine if they should be retained, revised, or removed. We welcome any public comments or suggestions regarding this topic.

If you have any questions, please contact Tim Wong, Senior Planner. His phone number is 650-329-2561 or his email address is [tim.wong@cityofpaloalto.org](mailto:tim.wong@cityofpaloalto.org).

Thank you for your interest in the City of Palo Alto Housing Element.

Sincerely,



James Keene  
City Manager

Attachment

cc: City Council  
Hillary Gitelman, Dept. Director, P&CE  
Cara Silver, Senior Assistant City Attorney  
Tim Wong, Senior Planner, P&CE

## ANNUAL ELEMENT PROGRESS REPORT

### *Housing Element Implementation*

(CCR Title 25 §6202 )

Jurisdiction City of Palo Alto  
 Reporting Period Date: 01/01/13 - Date: 12/31/13

**Table A**  
**Annual Building Activity Report Summary - New Construction**  
**Very Low-, Low-, and Mixed-Income Multifamily Projects**

Housing Development Information						Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions		
1	2	3	4			5	5a	6	7	8
Project Name	Type	Units	Income Level			Total	Extremely Low	Total	Total	Total
			Very Low	Low	Moderate					
2080 Channing Ave	SF	O			10	10	10			
382 Curtner Ave	2-4	O			6	6	6			
2650 Birch St	5+	O			5	5	5			
4073 El Camino Real	2-4	O			2	2	2			
(9) Total of Moderate and Above Moderate from Table A3			▶	▶	5	1	6	6		
(10) Total by income Table A/A3			▶	▶	5	24	29	29		
(11) Total Extremely Low-Income Units*										

\* Note: These fields are voluntary

## ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation (CCR Title 25 §6202 )

Jurisdiction City of Palo Alto  
Reporting Period Date: 01/01/13 - Date: 12/31/13

**Table A2  
Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant to GC Section 65583.1(c)(1)**

Please note: Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Incomes				(4) The Description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1
	Extremely Low Income*	Very Low Income	Low Income	TOTAL UNITS	
(1) Rehabilitation Activity				0	
(2) Preservation of Units At-Risk				0	
(3) Acquisition of Units				0	
(5) Total Units by Income	0	0	0	0	

\* Note: This field is voluntary

**Table A3  
Annual building Activity Report Summary for Above Moderate-Income Units  
(not including those units reported on Table A)**

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Unit	Second	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for Moderate	0			5			5	
No. of Units Permitted for Above Moderate		1					1	

\* Note: This field is voluntary

(5 - 2nd du/s/Cottages, +1 du 2-4 Units (1 duplex replaced 1 sfr 739 Colorado 1 du net gain)

## ANNUAL ELEMENT PROGRESS REPORT

### *Housing Element Implementation*

(CCR Title 25 §6202 )

**Jurisdiction**            City of Palo Alto  
**Reporting Period**    Date: 01/01/13    -    Date: 12/31/13

**Table B**

### Regional Housing Needs Allocation Progress

#### Permitted Units Issued by Affordability

Enter Calendar Year starting with the first year of the RHNA allocation period. See Example.		2007	2008	2009	2010	2011	2012	2013			Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level	RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9		
Very Low	Deed Restricted	690	1	56		35	64	0	0		156	534
	Non-deed restricted							0	0			
Low	Deed Restricted	543	2				7	0	0		9	534
	Non-deed restricted							0	0			
Moderate	Deed Restricted	641	47	34	10			3	0		94	516
	Non-deed restricted*		4	4	6	5		7	5			
Above Moderate		986	238	271	131	6	7	96	24		773	213
Total RHNA by COG. Enter allocation number:		2,860										
Total Units ▶ ▶ ▶			292	365	147	46	78	106	29		1,063	1,797
Remaining Need for RHNA Period ▶ ▶ ▶ ▶ ▶												

Note: units serving extremely low-income households are included in the very low-income permitted units totals.

\* Cottages (2nd dwelling units) building permits issued from 2007-2012



**ANNUAL ELEMENT PROGRESS REPORT**  
***Housing Element Implementation***  
(CCR Title 25 §6202 )

Jurisdiction City of Palo Alto  
Reporting Period Date: 01/01/13 - Date: 12/31/13

**General Comments:**

All programs reported in Table C refer to the City's 2007-2014 Housing Element, certified August 15, 2013.



## Wong, Tim

---

**From:** Paul Campos <pcampos@biabayarea.org>  
**Sent:** Friday, August 01, 2014 4:04 PM  
**To:** Johnson, James@HCD  
**Cc:** Paul McDougall; Patricia Sausedo; Wong, Tim  
**Subject:** Palo Alto Housing Element Comments  
**Attachments:** Housing Element Letter FINAL.pdf

Dear Mr. Johnson,

The Building Industry Association of the Bay Area respectfully submits these comments on the Housing Element submitted for HCD review by the City of Palo Alto. BIA is a non-profit trade association that represents hundreds of companies and thousands of employees in the building, development, and construction industries throughout the Bay Area.

Initially, BIA notes that in November 2013, the Bay Area Business Coalition-- of which BIA is a member-- worked with HCD to develop a letter containing a number of key issues and questions geared toward Bay Area housing element updates for the current cycle. The letter was sent to all Bay Area cities and counties, including Palo Alto. I have attached a copy of the letter that was sent to all jurisdictions, and here is the link to the letter on HCD's web site:

[http://www.hcd.ca.gov/hpd/housing\\_element2/documents/bayarea\\_heupdate112613.pdf](http://www.hcd.ca.gov/hpd/housing_element2/documents/bayarea_heupdate112613.pdf).

We have not received a response from Palo Alto and while the housing element does address a couple of the issues raised, BIA would like to see the housing element respond completely and directly to each issue before it is certified.

In addition, BIA has the following specific comments that we feel are not adequately addressed in the submitted housing element.

- **Building Height Limitations:** The element specially acknowledges that height limitations are a governmental constraint, but does not identify an adequate program committing to mitigate or eliminate this important constraint. The element speaks at length to the scarcity of available land for new residential development in Palo Alto, and the massive job growth the city continues to experience, resulting in the current astronomical housing prices and rents. In this context it is imperative to remove the constraint of height limitations on the land that is devoted to new housing to the maximum possible extent. While the element references a preexisting program (adopted in 2009) that allows for building height exceptions for projects in the PTOD zoning area, there is no analysis of how many projects or units have been able to utilize this exception; nor is there discussion of the criteria the City uses to determine whether to grant an exception. BIA believes that a better and more effective approach is to modify the existing height limitations in all of the areas identified as RHNA sites. This will provide certainty to the city, the community, and the development community. Considering both construction cost and building code issues, BIA recommends the following height limitation categories:
  - 35'-40' for 3 stories
  - 65' for 5 over 1 story podium
  - 85' for 5 over 2 story podium
  - 120'
  - Above 120'

- For every 1' of retail clear height above 12', the building height should increase a commensurate 1' (e.g., if a developer proposes a 15' clear, then the building height can increase by 3')
- **Parking Requirements:** Again, the housing element forthrightly acknowledges that parking requirements are a governmental constraint. BIA believes that the certified housing element should include an implementation measure that commits to reducing parking ratios wherever a TDM plan is required and for transit corridors and where care sharing programs exist.
- **Planned Zoning Moratorium:** The City recently adopted a moratorium on new approvals using the Planned Zoning process. The City's Planned Zoning process is akin to Planned Development/PUD zoning processes in other cities. Here is a link to the staff report on the City's action: [<http://cityofpaloalto.org/civicax/filebank/documents/3880>]. The housing element should identify this moratorium as a potential constraint and a thorough discussion is needed to determine whether this will be a significant constraint on new housing development. For example, the draft element provides information on the overall number of housing units developed in prior planning periods. But it does not address how many of these projects and how many units were developed in projects using the Planned Zoning process vs. the "base" zoning designations. If the numbers are significant, the "time out" on future PZ projects would represent a severe constraint. Relatedly, the staff report for the PZ moratorium suggests that one of the issues to be modified in the revised PZ process is the level of "community benefits" that a project must provide in order to be approved as a PZ project. The housing element should be clear that the City will not attempt to extract "community benefits" or other exactions based on a City calculation of developer profitability/feasibility, or that otherwise would seek to evade the letter and spirit of the Mitigation Fee Act. Fees and exactions should only be considered and assessed in order to mitigate the the need for public facilities specifically caused by the new development.
- **Industrial Land Conversion Restrictions:** The draft indicates that the City intends to limit conversion of certain industrial land yet the housing element describes a city that is thriving with commercial activity and jobs and has a massive housing shortage. BIA has found that limitations on industrial land conversion in other cities have been significant constraints to housing development. The element should provide more detail about the locations of areas that are to be restricted, and the nature of the restrictions and what a project would have to show to be converted. Also, the certified element should contain a provision that if the RHNA sites identified in the element are not developed in a timely manner within the planning period, the industrial land conversion policy should be modified if the market find that land more suitable for housing than the sites the City has identified.
- **Housing Inventory Sites:** For its housing site inventory, the draft element relies heavily on a number of sites that are zoned for multifamily site capacity but have existing operating commercial uses on the site. The element relies on these sites for 386 (364 affordable) units . More historical and current development information should be provided on the existing commercial uses and analysis such that a determination can be made that it is likely that these uses will be terminated and these sites will be converted to housing within the next 8 year.
- **BMR Requirement:** There is an inadequate discussion of the City's inclusionary zoning requirement in the constraints section. The element should identify the actual cost per market rate unit that compliance with the ordinance entails. Palo Alto's BMR ordinance is one of the most burdensome and costly in the Bay Area and the compliance costs should be identified clearly in the housing element. This cost should be expressed both in terms of what the City demands as an in lieu fee for in kind units not built; and what the cost of providing the in kind units is when spread over the remaining market rate units using a standard development pro forma. The housing element should also contain a program committing to revise the BMR requirement so that it does not penalize larger and denser projects. Currently, larger (and likely higher density) projects are subject to a very high 20% BMR requirement. The element should commit to reducing the BMR requirement for projects that meet certain density thresholds and that are located in areas that the City (and region and state) are trying to incentivize such as the PTOD zoning area. The BMR ordinance should also allow payment of an in lieu fee "by right" at the developer's discretion rather than having to seek city approval.

- Park Fees: The City's park fee ordinance does not provide for credit for private park facilities provided as part of a project. The Quimby Act specifically contemplates such credits and Palo Alto is one of the few jurisdictions in the area that does not have a private park fee credit provision. The certified element should commit the City to adopt a credit provision.
- Affordable Housing Impact Fees: The element indicates that the City will be preparing a nexus study and considering adopting a new affordable housing impact fee on new market rate housing. The element should commit to ensuring that if any new fee is adopted, that a cumulative fee and exaction burden analysis be prepared and that if a fee is adopted it should replace the existing BMR program and result in an overall lessening of the regulatory burden imposed on new housing in Palo Alto.

Thank you for the opportunity to comment,

Paul Campos  
Sr. Vice President, Governmental Affairs  
General Counsel  
Building Industry Association of the Bay Area  
[pcampos@biabayarea.org](mailto:pcampos@biabayarea.org)  
925.951.6840 (Main Office)  
925.951.6844 (Office Direct)  
415.223.3775 (Mobile)

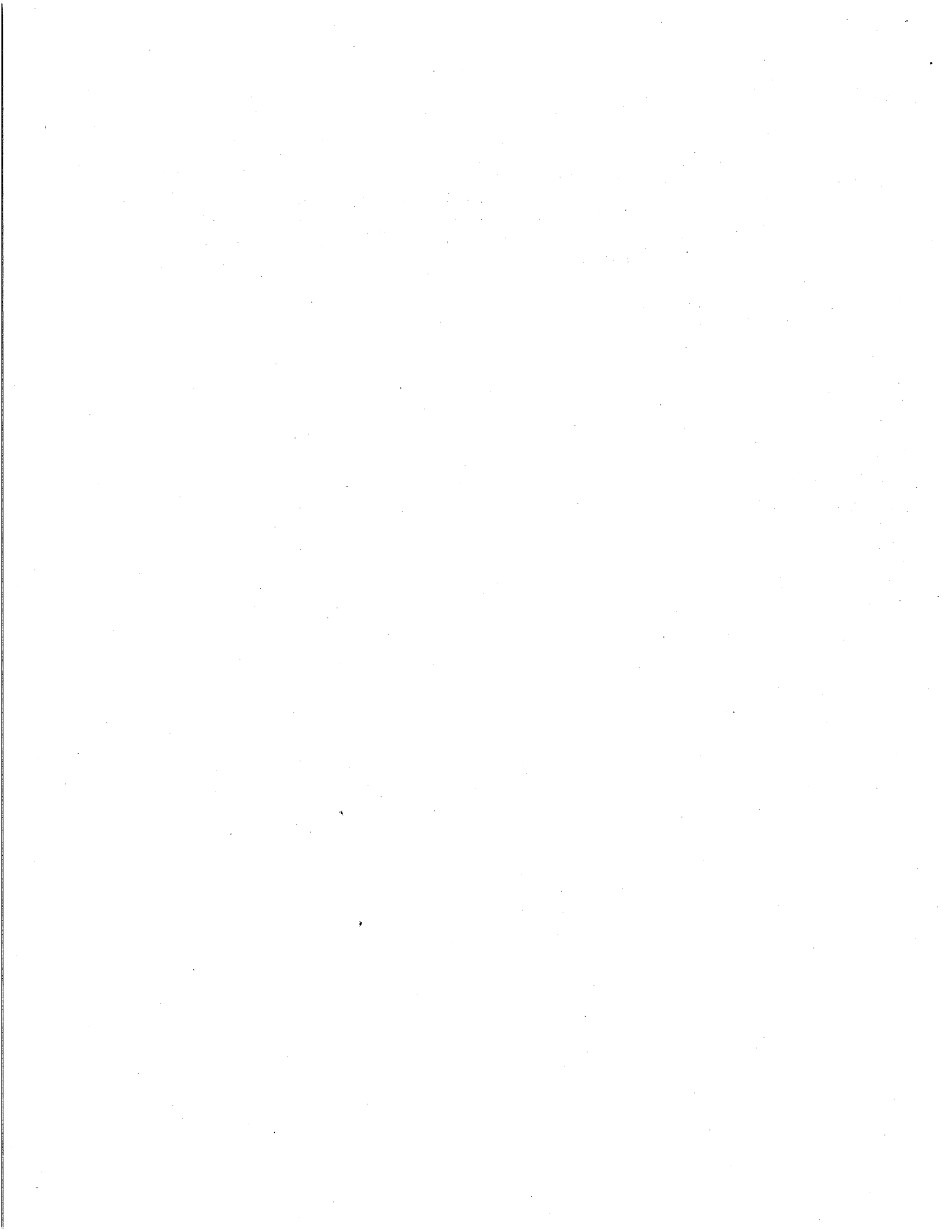
Contra Costa Centre Transit Village  
1350 Treat Blvd., Suite 140  
Walnut Creek, CA 94597

-----  
555 California Street, 10th Floor  
San Francisco, CA 94014



BUILDING INDUSTRY ASSOCIATION

\*\*\*\*\*





November 26, 2013

Housing/Planning Director  
Jurisdiction  
Via email



Re: Housing Element Update



The undersigned members of the Bay Area Business Coalition advocate for a vibrant regional economy and outstanding quality of life for existing and future residents of the San Francisco Bay Area. A necessary—though by no means sufficient—condition to achieve these goals is for the region to provide an adequate supply of housing within the region. State housing element law generally—and the governmental constraints component in particular—can be important tools to advance these goals. With Bay Area cities and counties currently updating their housing elements, our organizations respectfully request that your jurisdiction consider and address the following comments as part of the public review process.



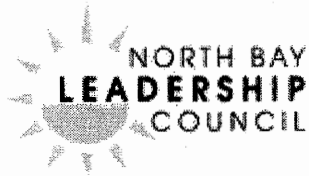
We recognize that the housing element process can be resource intensive and sometimes difficult. We hope that by identifying certain priority issues and questions, this letter will assist in focusing resources on policies and practices that are of significant and recurring interest to the regulated community. We also would support incorporating these standardized issues into the framework for local jurisdictions to be able to take advantage of the housing element certification streamlining developed by the California Department of Housing and Community Development (HCD).



**I. Overview of the statutory provisions.**



The California Department of Housing and Community Development (HCD) has prepared formal guidance interpreting the constraints analysis portion of housing element law ([http://www.hcd.ca.gov/hpd/housing\\_element2/CON\\_home.php](http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php)).



HCD's overview of the requirements and their purpose provides: *The element must identify and analyze potential and actual governmental constraints to the maintenance, improvement, or development of housing for all income levels, including housing for persons with disabilities. The analysis should identify the specific standards and processes and evaluate their impact, including cumulatively, on the supply and affordability of housing. The analysis should determine whether local regulatory standards pose an actual constraint and must also demonstrate local efforts*



to remove constraints that hinder a jurisdiction from meeting its housing needs.... The analysis of potential governmental constraints should describe past or current efforts to remove governmental constraints. Where the analyses identifies that constraints exist, the element should include program responses to mitigate the effects of the constraint. Each analysis should use specific objective data, quantified where possible. A determination should be made for each potential constraint as to whether it poses as an actual constraint. The analysis should identify the specific standards and processes and evaluate their impact, including cumulatively, on the supply and affordability of housing.

## **II. Requested specific areas of focus**

We have identified certain policies that generally represent significant potential constraints in the Bay Area and we request that as you conduct the constraints portion of your housing element review, these issues in particular be addressed:

- **Did your jurisdiction commit to addressing specific constraints as a condition of HCD certification of the existing housing element?** If so, what was the constraint and what has been done to address it?
- **Does your jurisdiction have a mandatory inclusionary zoning policy?** If so, has an analysis been done that measures the economic impact? Does it contain meaningful and regularly available incentives, and is its implementation flexible so that there are alternatives to a “like for like must build requirement” such as payment of reasonable in lieu fees, land dedication, or acquisition and rehabilitation of existing units with provision affordability covenants? Are such alternatives available at the developer’s option or with staff approval—but without need for Council or Board approval on a project-by-project basis?
- **Has your jurisdiction adopted a density bonus ordinance consistent with governing state law (Gov’t Code Section 65915)?** Does the density bonus ordinance count mandatory inclusionary zoning units toward the density bonus threshold as required by the recent court of appeal decision in *Latinos Unidos del Valle de Napa y Solano v. County of Napa*, 217 Cal. App. 4th 1160 (2013)?
- **What is the cumulative fee and exaction burden on new housing in your jurisdiction?** This analysis should include not only development fees that are “formally” reflected in published fee schedules, but also include exactions imposed via housing allocation program/ “beauty contests,” community benefits/amenities agreements, CFD annexation requirements, and the like. The analysis should also include fees imposed by other agencies, for example school fees, sewer and water fees, and fees imposed pursuant to an applicable regional Habitat Conservation Plan. The analysis should determine the % of the sales price of new housing in the jurisdiction is represented by the cumulative fee/exaction burden, as well as the % of costs for rental housing units represented by the cumulative fee/exaction burden.
- **Does your jurisdiction have any recently adopted, proposed, or under consideration new or increased fee or exaction, such as an affordable housing impact fee?**
- **Has your jurisdiction required new housing projects, including multifamily/attached projects, to pay a fee or special tax for ongoing general governmental services?**

- **Does your jurisdiction have a designated Priority Development Area (PDA)? Is it a “planned” or “potential” PDA?** Have the number of residential units and densities shown in the PDA application been incorporated into the General Plan? Has the CEQA process been completed for the PDA so that no additional CEQA review is necessary for a proposed project consistent with the PDA? Have development restrictions and processes been streamlined in the area covered by the PDA?
- **What were the sites relied on for the adequate sites compliance of the existing housing element?** What has been the entitlement/development activity for these sites during the prior planning period? Were any of the sites subject to “by right” development procedures?
- **Does your jurisdiction have any type of cap or limitation on the number or type of housing units that may be permitted or constructed jurisdiction wide or in specific areas of the jurisdiction—including a cap or limitation tied to a specified level of new job creation in the jurisdiction?**
- **Has your jurisdiction provided for “by right” housing development in any areas?**
- **Are there zoning or other development restrictions (such as voter approval requirements, density limits or building height restrictions) that have impeded infill and/or transit oriented development?**
- **Has your jurisdiction consistently demonstrated compliance with both the letter and spirit of the Permit Streamlining Act?**
- **What are your jurisdiction’s historic preservation policies and review procedures and have they had a significant impact on the permit and entitlement processes for new development projects?**
- **Has your jurisdiction adopted an ordinance pursuant to the Quimby Act that gives developers credit for private open space?**
- **In implementing the Quimby Act, does your jurisdiction provide for consistency between the calculation of the existing neighborhood and community park inventory, and the criteria and procedures for determining whether to accept land offered for parkland dedication or to give credit for private open space?** For example, has your jurisdiction refused to accept an area in whole or in partial satisfaction of the parkland dedication ordinance on the basis that it is unsuitable for park and recreational uses even though the area is substantially similar to areas included in the overall parkland inventory used to calculate the parkland dedication requirement and fee?
- **In the project review process, has your jurisdiction required developers to use the Bay Area Air Quality Management District’s CEQA Thresholds of Significance for Toxic Air Contaminants (TAC Receptor Thresholds)?** Has your jurisdiction explored alternative procedures for addressing project siting and air quality concerns, such as in the general plan or zoning code?

- **Has your jurisdiction adopted a Climate Adaptation Plan that is more stringent with respect to the per capita GHG reductions for the land use sector/transportation sector than the equivalent per capita targets established for the region by CARB pursuant to SB 375?**

Our organizations intend to monitor housing element updates throughout the region, and we respectfully request that your jurisdiction formally respond to these questions early in the update process. We also ask that you send a paper or electronic copy of the responses to:

BIA of the Bay Area  
Attn: Paul Campos  
101 Ygnacio Valley Road, Suite 210  
Walnut Creek, CA 94596  
[pcampos@biabayarea.org](mailto:pcampos@biabayarea.org)  
415-223-3775

Yours very truly,



John Coleman  
Bay Planning Coalition  
Council



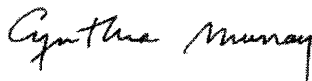
Paul Campos  
BIA Bay Area



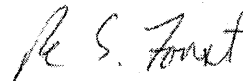
Tom Terrill  
East Bay Leadership



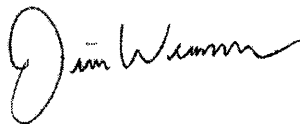
Gregory McConnell  
Jobs & Housing Coalition



Cynthia Murray  
North Bay Leadership Council



Rosanne Foust  
SAMCEDA



Jim Wunderman  
Bay Area Council



Joshua Howard  
California Apartment Association



## Wong, Tim

---

**From:** Wong, Tim  
**Sent:** Tuesday, August 26, 2014 12:09 PM  
**To:** Johnson, James@HCD  
**Cc:** Paul McDougall; Patricia Sausedo; 'Paul Campos'  
**Subject:** RE: Palo Alto Housing Element Comments  
**Attachments:** Response to BIA 08 26 14.pdf

Dear Mr. Johnson,

Thank you for the opportunity to respond to the electronic correspondence received by Mr. Campos of the Building Industry Association of the Bay Area, received August 1, 2014. Please find attached the City's responses. Please note that the attachment is a complete text copy of the email submitted by Mr. Campos with the City response to each item are in red.

If you have any questions, please feel free to contact me.

Sincerely,

Tim

Tim Wong  
Housing Coordinator  
City of Palo Alto

**From:** Paul Campos [mailto:pcampos@biabayarea.org]  
**Sent:** Friday, August 01, 2014 4:04 PM  
**To:** Johnson, James@HCD  
**Cc:** Paul McDougall; Patricia Sausedo; Wong, Tim  
**Subject:** Palo Alto Housing Element Comments

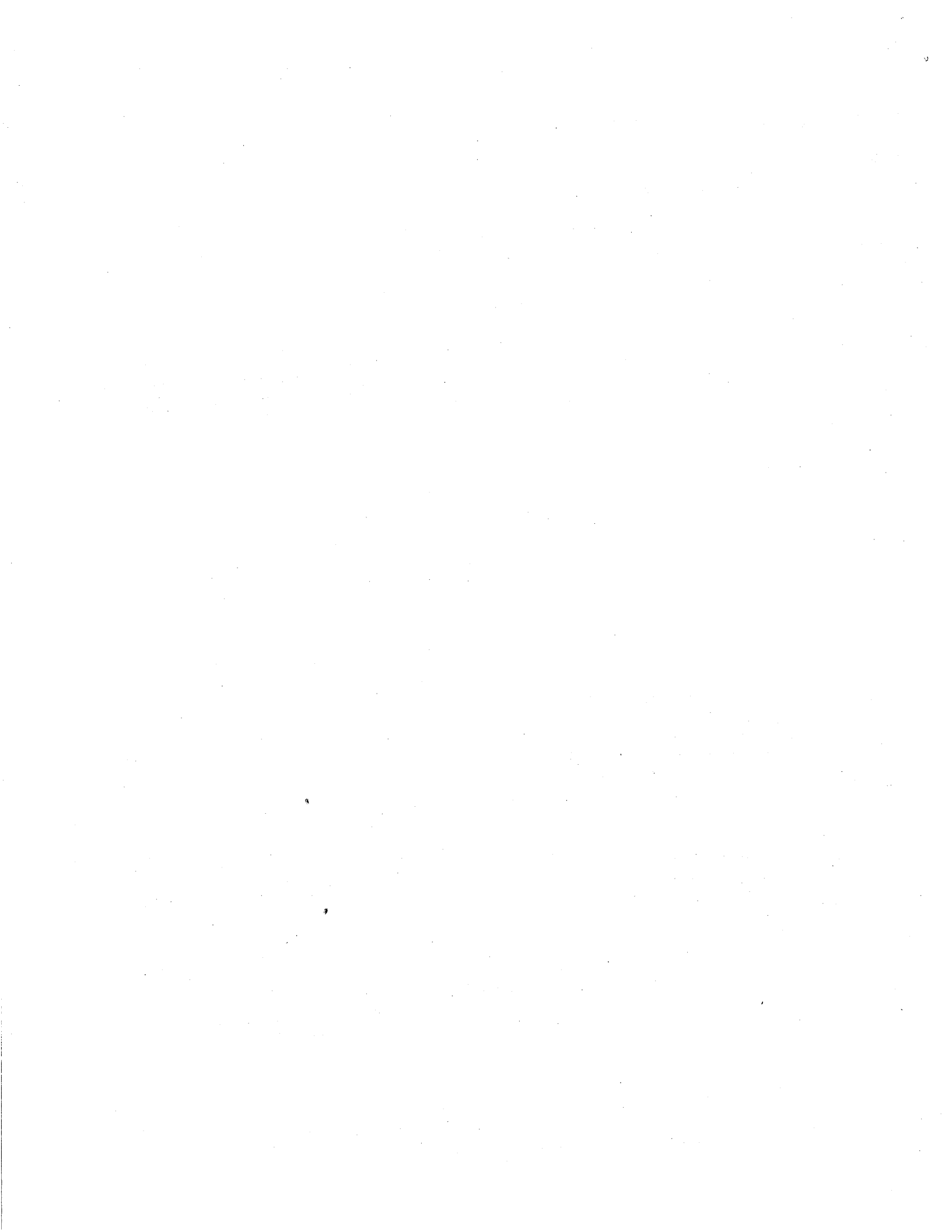
Dear Mr. Johnson,

The Building Industry Association of the Bay Area respectfully submits these comments on the Housing Element submitted for HCD review by the City of Palo Alto. BIA is a non-profit trade association that represents hundreds of companies and thousands of employees in the building, development, and construction industries throughout the Bay Area.

Initially, BIA notes that in November 2013, the Bay Area Business Coalition-- of which BIA is a member-- worked with HCD to develop a letter containing a number of key issues and questions geared toward Bay Area housing element updates for the current cycle. The letter was sent to all Bay Area cities and counties, including Palo Alto. I have attached a copy of the letter that was sent to all jurisdictions, and here is the link to the letter on HCD's web site:

[http://www.hcd.ca.gov/hpd/housing\\_element2/documents/bayarea\\_heupdate112613.pdf](http://www.hcd.ca.gov/hpd/housing_element2/documents/bayarea_heupdate112613.pdf).

We have not received a response from Palo Alto and while the housing element does address a couple of the issues raised, BIA would like to see the housing element respond completely and directly to each issue before it is certified.



Dear Mr. Johnson,

The Building Industry Association of the Bay Area respectfully submits these comments on the Housing Element submitted for HCD review by the City of Palo Alto. BIA is a non-profit trade association that represents hundreds of companies and thousands of employees in the building, development, and construction industries throughout the Bay Area.

Initially, BIA notes that in November 2013, the Bay Area Business Coalition-- of which BIA is a member--worked with HCD to develop a letter containing a number of key issues and questions geared toward Bay Area housing element updates for the current cycle. The letter was sent to all Bay Area cities and counties, including Palo Alto. I have attached a copy of the letter that was sent to all jurisdictions, and here is the link to the letter on HCD's web site:

[http://www.hcd.ca.gov/hpd/housing\\_element2/documents/bayarea\\_heupdate112613.pdf](http://www.hcd.ca.gov/hpd/housing_element2/documents/bayarea_heupdate112613.pdf).

We have not received a response from Palo Alto and while the housing element does address a couple of the issues raised, BIA would like to see the housing element respond completely and directly to each issue before it is certified.

In addition, BIA has the following specific comments that we feel are not adequately addressed in the submitted housing element.

- **Building Height Limitations:** The element specially acknowledges that height limitations are a governmental constraint, but does not identify an adequate program committing to mitigate or eliminate this important constraint. The element speaks at length to the scarcity of available land for new residential development in Palo Alto, and the massive job growth the city continues to experience, resulting in the current astronomical housing prices and rents. In this context it is imperative to remove the constraint of height limitations on the land that is devoted to new housing to the maximum possible extent. While the element references a preexisting program (adopted in 2009) that allows for building height exceptions for projects in the PTOD zoning area, there is no analysis of how many projects or units have been able to utilize this exception; nor is there discussion of the criteria the City uses to determine whether to grant an exception. BIA believes that a better and more effective approach is to modify the existing height limitations in all of the areas identified as RHNA sites. This will provide certainty to the city, the community, and the development community. Considering both construction cost and building code issues, BIA recommends the following height limitation categories:

- 35'-40' for 3 stories
- 65' for 5 over 1 story podium
- 85' for 5 over 2 story podium
- 120'
- Above 120'
- For every 1' of retail clear height above 12/, the building height should increase a commensurate 1' (e.g., if a developer proposes a 15' clear, then the building height can increase by 3')

Thank you for the suggestions. However, the City has been able to identify sufficient housing sites with current zoning and existing height limits to meet its RHNA requirement. And there have been large developments of 40+ units with achieved densities between 30-85 units per acre using the existing height limit. Therefore it is possible to meet housing requirements and to meet maximum densities without increasing height limits. Because affordable housing development generally requires higher densities because of tax credit financing, the City does have proposed programs to help encourage affordable housing developments. A proposed program, Program 2.1.6, considers allowing greater concessions for 100% affordable housing projects, which may include allowances in height.

- **Parking Requirements:** Again, the housing element forthrightly acknowledges that parking requirements are a governmental constraint. BIA believes that the certified housing element should include an implementation measure that commits to reducing parking ratios wherever a TDM plan is required and for transit corridors and where care sharing programs exist.

Municipal Code Section 18.52.050 already allows the Director of Planning and Community Environment the flexibility to reduce parking requirements for certain uses such as senior housing, affordable housing, housing near transit or transportation and parking alternatives. If there is TDM plan or parking alternatives proposed, the Director may reduce the parking by up to 20% of the total spaces required on the site. If there is a combination of some of these uses, the Director may further reduce parking requirements.

- **Planned Zoning Moratorium:** The City recently adopted a moratorium on new approvals using the Planned Zoning process. The City's Planned Zoning process is akin to Planned Development/PUD zoning processes in other cities. Here is a link to the staff report on the City's action: [ <http://cityofpaloalto.org/civicax/filebank/documents/3880>]. The housing element should identify this moratorium as a potential constraint and a thorough discussion is needed to determine whether this will be a significant constraint on new housing development. For example, the draft element provides information on the overall number of housing units developed in prior planning periods. But it does not address how many of these projects and how many units were developed in projects using the Planned Zoning process vs. the "base" zoning designations. If the numbers are significant, the "time out" on future PZ projects would represent a severe constraint. Relatedly, the staff report for the PZ moratorium suggests that one of the issues to be modified in the revised PZ process is the level of "community benefits" that a project must provide in order to be approved as a PZ project. The housing element should be clear that the City will not attempt to extract "community benefits" or other exactions based on a City calculation of developer profitability/feasibility, or that otherwise would seek to evade the letter and spirit of the Mitigation Fee Act. Fees and exactions should only be considered and assessed in order to mitigate the need for public facilities specifically caused by the new development.

The PC Zone is an overlay zone which allows applicants to request variances from the base zone in exchange for community benefits. The City's analysis in its Housing Element is not based on

densities allowed under the PC zone, but instead is based on the underlying base zoning. Under base zoning the City has identified adequate housing sites. Therefore any changes in the PC Zone do not represent a constraint. Additionally, the PC zoning "time out" is temporary while revisions to the PC zoning requirements are being developed. Staff has done extensive research and presented their findings to the Planning and Transportation Commission (PTC) in a Study Session on Wednesday, August 12. Another PTC study session will be held August 26. Council action regarding the PC zone is expected this fall.

- **Industrial Land Conversion Restrictions:** The draft indicates that the City intends to limit conversion of certain industrial land yet the housing element describes a city that is thriving with commercial activity and jobs and has a massive housing shortage. BIA has found that limitations on industrial land conversion in other cities have been significant constraints to housing development. The element should provide more detail about the locations of areas that are to be restricted, and the nature of the restrictions and what a project would have to show to be converted. Also, the certified element should contain a provision that if the RHNA sites identified in the element are not developed in a timely manner within the planning period, the industrial land conversion policy should be modified if the market find that land more suitable for housing than the sites the City has identified.

Prior to 2006, in an effort to encourage housing, exclusive residential uses were allowed as permitted uses in the City's General Manufacturing and Research, Office and Light Manufacturing (ROLM) and Research Park (RP) zones. Much of the City's industrially zoned land was lost. While commercial office space is thriving, the City is also interested in preserving the last parcels of light industrial land. Exclusive residential is still allowed in the ROLM and RP zones through a conditional use permit. In addition, the City's light industrial/manufacturing area is in the northeast corner of the City. This area is less desirable for housing than the housing sites identified to meet the City's RHNA because the area does not have residential amenities or public transit.

- **Housing Inventory Sites:** For its housing site inventory, the draft element relies heavily on a number of sites that are zoned for multifamily site capacity but have existing operating commercial uses on the site. The element relies on these sites for 386 (364 affordable) units. More historical and current development information should be provided on the existing commercial uses and analysis such that a determination can be made that it is likely that these uses will be terminated and these sites will be converted to housing within the next 8 year.

When staff was preparing its housing sites list, as one of the evaluation criteria, staff did a windshield survey of underdeveloped 1 or 2 story residential or commercial buildings that had not been substantially improved in the last 20 years. It also did an analysis of the assessed value of the improvements in relation to the assessed value of the land for these parcels. If the ratio of the improvements to land value was less than 1.5, we considered the parcel a good candidate for redevelopment. Using this process, staff identified good candidates for redevelopment to housing in the near term. Because of the City's heated real estate market, this is already occurring as envisioned by projects such as 3159 El Camino Real. This project

merged four underdeveloped retail-zoned parcels (a 900 sq. ft. retail use and surface parking) and redeveloped the site into 31,000+ sq. ft. of commercial uses and 48 residential units, including 5 affordable units.

- **BMR Requirement:** There is an inadequate discussion of the City's inclusionary zoning requirement in the constraints section. The element should identify the actual cost per market rate unit that compliance with the ordinance entails. Palo Alto's BMR ordinance is one of the most burdensome and costly in the Bay Area and the compliance costs should be identified clearly in the housing element. This cost should be expressed both in terms of what the City demands as an in lieu fee for in kind units not built; and what the cost of providing the in kind units is when spread over the remaining market rate units using a standard development pro forma. The housing element should also contain a program committing to revise the BMR requirement so that it does not penalize larger and denser projects. Currently, larger (and likely higher density) projects are subject to a very high 20% BMR requirement. The element should commit to reducing the BMR requirement for projects that meet certain density thresholds and that are located in areas that the City (and region and state) are trying to incentivize such as the PTOD zoning area. The BMR ordinance should also allow payment of an in lieu fee "by right" at the developer's discretion rather than having to seek city approval.

The City's 15% BMR requirement has been in effect for decades. Through the program, the City has produced over 200 BMR ownership units and almost 200 BMR rental units. This demonstrates that even with the requirement, developers are continuing to develop housing in the City. The City emphasis is to integrate the BMR units into the development to create mixed income communities. Therefore, the ability to "fee out" is still at the City's discretion. The 20% BMR requirement applies to developments on sites of five acres or larger. Only a few residential developments have been on parcels larger than five acres and all were able to fulfill their BMR requirements.

A commercial and residential nexus study is currently being prepared. The findings of the study will be used by staff to help review and update, if necessary, any aspects of the BMR program.

- **Park Fees:** The City's park fee ordinance does not provide for credit for private park facilities provided as part of a project. The Quimby Act specifically contemplates such credits and Palo Alto is one of the few jurisdictions in the area that does not have a private park fee credit provision. The certified element should commit the City to adopt a credit provision.

The Quimby Act permits cities to adopt ordinances permitting a credit for private parks, but does not require that any particular credit be granted. A program to establish a private park fee credit provision may be more appropriate for the City's Land Use or Open Space Element. A credit would increase developer profits but would not create any additional housing and would likely have no effect on housing prices.

- **Affordable Housing Impact Fees:** The element indicates that the City will be preparing a nexus study and considering adopting a new affordable housing impact fee on new market rate

housing. The element should commit to ensuring that if any new fee is adopted, that a cumulative fee and exaction burden analysis be prepared and that if a fee is adopted it should replace the existing BMR program and result in an overall lessening of the regulatory burden imposed on new housing in Palo Alto.

There is no evidence that Palo Alto's housing fee or other fees serve as a housing constraint at this time. The City is in the process of conducting a nexus study and will determine appropriate next steps after that study is completed. Currently, the City is not applying affordable housing requirements to rental projects.

Thank you for the opportunity to comment,

Paul Campos  
Sr. Vice President, Governmental Affairs  
General Counsel  
Building Industry Association of the Bay Area  
[pcampos@biabayarea.org](mailto:pcampos@biabayarea.org)  
925.951.6840 (Main Office)  
925.951.6844 (Office Direct)  
415.223.3775 (Mobile)

Contra Costa Centre Transit Village  
1350 Treat Blvd., Suite 140  
Walnut Creek, CA 94597

-----  
555 California Street, 10th Floor  
San Francisco, CA 94014





PUBLIC INTEREST LAW FIRM  
*Oficina Legal de Interés Público*  
*Law Foundation of Silicon Valley*  
152 North Third Street, 3<sup>rd</sup> Floor  
San Jose, California 95112  
Telephone (408) 293-4790 • Fax (408) 293-0106  
www.lawfoundation.org

**COUNCIL MEETING**  
8.14.14  
 Placed Before Meeting  
 Received at Meeting

?

August 6, 2014

**SENT VIA E-MAIL: mcoy@hcd.ca.gov, james.johnson@hcd.ca.gov**

Melinda Coy  
James Johnson  
Department of Housing and Community Development  
2020 W. El Camino, Suite 500  
Sacramento, CA 95833

**Re: City of Palo Alto's Housing Element, Buena Vista Mobile Home Park**

Dear Ms. Coy and Mr. Johnson:

We write on behalf of the Buena Vista Mobile Home Park Residents' Association to comment on the City of Palo Alto's draft 2015-2023 Housing Element as it pertains to Buena Vista Mobile Home Park. Specifically, the Housing Element program to combat the threatened closure of Buena Vista Mobile Home Park should be more robust; the Housing Element should report more fully on the City's implementation of the 2007-2014 program for the preservation of Buena Vista; and the Housing Element should discuss options for the replacement of the affordable homes that will be lost if Buena Vista closes.

**Palo Alto's Stated Commitment to the Preservation of Buena Vista Mobile Home Park**

Since at least 1999, Palo Alto has consistently recognized Buena Vista Mobile Home Park as an important source of affordable housing and has stated a policy of maintaining Buena Vista as an affordable housing resource. Both the 2007-2014 Housing Element and the draft Housing Element for the upcoming planning period set forth five-year objectives of preserving "the 120 mobile home units in the Buena Vista Mobile Home Park as a low and moderate income housing resource."<sup>1</sup> The Housing Elements for the third and fourth revisions, as well as the draft 2015-2023 Housing Element, contain the following program:

Any redevelopment of the site must be consistent with the City's Mobile Home Park Conversion Ordinance adopted to preserve the existing units. To the extent

<sup>1</sup> 2007-2014 Housing Element <<http://www.cityofpaloalto.org/civicax/filebank/documents/35588>> p. 176; Draft 2015-2023 Housing Element <<http://www.cityofpaloalto.org/civicax/filebank/documents/42391>> p. 135.

feasible, the City will seek appropriate local, state and federal funding to assist in the preservation and maintenance of the existing units in the Buena Vista Mobile Home Park.<sup>2</sup>

### **Insufficiency of Program Activities to Preserve Buena Vista Mobile Home Park**

The City's stated commitment to preserving Buena Vista is admirable, appreciated, and necessary, but the actions it proposes to carry out this commitment are lacking. The Draft 2015-2023 Housing Element's program (Program H3.1.8), which recognizes that Buena Vista is a key source of affordable housing in Palo Alto, is insufficient to achieve its stated objective of preserving the homes in the park as a low- and moderate-income housing resource. The program includes ensuring that any park closure is consistent with the Mobile Home Park Conversion Ordinance; the Ordinance mandates robust mitigation assistance for residents displaced by the park's closure, but it allows that closure so long as mitigation measures are sufficient. Given the current economic climate, mitigation requirements alone are insufficient to prevent the closure of the park, as evidenced by the Park Owner's ongoing attempts to close the Park under the procedures set forth in the Ordinance.

The program goes on to commit that, "[t]o the extent feasible, the City will seek appropriate local, state and federal funding to assist in the preservation and maintenance of the existing units in the Buena Vista Mobile Home Park."<sup>3</sup> As we noted in our correspondence regarding the 2007-2014 Housing Element, this program activity lacks specificity or timelines. In order to achieve its goal of preserving Buena Vista and to meet its legal obligation to "conserve and improve the existing affordable housing stock,"<sup>4</sup> Palo Alto should amend the program to include additional affirmative steps that the City will take to prevent the Park's closure. Such steps could include engagement with the Residents' Association and local non-profit housing developers interested in preserving the park, setting aside City funds for the Park's preservation, and/or negotiation with the Park's current owners for a long-term preservation strategy.

### **Failure to Report Fully on Past Performance Regarding Buena Vista Mobile Home Park**

Palo Alto's 2015-2023 Housing Element must accurately report on its progress in implementing the policies and programs set forth in the 2007-2015 Housing Element.<sup>5</sup> However, the current draft does not acknowledge the City's lack of progress toward its goal of preserving Buena Vista or its failure to implement fully Program H3.1.11.

---

<sup>2</sup> City of Palo Alto Housing Element 2007-2014 at pp. 138, 156, 207 (Program H-3.1.11); Draft City of Palo Alto Housing Element 2015-2023 at p. 135 (Program H3.1.8).

<sup>3</sup> Draft City of Palo Alto Housing Element at p. 135.

<sup>4</sup> Gov. Code, § 65583, subd. (c)(4).

<sup>5</sup> Gov. Code, § 65588.

As noted in the City's draft 2015-2023 Housing Element, "[o]n November 9, 2012, the owner of the Buena Vista Mobile Home Park, located at 3980 El Camino Real, submitted an application to close the park."<sup>6</sup> A three-day hearing was held on the proposed park closure on May 12-14, 2014, and a decision by the City-appointed hearing officer is pending.

Program H3.1.11 created relatively modest obligations for the City, but even these have not been met. While the City has taken steps to enforce the terms of the Conversion Ordinance, it has not taken affirmative steps to preserve the park. To our knowledge, the City has not made any concrete effort to "seek appropriate local, state and federal funding to assist in the preservation and maintenance of the existing units in the Buena Vista Mobile Home Park," as promised in Program H3.1.11.<sup>7</sup> Indeed, the City Attorney has prohibited City Councilmembers from discussing preservation strategies—including the possibility of local funding being dedicated to preserving the Park—with the Residents Association, their counsel, or members of the public while the closure process is ongoing. These failures are not acknowledged in Appendix A of the draft 2015-2023 Housing Element.<sup>8</sup>

Further, and as noted above, the 2007-2014 Housing Element's objective for the Buena Vista was actually much broader than the actions laid out in its corresponding program: the City's goal was to *preserve all of the 120 homes in Buena Vista*, not to allow the Park to close with proper mitigation assistance. Palo Alto's failure to take significant actions to preserve the Park constitutes a failure to implement Palo Alto's Housing Element.<sup>9</sup> The City could have taken several actions during the 2007-2014 planning period to preserve the Park, even before the closure process began. For example:

- The City could have entered into a long-term preservation agreement with the Park Owners. Such a strategy was discussed in 2000 and 2001 but apparently never came to fruition. In December 2000, the City Council enacted an Emergency Ordinance to restrict rent increases at the Park and ordered the City Attorney to negotiate a long-term preservation strategy with the Park owners.<sup>10</sup> Although the City Attorney had some negotiations with the Park owner in 2001, this long-term preservation strategy was never implemented, either in a development agreement or in an ordinance. Based on our review of the public records, the City simply failed to follow through with the long-term preservation strategy. The City could have renewed these efforts at any time but did not.
- The City could have changed or restricted zoning of the site in order to preserve the Park. For example, the City of Mountain View has rezoned all of

---

<sup>6</sup> City of Palo Alto, Draft 2015-2023 Housing Element, p. 2 n. 1 <<http://www.cityofpaloalto.org/civica/filebank/documents/42391>>.

<sup>7</sup> See 2007-2014 Housing Element, p. 176.

<sup>8</sup> See draft 2015-2023 Housing Element, p. A-19.

<sup>9</sup> Gov't Code §§ 65754; 65754.5; 65755.

<sup>10</sup> City of Palo Alto Ordinance 4672 §1(c), (December 19, 2000).

its mobile home park lands to only allow mobile home park uses by right, and it changed its General Plan to designate those sites as mobile home park-only.<sup>11</sup> The City could have taken similar actions to better prioritize the preservation of mobile home park lands in its overall land use strategy or to zone the parcel exclusively for mobile home park use, but it did not.

- The City could have committed its own affordable housing funds or sought out external funds for the preservation of the Park. To our knowledge, it has not done so.
- The City could have engaged in a continued dialogue with Park residents, the Park owners, community groups, and nonprofit developers about the preservation of the Park, but it has not.

By failing to take meaningful action to preserve Buena Vista Mobile Home Park, the City has neither performed the programs nor achieved the goals set out in its 2007-2014 Housing Element, and the draft Housing Element for the upcoming planning period must acknowledge that failure.

### **Replacement of Affordable Housing Stock**

Further, neither the current Housing Element nor the draft Housing Element have any analysis as to the impact of the Park closure on the number of affordable housing units in Palo Alto; nor is there any analysis on how the City will mitigate the loss of those units.<sup>12</sup> Does Palo Alto have sufficient developable land to replace the 100+ units of unsubsidized affordable housing that will be lost if Buena Vista closes? If so, how will Palo Alto ensure that these replacement homes are affordable to lower-income households in light of the current housing market? These questions are not even raised, still less satisfactorily answered, in the draft Housing Element.

We urge HCD to reject Palo Alto's draft 2015-2013 Housing Element on the above grounds, and to direct the City to provide a more robust discussion regarding Buena Vista Mobile Home Park. We would be happy to discuss these comments with you, as well as

---

<sup>11</sup> City of Mountain View 2015-2023 Draft Housing Element  
<<http://beta.mountainview.gov/civicax/filebank/blobdload.aspx?BlobID=13147>> p. 30.

<sup>12</sup> See Gov. Code, § 65583.

with the City. Should you wish to discuss these comments further, please contact Nadia Aziz at (408) 280-2453 or [nadia.aziz@lawfoundation.org](mailto:nadia.aziz@lawfoundation.org).

Sincerely,

/s/

Nadia Aziz  
Law Foundation of Silicon Valley

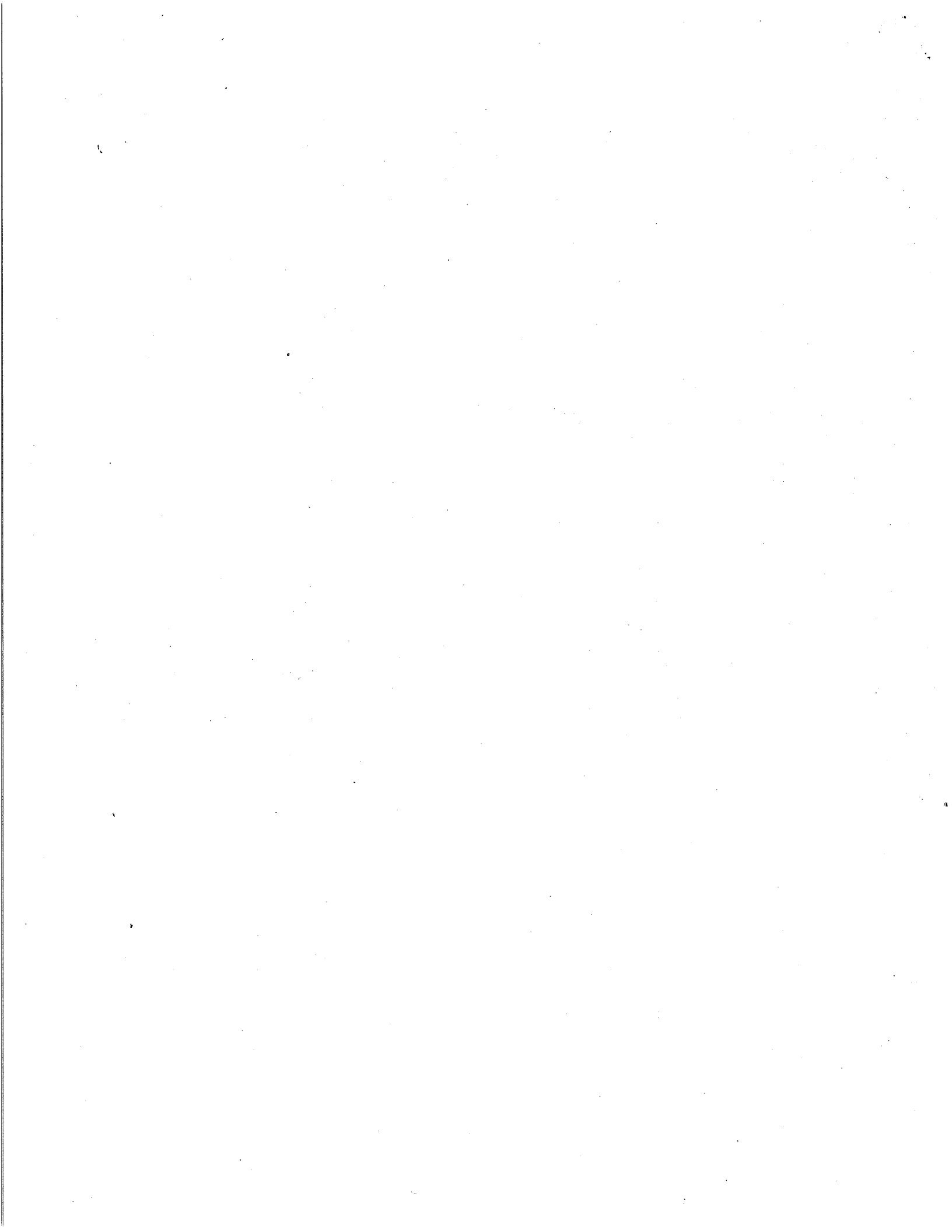
/s/

Navneet Grewal  
Western Center on Law and Poverty

/s/

Matthew Dolan  
Sidley Austin, LLP

cc: James Keene, City Manager  
Nancy Shepard, Mayor, and City Council  
Molly Stump, Grant Kolling, and Cara Silver, Office of the City Attorney  
Hilary Gitelman and Tim Wong, Department of Planning and Community  
Environment





**PLANNING & COMMUNITY ENVIRONMENT**

250 Hamilton Avenue, 5th Floor  
Palo Alto, CA 94301  
650.329.2441

August 19, 2014

Ms. Melinda Coy  
Mr. James Johnson  
Department of Housing and Community Development  
2020 W. El Camino, Suite 500  
Sacramento, CA 95833

RE: **City of Palo Alto 2015-2023 Housing Element, Buena Vista Mobilehome Park;  
August 6, 2014 comment letter from Public Interest Law Firm to HCD**

Dear Ms. Coy and Mr. Johnson:

The City of Palo Alto received a copy of the letter sent to you by the Public Interest Law Firm ("PILF") on August 6, 2014, regarding the Buena Vista Mobile Home Park and the City's draft Housing Element for the period 2015-2023. We know your review of our draft Housing Element is currently underway, and we are writing to respond to the issues raised in PILF's letter in the hopes that our response will be useful to you.

**City's Goal of Preserving Buena Vista**

PILF notes, at Page 1, that the City's 2007-2014 Housing Element and the draft 2015-2023 Housing Element set five-year goals of preserving the 120 mobilehome units in the Buena Vista Mobile Home Park as a low- and moderate-income housing resource. According to PILF, the City's commitment to achieving this goal is lacking, even though PILF, at page 2, recognizes any mobilehome park closure must be consistent with the City's Conversion Ordinance and that neither the ordinance nor State law allows the City to unilaterally deny the property owner's request for closure of the mobile home park

Since November 2012, PILF, as attorneys for a substantial majority of the mobilehome park's residents, has been actively engaged in the City's proceedings mandated by the Conversion Ordinance. The proceeding is on-going, and the parties and their attorneys as well as the City



CityOfPaloAlto.org

are still awaiting the hearing officer's final decision regarding mitigation assistance. Until the City has had a reasonable opportunity to receive and evaluate the final decision, PILF's observation that the City has failed to make progress toward its goal of preserving Buena Vista is premature. The City is also constrained from taking an advocacy role while the process to establish appropriate mitigation under the Conversion Ordinance is ongoing, including seeking funding for preservation of the Park. This is because the City Council must be impartial when it considers the very likely appeal of the Hearing Officer's decision. It has therefore not been feasible for the City to actively seek funding until the hearings are concluded.

The City intends to carry forward the program from the 2007-2014 Housing Element recognizing the Buena Vista Mobile Home Park as providing low- and very-low income housing and stating that, "To the extent feasible, the City will seek appropriate local, state and federal funding to assist in the preservation and maintenance of the existing units at the Buena Vista Mobile Home Park." However, the City cannot, as PILF states, at page 2, amend its Housing Element program "to include additional affirmative steps ..." that the City will take "... to prevent the Park's closure." (emphasis added). As PILF knows well, the Park owner is proceeding under applicable State law to close the mobilehome park, and the City cannot prevent the Park's closure if mitigation assistances measures sufficient by law are offered to current residents. The City's proposed Program H3.1.8 recognizes this reality, and the change that PILF has suggested would violate State law.

#### **Replacement of Affordable Housing Stock**

State Housing Element law recognizes that existing affordable "assisted housing developments" may at times be lost due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use and requires that cities analyze the potential loss of these at-risk units. (Section 65583(a)(9).) However, the statute does not require that cities replace these affordable units if they are no longer affordable.

While the Buena Vista Mobile Home Park is not subject to any deed restrictions and has not received public subsidies, and so is not an "assisted housing development," the City recognizes that the Park is an important source of low- and moderate-income housing and seeks to preserve and maintain the Park to the extent feasible. However, State law may not allow the City to prevent the Park's closure.

The City has active programs to create more affordable housing, including its below-market-rate inclusionary program, its Affordable Housing Funds, and Density Bonus Ordinance. In the 2007-2014 period, 191 affordable units were created in the City, and the City would seek to replace any affordable units lost at the Buena Vista Mobile Home Park. However, the Housing Element statute does not impose a replacement housing obligation on the City when an owner exercises its rights to close a mobile home park, as it does not impose a replacement housing obligation on cities when the owners of "assisted housing developments" exercise their rights to terminate their low-income housing obligations.



Department of Housing and Community Development

Page 3

August 19, 2014

I trust this communication will convey the present circumstances under which the City is attempting to address PILF's concerns and recommendations. Please do not hesitate to contact me if HCD should have any additional questions about the City's draft 2015-2023 Housing Element.

Sincerely,



HILLARY GITELMAN  
Director

cc: Nadia Aziz, Law Foundation of Silicon Valley  
Mayor Shepherd and Councilmembers  
James Keene, City Manager  
Tim Wong, Senior Planner  
Molly Stump City Attorney





**Board of Governors**

Joan Harrington, Chair  
Santa Clara University  
School of Law

Fred W. Alvarez  
Jones Day

Denelle M. Dixon-Thayer  
Mozilla Corporation

Martin R. Glick  
Arnold & Porter LLP

Bruce Ives  
Hewlett-Packard Company

Dolores Jimenez  
Kaiser Permanente

Leo P. Martinez  
UC Hastings College of the Law

Jahan Sagafi  
Outfen & Golden LLP

Rohit K. Singla  
Munger, Toiles & Olson LLP

Abdi Soltani  
ACLU of Northern California

**Staff**

Guillermo Mayer  
President & CEO

John T. Affeldt  
Richard A. Marcantonio  
Managing Attorneys

Liz Guillen  
Director of Legislative  
& Community Affairs

Deborah Harris  
Director of Development

Wynn Hausser  
Director of Communication

Sumi Paik  
Director of Finance &  
Administration

Angelica K. Jongco  
Samuel Tepperman-Gelfant  
Senior Staff Attorneys

Rigel S. Massaro  
Marybelle Nzegwu  
David Zisser  
Staff Attorneys

Brandon Greene  
Hilary Hammell  
Attorneys & Law Fellows

Patty Leal  
Finance Manager

Princess Masilungan  
Legal Administrative Coordinator

Jesse White  
Communication & Development  
Coordinator

August 18, 2014

**VIA ELECTRONIC MAIL:** James.Johnson@hcd.ca.gov  
James Johnson, Policy Analyst  
State Department of Housing and Community Development  
2020 West El Camino Ave.  
Sacramento, CA 95833

**RE: City of Palo Alto Draft Housing Element**

Dear Mr. Johnson:

Public Advocates welcomes the opportunity to offer comments on the City of Palo Alto's July 2014 Draft Housing Element. We are joined in these comments by Urban Habitat and San Francisco Organizing Project/Peninsula Interfaith Action (SFOP/PIA). Several issues relevant to HCD's consideration of the Draft were discussed in a June 23 letter to the City from Public Advocates and the Public Interest Law Project.<sup>1</sup> (This letter and the City's response are attached.)

While the Draft Housing Element appropriately acknowledges the severity of Palo Alto's affordable housing crisis (which we highlight in the Background Section, below), it falls short in taking the steps needed, or legally required, to tackle that crisis. In particular, the Sites Inventory and Programs in the Draft are legally inadequate. Our comments focus on four major flaws:

1. The Draft, like the current Housing Element, relies heavily on infeasibly small sites (under one-half acre) to accommodate its lower-income housing need, despite the facts that the city (a) demonstrates no track record of producing affordable homes on such sites, (b) includes no programs that would make such development feasible, and (c) completely failed to implement past programs necessary to consolidate those sites.

<sup>1</sup> Public Advocates is a nonprofit law firm and advocacy organization that challenges the systemic causes of poverty and racial discrimination by strengthening community voices in public policy and achieving tangible legal victories advancing education, housing and transit equity. We spur change through collaboration with grassroots groups representing low income communities, people of color and immigrants, combined with strategic policy reform, media advocacy and litigation, "making rights real" across California since 1971. We have been advocating for affordable housing around the Bay Area for more than a decade, and have litigated, where necessary (e.g., Peninsula

2. Nearly all of the sites identified for affordable housing development have existing non-residential uses, but the Draft lacks the analysis and incentives necessary to demonstrate the feasibility of redevelopment as affordable housing.
3. The sites inventory makes unrealistic assumptions about the development capacity of sites with "CN" zoning.
4. The Draft fails to plan for the unaccommodated affordable housing need from the prior planning period.

To address these flaws, the City should include additional programs to facilitate the development of affordable housing, and should recalculate its claimed site capacity for affordable development to better reflect the zoning and development constraints that will likely make affordable housing infeasible on many of the sites in the Draft's inventory. In light of the City's poor track record of implementing important Housing Element Programs, we strongly recommend that, once additional program actions are added, HCD condition any finding of compliance on diligent implementation of Programs included to address the legal shortcomings addressed below.

### **Background: Palo Alto's Acute Need for Affordable Housing and Failure to Implement its 2013 Housing Element**

In the heart of Silicon Valley, Palo Alto has an unusually poor jobs-housing balance and an especially acute shortage of homes affordable to lower-income workers, families, seniors, and people with special needs.<sup>2</sup> Over the past seven years, very few new homes for lower-income households have been built to help meet this need. For the 2007-2014 planning period, just 13% of the city's identified need for lower-income housing was constructed – 165 new units toward a need of 1,233.

Palo Alto's substantial imbalance of jobs and housing has myriad negative consequences that the Draft itself acknowledges:

Since many of Palo Alto's workers cannot afford to live in the City, the imbalance [of jobs and housing] creates negative impacts such as long commutes for workers both inside and outside the region, substantially increased traffic congestion during peak commute periods, and increased air pollution and energy consumption. The production of additional affordable housing would help to reduce or even avoid these impacts.

Draft Housing Element at p. 15. Indeed, *more than 91% of the city's lower-income workforce* – 19,000 workers – commutes into Palo Alto. See U.S. Census Longitudinal Employer-Household Dynamics Dataset.<sup>3</sup>

The substantial shortfall in affordable housing production in Palo Alto is due in part to the City's lack of adequate sites, policies, and programs to facilitate its development. Not only did the City

---

<sup>2</sup> See UC Davis Center for Regional Change, Jobs-Housing Fit Analysis, available at <http://mappingregionalchange.ucdavis.edu/jobshousingfit2011>.

<sup>3</sup> Available at <http://lehd.ces.census.gov/>.

adopt its 2007-2014 Housing Element *four years after the statutory deadline and six years into the seven-year planning period*, it then *failed to implement* many key programs intended to facilitate affordable housing development, including the programs expressly highlighted by HCD's compliance letter.

HCD's compliance review of the City's 2013 Housing Element specifically highlighted the importance of timely implementation of four programs. *See* Letter from HCD, dated March 29, 2013 (basing its conclusion that "[t]he revised draft element meets the statutory requirements" on "successful implementation of Programs H2.1.10, H2.2.2, H2.2.7 and H2.2.9.") *The city admits that three of these four critical programs were not implemented, and the fourth also appears to have been neglected.* (See our attached letter, and Palo Alto's response.) As discussed in Section 5 below, this failure substantially undermines the validity of the entire 2013 Housing Element.

Given the City's poor track record implementing its 2013 Housing Element, strong steps must be taken to ensure that all Programs to promote affordable housing commit the city to specific actionable steps on a firm timeline with clear consequences or remedies for inaction. This is particularly the case with respect to the overwhelming reliance on very small sites and sites with existing non-residential uses, as we now discuss.

**1. The Draft Housing Element Unjustifiably Assumes that a Substantial Portion of its Lower-Income Housing Need will be Accommodated on Infeasibly Small Sites**

The 2014 Draft Housing Element relies heavily on small sites to accommodate its lower-income RHNA. While the Draft claims to identify higher-density sites that accommodate 1,633 very-low and low income units, less than half of this capacity is on sites larger than one-half acre:

Remaining Lower Income Housing Need (Draft p. 73)	<i>at least 1,025</i>
Claimed Capacity on Sites over 1 Acre and at least 20du/acre <sup>4</sup>	491
Claimed Capacity on Sites between 0.5 and 1 Acre and at least 20du/acre	289
<b>Lower Income Units claimed to be accommodated on sites under 0.5 acre</b>	<b><i>at least 245</i></b>

As HCD's Guidance explains, affordable housing development on sites smaller than *one acre* is generally infeasible. *See* HCD Requisite Analysis of Realistic Development Capacity; Gov. Code. 65583.2(c).<sup>5</sup> Development on sites under *one-half acre* is exponentially more difficult and costly. Challenges of scale, development constraints, and zoning and building code requirements make multi-family housing construction on small infill sites very difficult, and generate such high per-unit costs that affordable development is usually impossible. A minimum project size of 50-80 units is generally necessary for developments using many state or federal funding sources, and that almost always requires sites larger than one acre. *See id.* Because of this, HCD

<sup>4</sup> As discussed in Section 4, below, the claimed capacity of sites over one-half acre *includes* well over 100 sites with existing non-residential uses for which the Draft omits adequate analysis or Programs. These figures *excludes* three sites in the inventory that appear not to meet the default residential density of 20 du/acre.

<sup>5</sup> Available at [http://www.hcd.ca.gov/hpd/housing\\_element2/SIA\\_zoning.php](http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php).

Guidelines direct jurisdictions relying on small sites for affordable housing to affirmatively demonstrate that these sites are reasonably likely to result in affordable development within the planning period. *See id.* Programs or incentives to facilitate such development, such as lot consolidation, are generally needed. *See id.*

Palo Alto, a city with extremely high land costs, has absolutely no track record of affordable housing development on sites under one-half acre. The City has not identified *any* homes affordable to lower-income households that have *ever* been developed on *any* site under one-half acre.<sup>6</sup> Instead, the Draft Housing Element justifies its inclusion of very small sites in its inventory by pointing to examples of *market-rate* housing development on small sites and “natural” aggregation of small sites to accommodate *market-rate* developments. These examples do nothing to justify the city’s reliance on very-small sites to accommodate any portion of its affordable housing need. To the contrary, the expectation that non-profit and other affordable housing developers will shoulder the burden of site consolidation is an unacknowledged constraint that the Draft does not even analyze. While the extraordinarily high cost of market-rate housing in Palo Alto may well yield sufficient profit to make possible luxury development on small sites and to create sufficient incentives for lot consolidation, the same cannot be said for affordable housing.

If it continues to rely on very-small sites to accommodate a large proportion of its lower income housing need, the Housing Element must include strong programs with concrete commitments and quantified objectives that will result in consolidation of small sites. The vague site consolidation program in the current Housing Element would require substantial strengthening to accomplish this objective, but instead the City appears poised to substantially weaken this Program if it is included at all. Meaningful programs might include a commitment of City funds to the acquisition and aggregation of small sites to be set aside for affordable development; specific incentives for the aggregation of sites for *affordable* development backed by evidence that those incentives are sufficient; much greater densities on small sites (see footnote 6, below), and a commitment to identify alternative larger sites if the trend of zero affordable housing development on very small sites continues for the first two years of the Housing Element planning period. The Draft includes none of these programs.

## **2. The Draft Housing Element Relies on Sites with Existing Uses without Properly Analyzing and Mitigating this Constraint**

Not only are most sites in the inventory very small, the overwhelming majority have existing non-residential uses. Of the 1,633 sites identified to accommodate lower-income housing needs, close to 1,500 – about 90 percent – are occupied by existing retail, industrial, commercial, and/or food service businesses. One of those sites, the home of Fry’s Electronics, is said to

---

<sup>6</sup> The only affordable homes developed on sites between one-half and one acre (other than a small number of BMR inclusionary units) came from two 100% affordable developments that were built at *50-83 units/acre*, dramatically higher than the maximum density allowed on any of the sites in the Draft site inventory. *See* 2013 Housing Element Table 3-2, p. 77. Far from demonstrating that affordable development on small sites is feasible, these examples show that affordable housing development requires economies of scale that can only be accomplished on larger sites and/or sites with high enough densities to allow for minimum project sizes of 50-80 units.

accommodate over 200 lower-income units. While some of these sites may have realistic potential to develop as affordable housing within the planning period, the Draft Housing Element's does not include the facts, analysis and programs sufficient to support that conclusion.

While state law permits cities to include nonvacant sites in their inventory of land suitable for residential development, they *must* demonstrate that these sites "can be developed as housing within the planning period." § 65583.2(a). Specifically, the cities shall consider "the extent to which existing uses may constitute an impediment to additional residential development" and "regulatory or other incentives or standards to encourage additional residential development on these sites." § 65583.2(g).

Commercially-zoned and mixed-use sites also suffer from additional constraints that can make affordable housing development difficult. As the Draft notes, "[m]any of the commercially zoned parcels that allow residential uses require a ground floor retail component" which can add to the complexity (and expense) of the project. Draft, p. 65. Many sources of funding for affordable housing are difficult or impossible to obtain for mixed-use development, which further restricts the viability of these sites.

While the Draft points to a pattern of mixed-use redevelopment in the city, these projects appear to be high end market-rate projects. The Draft fails to demonstrate that there is any track record of *affordable* mixed-use redevelopment on small sites (with the possible exception of projects that include a small number of BMR inclusionary units).

Given the overwhelming emphasis on redevelopment of commercial sites to accommodate its affordable housing need, the Housing Element should incorporate concrete programs specifically aimed at facilitating the development of *affordable* housing, and any eventual certification of compliance should be conditioned on the prompt implementation of those programs.

Of particular concern is the Draft's lack of analysis of existing uses at 340 Portage Road, a 12 acre site that the City asserts could accommodate 221 very-low income homes. (It is worth noting that this site was evaluated to have a "realistic capacity" of just 75 units when the City adopted its current housing element in June 2013. No explanation is provided for the radical increase in theoretical capacity.) This site has been a Fry's Electronics Store for decades, and the store shows every indication of continuing to thrive on that site into the future. The City also depends on the sales tax revenue it generates. While there have been some discussion about redeveloping the site as mixed-use, including housing, the Fry's lease appears to extend through 2019, and planning for the site is ongoing and uncertain. The site might well be suitable for affordable housing development at some time in the future, but in order to rely on it to accommodate such a substantial portion of its RHNA, the Draft must include both more analysis *and* programs to establish regulatory or other incentives or standards to promote that change in use within the planning period. *See* § 65583.2(g).

Given the uncertain outcome of the Fry's site planning processes and the large number of units attributed to the site, the Housing Element should include a specific program that commits the City to rezone alternative sites of suitable size to accommodate its affordable housing need

should the Fry's site, or other larger sites, turn out not to become available in this planning period.

### **3. The Draft Housing Element Fails to Assess the Realistic Development Capacity of Sites with CN Zoning**

In evaluating the capacity of a site to accommodate a portion of the city's lower-income housing need, the Housing Element must identify the *realistic* capacity for new housing. See § 65583.2(c). HCD's guidance explains that "[w]hen establishing realistic unit capacity calculations, the jurisdiction must consider existing development trends as well as the cumulative impact of standards such as maximum lot coverage, height, open space, parking, and FARs." See HCD Requisite Analysis of Realistic Development Capacity.

The Draft Housing Element fails to perform this required site capacity analysis for housing sites zoned Commercial Neighborhood ("CN"). The claimed realistic development potential for CN sites in the draft inventory is simply the acreage multiplied by the maximum allowable density. There has been no accounting for other zoning or development constraints that are likely to lower the realistic capacity below this theoretical maximum. Based on this inadequate analysis, the Draft relies on at least 31 CN sites totaling approximately 12.3 acres to accommodate 247 lower-income units. See Draft Element Tables 3-5 and 3-6 on pp. 65-66; site inventory.

There are a number of reasons to question the Draft's assumption that these CN sites can realistically develop at the maximum theoretical density. First, all of these sites are under 1 acre, and most are under one-half acre (many substantially smaller), which means that requirements for setbacks, parking, open space, FAR, or other zoning constraints may make the theoretical development maximum impossible to achieve. Second, it appears that CN sites may require vertical mixed use for residential projects, which can make housing development more complicated and reduce the likelihood that maximum allowable density is realistic (or that these sites produce any housing at all). See p. 65.

If the City continues to rely on CN sites, their realistic development capacity should be analyzed and calculated. That will likely lead to a substantial decrease in the number of lower-income units they can potentially accommodate, even where other issues like very small site size and existing uses are absent.

### **4. The Draft Housing Element Fails to Account for Carryover Need from the Prior Planning Period**

Section 65584.09 requires cities to rezone sites within the first year of the new planning period to accommodate any RHNA needs for which adequate sites were not made available during the prior period. It is important to note that the requirements of this section of the Housing Element Law are *not* limited to situations in which a jurisdiction has failed to implement a rezoning program. Rather, a carryover rezoning obligation arises any time a jurisdiction any time a jurisdiction has "in the prior planning period failed to identify or make available *adequate* sites



to accommodate that portion of the regional housing need allocated pursuant to Section 65584.” § 65584.09 (emphasis added).

While Palo Alto purported to identify sufficient sites in its current Housing Element to accommodate its fair share of the Bay Area’s RHNA for the 2007-2014, *more than 50% of the site capacity the City claimed as available to accommodate its unmet lower-income housing need came on sites under one-half acre.* As discussed in Section 1 above, development of affordable homes on such very-small sites is generally infeasible. An additional 25% of the lower-income need is theoretically accommodated on sites between one-half and 1 acre, which are also likely infeasible for affordable development at 20 units per acre (see Footnote 6 above).

Recognizing that sites under one-half acre are generally not adequate to accommodate lower-income housing need as required by the Housing Element Statute, the 2013 Housing Element included a number of programs designed to make affordable development on these sites theoretically possible. These included Program H2.1.10 to incentivize small lot consolidation and Program H2.2.2 to streamline development on small sites. These Programs were not optional actions to encourage development, but rather committed the City to changes in its zoning and development standards *necessary* to make the sites in its inventory feasible for affordable development. Without these programs, very-small sites would not properly qualify as “land suitable” to accommodate lower-income housing need as required by Section 65583.2. HCD made that clear in its compliance letter, basing its finding of compliance on implementation of these two Programs.

The City, however, did not implement the Programs relating to small sites and site aggregation that it committed to in its 2013 Housing Element, and its letter, attached, indicates that it has no intention of doing so within the current planning period. This failure to implement critical Programs rendered development of affordable homes on sites under one-half acre entirely infeasible. As a result, they cannot properly be relied upon to accommodate a portion of the City’s lower-income RHNA need and therefore *the City has a shortfall in available sites to accommodate at least 500 units of its unmet lower-income RHNA need.*

The City also failed to implement Program H2.2.7, which committed it to rezone a site on Maybell Avenue to accommodate 60 lower-income units. The failure to implement Program H2.2.7 rendered development of these units infeasible. This gives rise to an additional shortfall. While the City claims that the Maybell rezoning was not a “required” rezoning program, that is only because it elected to include the Maybell development in its “List of Projects with Entitlements/In Process or Issued Building Permit.” 2013 Housing Element p. 70. HCD’s compliance letter, on the other hand, explicitly referenced this important program.

James Johnson, HCD  
August 18, 2014

Page 8 of 8

We look forward to working with Palo Alto to ensure that these and all other necessary changes to its Draft Housing Element are made smoothly and effectively. Staff should feel free to draw on whatever assistance we can provide throughout the revision process.

Sincerely yours,

/s/

Sam Tepperman-Gelfant  
Senior Staff Attorney

Cc: Tim Wong, Senior Planner, City of Palo Alto

Encl.: Letter to City Manager James Keene from Public Advocates, June 23, 2014  
Letter to Public Advocates from James Keene, June 30, 2014

August 19, 2014

VIA ELECTRONIC MAIL: James.Johnson@hcd.ca.gov  
James Johnson, Policy Analyst  
State Department of Housing and Community Development  
2020 West El Camino Ave.  
Sacramento, CA 95833

RE: City of Palo Alto Draft Housing Element

Dear Mr. Johnson,

I am writing to comment on Palo Alto's Draft Housing Element.

The development climate in Palo Alto has become very hostile to any development, and especially to housing. I hope to convince you that the likelihood of low or very low income affordable housing is zero unless more supportive policies are required in Palo Alto.

It did not shock housing advocates that neighbors of the proposed 90 unit Maybell senior housing development sought to referend the unanimous City Council approval of this project. It was a shock that the referendum passed, and that it passed with support from precincts all across the City, not just those near the proposed development. The Palo Alto Weekly Newspaper recommended voting against the affordable housing proposal. Denser developments are repeatedly referenced as "ugly", "stack and pack" and "ruining our city". The most well-known and electable candidates for this fall's city council election are describing themselves as residentialists, with means they pledge to oppose all development.

Is affordable housing less opposed? The individuals who referended the Maybell Senior Housing said in letters to the editor, editorials and in the public debate about the referendum that they supported affordable housing, but they just opposed density. They held to this position despite many attempts to explain that density makes affordable housing economically viable. The leaders of the referendum show every sign of staying active in city politics, and at least one leader is running for council.

How has affordable housing been built in Palo Alto in the past? With the use of PC zoning. PC (Planned Community) zoning, provides zoning flexibility around density, FARs and other zoning aspects, and requires added public benefits, which can be affordable housing units. It was often heard during the referendum campaign that all 100% affordable housing in Palo Alto has used PC zoning. There is one recent exception to this statement – the 50 unit 801 Alma family housing development. This development, completed in 2013, originally planned to include more units by using a PC zone. However, after presenting the expanded PC proposal, there was such concern about neighborhood opposition that the plans were scaled back to follow existing zoning.

Why could the 801 Alma affordable housing could be built without a PC? The site was large (half a downtown block - .6 acres) and was in Palo Alto's densely zoned downtown.

Are the current sites where the city asserts that affordable housing can be developed large or densely zoned? Most are small, and most are not densely zoned. When the referendum against the Maybell senior housing passed, there was hope Palo Alto Housing Corp could hold the property, and propose a

multifamily housing project within zoning. But PAHC found the holding cost too high, and had to sell the land to a for-profit developer. With this recent history in mind, is it realistic to think that a non-profit developer will have the funds to obtain and consolidate multiple small parcels before building?

Is it realistic to expect 100% affordable housing on small lots, with yields of under 10 units? The non-profit developments we have seen are Oak Court with 53 units, 801 Alma with 50 units, and 488 W. Charleston Road with 35 units.

Will PC zoning be of help? First, council has put a moratorium on PC zoning. Approving a PC takes council approval, and is subject to referendum. Even assuming the moratorium is lifted after the November council election, Council will expect a referendum on any PC zoning approval that increases allowed density. They do not want the expense of the referendum campaign and election. Proposed PC's will not be approved.

The only way that housing, including affordable housing, will be built in Palo Alto for the foreseeable future is by right. 100% affordable housing would benefit from a guaranteed right to greater density, and reduced parking requirements.

To create the *possibility* of very low and low income units being developed, and given the anti-PC zoning climate, the city of Palo Alto needs to implement during the period an affordable housing overlay zoning for 100% affordable housing development.

The closest current program H2.1.6 should be strengthened to require creation of an overlay zoning for 100% affordable housing.

**Current:**

H2.1.6 PROGRAM Consider density bonuses and/or concessions including allowing greater concessions for 100% affordable housing developments.

Five-Year Objective: Provide opportunities for 100% affordable housing developments.

**Needed to support 100% affordable housing creation:**

Create an overlay zoning for 100% affordable housing within 1 year of housing element adoption, providing for increased densities and reduced parking requirements for 100% affordable housing development.

The features of the overlay zoning might vary based on type of housing, and underlying zoning. The most important feature will be to allow greater density by right for 100% affordable housing.

Thank you for your consideration.

Eddie Keating  
Palo Alto Resident  
Member, Peninsula Interfaith Action

[Eddie.Keating100@gmail.com](mailto:Eddie.Keating100@gmail.com)

650 630-3005

3553 Alma St. #5

Palo Alto, CA 94306

## Wong, Tim

---

**From:** Johnson, James@HCD <James.Johnson@hcd.ca.gov>  
**Sent:** Tuesday, September 02, 2014 1:38 PM  
**To:** Wong, Tim; Genevieve Sharrow (genevieves@migcom.com)  
**Subject:** FW: Palo Alto housing element input

FYI

-----Original Message-----

**From:** recycler100@sonic.net [mailto:recycler100@sonic.net]  
**Sent:** Tuesday, September 02, 2014 1:27 PM  
**To:** Johnson, James@HCD  
**Subject:** Palo Alto housing element input

Dear Mr. Johnson,

I only learned Friday about the fact that the state is approving Palo Alto's Housing Element just now, and that the housing element had even been submitted for approval.

Since time is short, I would just like to make a broad point that I hope the State will send the draft back to the City for more work.

Given the major work the community must still do on the Comprehensive Plan in other elements in light of so much development in recent years, and especially given all the controversy over development, there is no way they can come close to retaining internal consistency if they get a green-light to essentially set the Housing Element in stone first.

As a member of the community, I would also like to object: I do not feel the City has made a diligent effort to include the community or all segments of the community in the development of the Housing Element - particularly the segments of our town that opposed the City in a land use referendum in historic numbers last year.

As an example, I would point you to one of several recent news articles within the last 60 days about the City Council considering different concepts for the Comprehensive Plan, and whether to send them all out for environmental impact analysis. It makes it seem as if the process is still in the concept and debate stage.

<http://palooaltonline.com/news/2014/07/09/palo-alto-considers-a-net-zero-growth-vision>

Nowhere has the Planning Department made it clear that they submitted a draft of the Housing Element already to the State for approval.

They could have posted an announcement in the newspaper's Townsquare at no cost, but did not even do that.

Our City has a habit of making a show of involvement in order to say they asked for involvement or had a public process while doing whatever they want anyway. And unfortunately, our City Employees and Council at the moment seem mostly to be representing major development interests.

Last year, the very same employee put in charge of the Housing Element revision had engaged in a controversial public process involving the upzoning of a small neighborhood, while simply quietly submitting documents to the State verifying the property had already been rezoned (when it hadn't and never ultimately was), all CEQA appeals had expired (when there was an active suit) and that according to the City, the property was ready to build. Ultimately, the City lost a land use referendum, the property was never rezoned, and the millions received as a result of this false verification had to be returned. And yet that employee is now engaged in virtually identical tactics in the Comp Plan revision, essentially in charge of the revision, even as we wrestle with huge development issues in this town. The State should not enable this.

Palo Alto just went through a citizen referendum with historic participation by residents. There were binders full of letters by residents. Citizens qualified a referendum in just 10 days for something as dry as removing the upzoning of a residential property from the Comprehensive Plan. That means thousands of residents were concerned enough about development in our town to qualify a Comprehensive Plan issue for referendum in 10 days. Citizens are fielding several "residentialist" candidates for City Council in the next election in November. Do you honestly think, given the limited input you just received, most supporting increased density and building - when the City is facing historic opposition against it - that the City could possibly have been diligent in soliciting input from all stakeholders?

Here's an article from a local blogger about the habit of our City employees of giving the appearance of taking input, while actively ignoring it:

<http://www.paloaltoonline.com/blogs/p/2014/05/08/visioning-or-potemkin-villages>

And there was an article from the last year in the local paper in which the City Manager admitted to reporter Gennady Shayner at the Weekly that the City employees cherry pick through the Comprehensive Plan in order to support whatever development or effort they want to approve, they do not include anything that opposes what they want. Again, the same employees have just given you that housing element draft and created a process in which you heard not a peep from the thousands of residents who have been actively engaged in opposing overdevelopment recently and asking for attention to infrastructure and safety to catch up.

I would also make the additional point that our Housing Element has an inclusionary housing provision that has been used to further development interests to the exclusion of its intended purpose. For example, right now, over 400 low-income Palo Alto residents face eviction and a mobile home community will be razed, while the City sits in inaction, for example, failing to make available funds from our affordable housing funds to help residents purchase the park. That's just one example.

A bigger issue is how they have allowed developers to conflate the inclusionary housing provision with high-density housing, when the housing being built is almost exclusively inaccessible to the disabled to even VISIT, much less live in. Around 10% of the population have mobility problems, it's not just people in wheelchairs or the elderly. Our town has put essentially ZERO focus on the efforts government could make to include the disabled in the prosperity of Silicon Valley through policies in the housing element.

New construction and planning practices in Palo Alto in the last decades have not only failed to provide for the disabled, they have actively discouraged liveability for the disabled here. The state should care about this.

Thank you for taking my input.

--

\*\*\*\*\*CR

This email and any files attached are intended solely for the use of the individual or entity to which they are addressed. If you have received this email in error, please notify the sender immediately. This email and the attachments have been electronically scanned for email content security threats, including but not limited to viruses.

# City of Palo Alto

## Housing Element 2015-2023

Draft  
Initial Study/Mitigated Negative  
Declaration



CITY OF  
**PALO  
ALTO**

August 29, 2014

- This document is designed for double-sided printing -





**ENVIRONMENTAL CHECKLIST**  
**City of Palo Alto**  
**Department of Planning and Community Environment**

---

**TABLE OF CONTENTS**

I.	PROJECT DESCRIPTION .....	4
II.	ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS.....	13
	A. AESTHETICS .....	14
	B. AGRICULTURAL AND FOREST RESOURCES .....	15
	C. AIR QUALITY.....	17
	D. BIOLOGICAL RESOURCES .....	21
	E. CULTURAL RESOURCES.....	23
	F. GEOLOGY, SOILS, AND SEISMICITY.....	25
	G. GREENHOUSE GAS EMISSIONS .....	27
	H. HAZARDS AND HAZARDOUS MATERIALS .....	29
	I. HYDROLOGY AND WATER QUALITY.....	32
	J. LAND USE AND PLANNING.....	35
	K. MINERAL RESOURCES.....	38
	L. NOISE .....	39
	M. POPULATION AND HOUSING.....	44
	N. PUBLIC SERVICES.....	45
	O. RECREATION .....	47
	P. TRANSPORTATION AND TRAFFIC.....	48
	Q. UTILITIES AND SERVICE SYSTEMS .....	52
	R. MANDATORY FINDINGS OF SIGNIFICANCE.....	54
III.	SOURCES REFERENCED.....	56
IV.	DETERMINATION .....	57
V.	SUMMARY OF MITIGATION MEASURES.....	59

**ENVIRONMENTAL CHECKLIST**  
**City of Palo Alto**  
**Department of Planning and Community Environment**

---

**PROJECT DESCRIPTION**

---

**1. PROJECT TITLE**

City of Palo Alto Housing Element (2015 – 2023)

**2. LEAD AGENCY NAME AND ADDRESS**

City of Palo Alto  
Department of Planning and Community Environment  
250 Hamilton Avenue  
Palo Alto, CA 94301

**3. CONTACT PERSON AND PHONE NUMBER**

Tim Wong, Housing Coordinator  
City of Palo Alto  
(650) 329-2561

**4. PROJECT SPONSOR'S NAME AND ADDRESS**

City of Palo Alto  
Department of Planning and Community Environment  
250 Hamilton Avenue  
Palo Alto, CA 94303

**5. APPLICATION NUMBER**

N/A

**6. PROJECT LOCATION**

The 2015-2023 Housing Element is a planning document that provides guidance for new housing development throughout the City of Palo Alto. Palo Alto is located in northern Santa Clara County, as shown on Exhibit 1, *Regional and Vicinity Map*. Palo Alto is bordered by San Mateo County (cities of Menlo Park and East Palo Alto) to the north, San Francisco Bay to the east, Stanford University and the Skyline Ridge of the coastal mountains to the west, and the city of Mountain View and town of Los Altos to the south, as shown on Exhibit 1, *Regional and Vicinity Map*.

## **7. COMPREHENSIVE PLAN DESIGNATION**

The Palo Alto Comprehensive Plan Land Use & Design Element identifies the Residential and Commercial land use designations that allow residential uses at various densities. The Housing Element evaluates the existing and projected housing needs of the community, provides an inventory of adequate sites available for development to meet the City's share of the regional housing needs, and updates goals and policies to address the housing needs and to remove or reduce constraints to the production and maintenance of housing. The draft Housing Element does not propose to change any particular parcel's Comprehensive Plan land use designation. The 2015-2023 Housing Element will update the Comprehensive Plan pursuant to State law (Government Code Section 65588).

## **8. ZONING**

Multiple residential and commercial zoning districts in Palo Alto provide opportunities for development of housing projects at various densities. A detailed description of the zoning and an inventory of the sites available for housing development are contained in the Housing Element. The draft Housing Element does not propose to change any particular parcel's zoning.

## **9. PROJECT DESCRIPTION**

The project is the adoption and implementation of the Palo Alto 2015-2023 Housing Element to comply with State law.

### **Background**

This Initial Study of environmental impacts has been prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations 15000 et. seq.), and the regulations and policies of the City of Palo Alto. By State mandate, each city and county in California is required to plan for the housing needs for its share of the expected new households in the region through periodic updates to the Housing Element.

The Housing Element is one of seven required elements of the Comprehensive Plan. The Housing Element addresses existing and future housing needs of persons in all economic segment groups and serves as a tool for decision-makers and the public for understanding and meeting housing needs in Palo Alto. While the law does not require local governments to actually construct housing to meet identified needs, it does require that the community address housing needs in its discretionary planning actions by creating opportunities for housing in the land use plan and facilitating housing development through policy.

An update to the Palo Alto Housing Element was recently adopted in 2013; as such, this update represents a focused update with limited changes. There are no major changes proposed to the goals and policies of the current Housing Element adopted in 2013, and the project proposes no changes to any particular parcel's zoning or Comprehensive Plan land use designation.

## **Statutory Requirements**

State law requires that all housing elements address four key topics: 1) housing needs, 2) constraints to housing development, 3) housing resources, and 4) a housing plan. Analysis of these topics provides the foundation for the preparation of a housing element. Article 10.6, Section 65580 – 65589.8, Chapter 3 of Division 1 of Title 7 of the Government Code sets forth the legal requirements for a housing element and encourages the provision of affordable and decent housing in suitable living environments for all communities to meet statewide goals. The Housing Element serves as a guiding document for new housing development; it how the City will allocate resources for new housing and housing related services during the planning period of 2015-2023. As noted above, the 2015-2023 update is a focused update to the adopted 2009-2014 Housing Element, which was found to comply with State law by the California Department of Housing and Community Development (HCD).

This Initial Study evaluates the potential environmental impacts that might reasonably be anticipated to result from planning for the potential development throughout the City of up to 1,988 housing units over an eight-year period. These 1,988 units represent Palo Alto's "fair share" of housing based on the Association of Bay Area Government's (ABAG) Regional Housing Needs Allocation (RHNA) process for the City of Palo Alto. The City is required to plan for 1,988 units over an eight year period, per RHNA calculations, even though the average annual housing growth in Palo Alto is 167 units a year (equivalent to 1,336 units over eight years). As of January 1, 2014, 440 housing units have been approved, permitted, or built in the city and can be counted toward the RHNA obligation for the 2015-2023 planning period. Thus, the remaining housing need for the remainder of the planning period is 1,548 housing units.

The City of Palo Alto is the lead agency under CEQA and has prepared this Initial Study to address the potential impacts of updating the Housing Element of the Comprehensive Plan.

## **Housing Element Content**

The Housing Element includes goals, policies, and implementation programs that address the housing needs of the community. The Housing Element vision is: *"Our housing and neighborhoods shall enhance the livable human environment for all residents, be accessible to civic and community services and sustain our natural resources."* To achieve this vision, the policies and programs include recommendations for changes to certain land use regulations pertaining to residential development, including programs to adopt minimum densities in certain zones, adopt flexible development standards such as reduced parking standards for smaller units, and to consider limited exceptions to height limits for mixed use projects near fixed-rail transit stations. Any future changes in regulations—including the zoning changes proposed in Housing Element implementation programs and construction and development of any particular housing project—will be subject to environmental review per the requirements of CEQA, and subject to public review and hearings prior to implementation.

The City of Palo Alto is a mature community with very little vacant land available for development. California housing element law requires that each city and county develop local

housing programs designed to meet its “fair share” of housing needs for all income groups, based on projected population growth. The local fair share of housing needs is known as the RHNA, as identified above. Housing Element law also requires that jurisdictions identify adequate sites that have land use and zoning policies in place to meet the RHNA. Most of the sites identified as opportunity sites to meet the RHNA in the Housing Element are infill sites that are now underdeveloped and could be redeveloped either at higher densities or by the replacement of older, underutilized commercial sites with higher density residential or mixed-use residential projects. The areas selected for potential housing development include the University Avenue Downtown area, California Avenue Transit Neighborhood, El Camino Real Mixed Use Transit Corridor, San Antonio Avenue Mixed Use Corridor, South of Forest Area Coordinated Area Plan – Phase 2, and various sites in residential zoning districts that are either vacant or occupied by commercial uses. These sites, a description of the specific zoning districts, and the site characteristics are described in detail in the Housing Element.

Since the Housing Element is an update to the Comprehensive Plan, the analysis of environmental impacts is broad and programmatic in nature. Should future residential development require discretionary action by the City of Palo Alto, project-level CEQA review will be required to determine project-specific impacts. Evaluation of future project-level impacts would be too speculative to include in this IS/MND (see CEQA Guidelines Section 15145). Many of the programs and policies can be implemented through existing codes, policies, and practices. Analysis of the potential environmental impacts of the Housing Element update assumes development will occur under the existing Zoning Code, as well as the recommended code revisions likely to occur within three years of implementation.

## **10. SURROUNDING LAND USES AND SETTING**

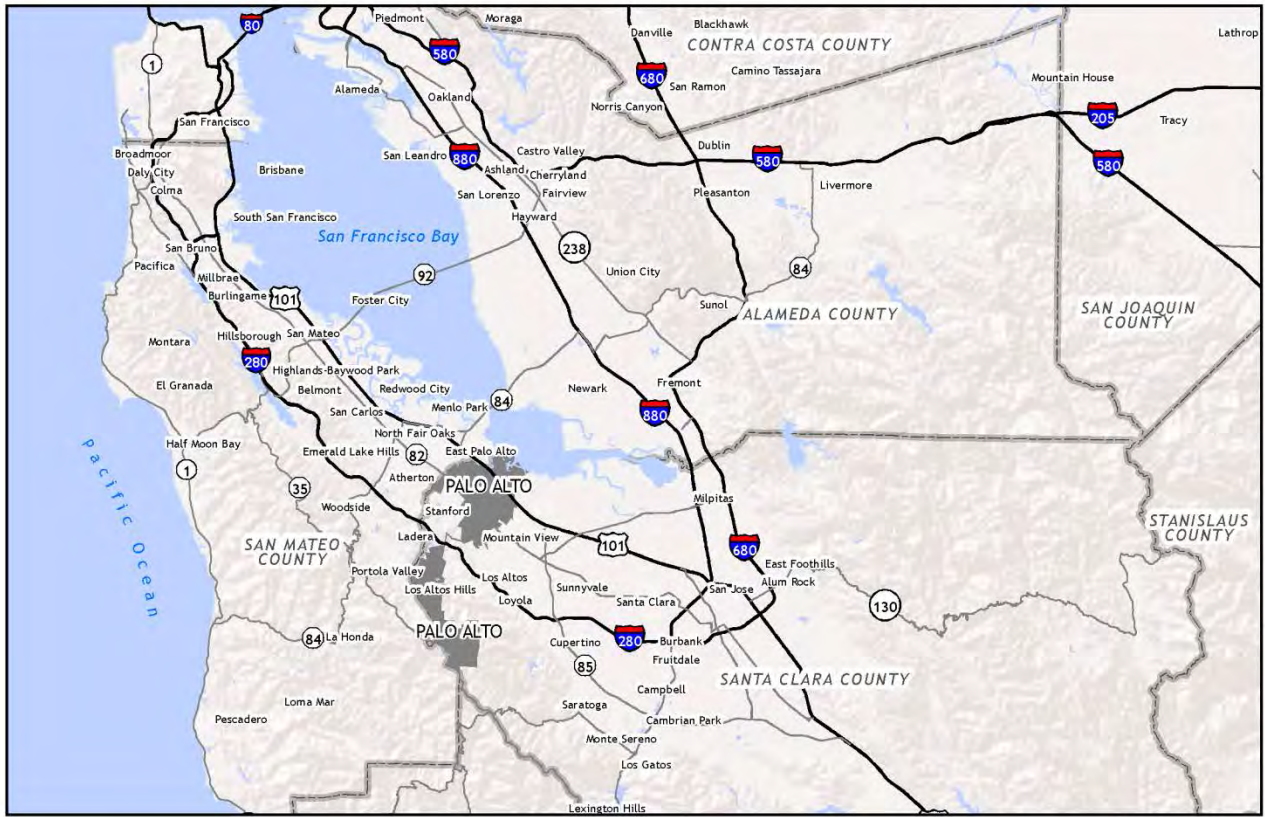
The Housing Element update involves the entire City of Palo Alto, a community of 66,642 residents (as of 2013). Palo Alto is part of the San Francisco Bay Area region, and is located within Santa Clara County and borders San Mateo County to the north. The city boundaries extend from San Francisco Bay on the east to the Skyline Ridge of the coastal mountains on the west, with the city of Menlo Park to the north and the city of Mountain View to the south. Palo Alto encompasses approximately 26 square miles, one-third of which is open space.

## **11. OTHER PUBLIC AGENCY APPROVALS REQUIRED**

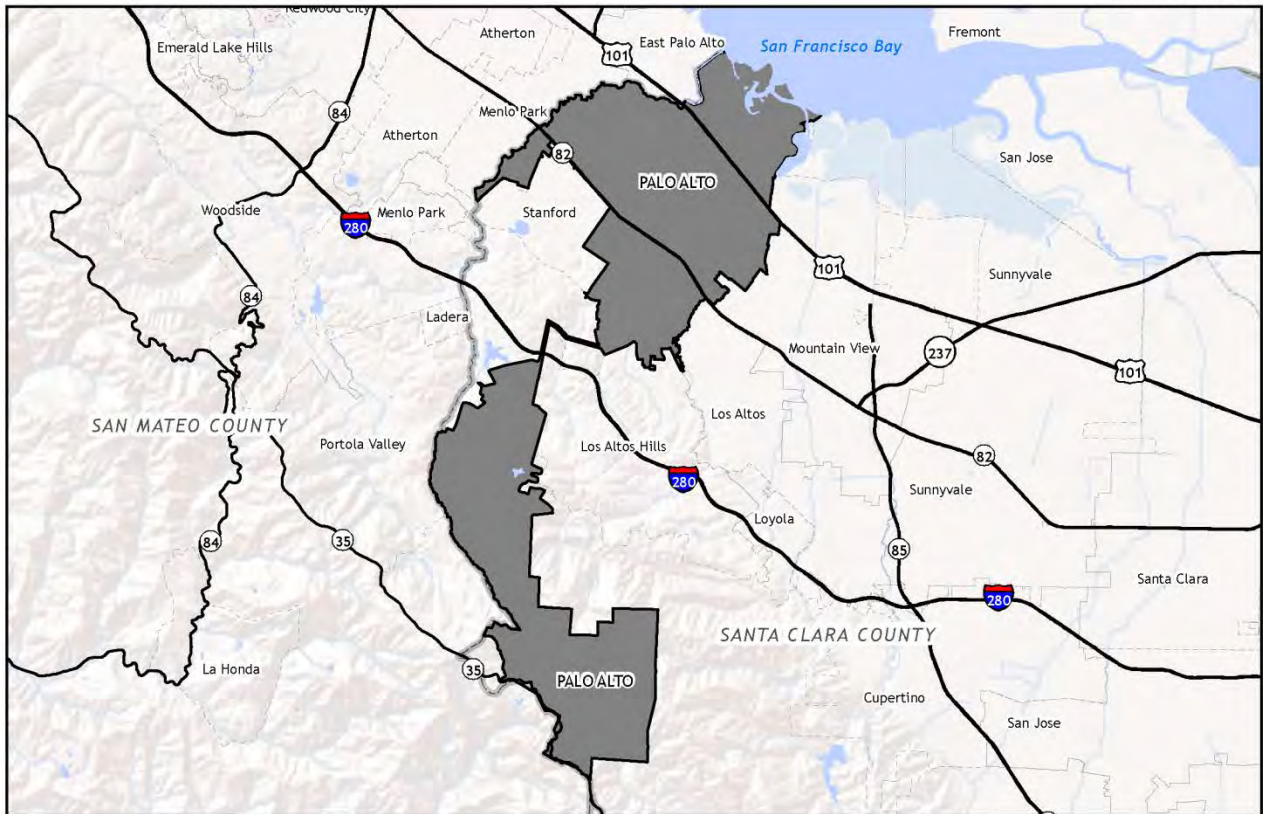
The Housing Element is subject to review by the California State Department of Housing and Community Development (HCD).

---

This Page Intentionally Left Blank



REGIONAL



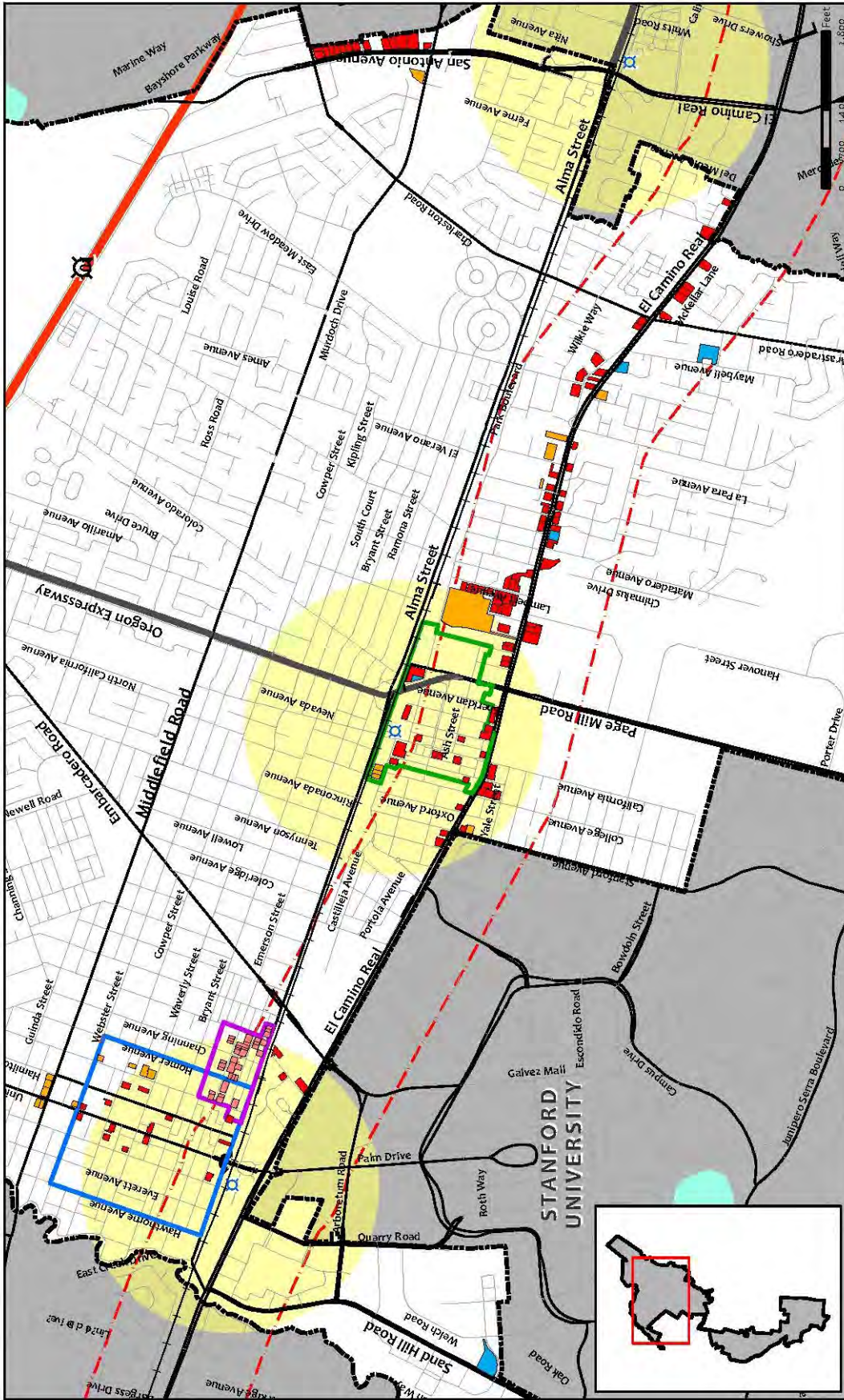
VICINITY

### Exhibit 1 Regional and Vicinity Map

Palo Alto Housing Element 2015-2023  
City of Palo Alto, California

This Page Intentionally Left Blank





Source: City of Palo Alto GIS, 2014

- City Boundary
- Freeway
- Expressway
- Arterial Road
- Local Road
- Railroad
- 1/2 mile from Caltrain Stations
- 1/4 mile from El Camino Real
- Caltrain Station
- Downtown Palo Alto
- SOFA 2 CAP
- California Avenue PTOD
- Vacant Site
- Commercially Zoned Site
- SOFA II Sites
- Residentially Zoned Site



CITY OF  
**PALO ALTO**

Source: City of Palo Alto GIS, 2014



# Exhibit 2 Housing Sites Map

Palo Alto Housing Element 2015-2023  
City of Palo Alto, California

This Page Intentionally Left Blank

## ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS

The following Environmental Checklist has been used to identify environmental impacts which could occur if the proposed project is implemented. The left-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of the checklist. Discussions of the basis for each answer and a discussion of mitigation measures that are proposed to reduce potential significant impacts are included.

## A. AESTHETICS

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Substantially degrade the existing visual character or quality of the site and its surroundings?	1, 2			X	
b) Have a substantial adverse effect on a public view or view corridor?	1, 2			X	
c) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	1, 2			X	
d) Violate existing Comprehensive Plan policies regarding visual resources?	1, 2			X	
e) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	1			X	
f) Substantially shadow public open space (other than public streets and adjacent sidewalks) between 9:00 a.m. and 3:00 p.m. from September 21 to March 21?	1			X	

### DISCUSSION:

The potential housing sites all lie within fully urbanized areas of Palo Alto. Several areas of the city are specifically identified for development opportunities: 1) the University Avenue Downtown area, 2) California Avenue Transit Neighborhood, 3) El Camino Real Mixed Use Transit Corridor, 4) San Antonio Avenue Mixed Use Corridor, 5) south of Forest Area Coordinated Area Plan – Phase 2, and 6) various sites in Residential zoning districts currently developed with commercial uses. Most of these sites are also located along transportation corridors and are near the Caltrain stations. None of the potential project sites is located near a scenic highway or scenic vista, as scenic locations are in the hillside and waterfront areas of Palo Alto.

Adoption of the Housing Element update will not result in any adverse aesthetic impacts. Any future housing development will be required to comply with the Zoning Code requirements that regulate the mass, bulk, and height of buildings. Also, any applicable design guidelines would apply. With application of existing standards, new housing will be compatible development within the areas in which they will be developed.

**Mitigation Measures:** None Required

**Conclusion:** The proposed project will not result in significant, adverse visual or aesthetic impacts. **(Less Than Significant Impact)**

## B. AGRICULTURAL AND FOREST RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board.

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	1				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	1, 2, 3				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g) <sup>1</sup> ) or timberland (as defined in Public Resources Code section 4526 <sup>2</sup> )?	1				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?	1				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	1				X

### DISCUSSION:

<sup>1</sup> PRC 12220(g): "Forest land" is land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits.

<sup>2</sup> PRC 4526: "Timberland" means land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis after consultation with the district committees and others.

According to the City’s Comprehensive Plan, none of the potential housing sites is located in a “Prime Farmland”, “Unique Farmland”, or “Farmland of Statewide Importance” area, as shown on the maps prepared for the Farmland Mapping and Monitoring Program of the California Resources Agency. The sites are not designated for agricultural uses by the Palo Alto Comprehensive Plan, nor are they zoned for agricultural use or regulated by the Williamson Act. The potential housing sites are not currently used for agricultural purposes; all are located within fully developed urban areas with no forest or timberland resources. For these reasons, the proposed project will not result in a significant impact on agricultural resources.

**Mitigation Measures:** None Required

**Conclusion:** Any future development project on a site included on the Housing Inventory Sites will not result in impacts to agricultural resources. **(No Impact)**

---

### C. AIR QUALITY

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct with implementation of the applicable air quality plan (1982 Bay Area Air Quality Plan & 2000 Clean Air Plan)?	1, 4			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation indicated by the following:	1, 4			X	
i. Direct and/or indirect operational emissions that exceed the Bay Area Air Quality Management District (BAAQMD) criteria air pollutants of 80 pounds per day and/or 15 tons per year for nitrogen oxides (NO), reactive organic gases (ROG), and fine particulate matter of less than 10 microns in diameter (PM <sub>10</sub> );	1, 4			X	
ii. Contribute to carbon monoxide (CO) concentrations exceeding the State Ambient Air Quality Standard of nine parts per million (ppm) averaged over eight hours or 20 ppm for one hour( as demonstrated by CALINE4 modeling, which would be performed when a) project CO emissions exceed 550 pounds per day or 100 tons per year; or b) project traffic would impact intersections or roadway links operating at Level of Service (LOS) D, E or F or would cause LOS to decline to D, E or F; or c) project would increase traffic volumes on nearby roadways by 10% or more)?	1, 4			X	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	1, 4			X	
d) Expose sensitive receptors to substantial levels of toxic air contaminants?	1, 4			X	
i. Probability of contracting cancer for the Maximally Exposed Individual (MEI) exceeds 10 in one million	1			X	
ii. Ground-level concentrations of non-carcinogenic TACs would result in a hazard index greater than one (1) for the MEI	1			X	

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Create objectionable odors affecting a substantial number of people?	1			X	
f) Not implement all applicable construction emission control measures recommended in the <i>Bay Area Air Quality Management District CEQA Guidelines</i> ?	1			X	

**DISCUSSION:**

The project area is located in the Santa Clara Valley, which is part of the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) has the primary responsibility for ensuring that the Santa Clara Valley Air Basin attains and maintains compliance with federal and state ambient air quality standards. This regional agency regulates air quality through its permit authority over most types of stationary emission sources and through its planning and review process. Ambient air quality standards are set to protect public health. Both federal and state ambient air quality standards apply, as established by the U.S. Environmental Protection Agency (USEPA) and state air quality agencies (CALEPA for California). California air quality standards are generally more stringent than federal standards. Continuous air monitoring by these agencies and BAAQMD ensure that air quality standards are being met or improved.

Both the USEPA and the California Air Resources Board have established ambient air quality standards for common pollutants. These ambient air quality standards are levels of pollutants which represent safe levels that avoid specific adverse health effects. The ambient air quality standards cover what are called “criteria” pollutants because the health and other effects of each pollutant are described in criteria documents. The major criteria pollutants are ozone, carbon monoxide, nitrogen dioxide, and particulate matter.

The Bay Area is currently designated as a nonattainment area for state and national ozone standards and state particulate matter (PM<sub>2.5</sub>), and as a nonattainment area for the state particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) standards. The *2010 Clean Air Plan (CAP)* was developed as a multi-pollutant plan and aims to bring the area into attainment of federal and state ambient air quality standards. This plan provides an integrated control strategy to reduce ozone, particulate matter (PM), toxic air contaminants, and greenhouse gases. BAAQMD recently initiated an update to the Bay Area Clean Air Plan and held a public workshop in February 2014 to initiate development of the update.

As analyzed below, development of potential housing sites will not result in a significant increase in emissions of particulate matter or ozone precursors during operation. Because construction activities require permits from the BAAQMD and Palo Alto to regulate emissions, construction emissions will also not result in significant emissions of particulate matter or ozone precursors. Therefore, the proposed project will not conflict with or obstruct implementation of the BAAQMD’s air quality plans to bring the Air Basin into attainment for particulate matter and ozone, resulting in a less-than-significant impact.



**Sensitive Receptors:** BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, childcare centers, retirement homes, convalescent homes, hospitals and medical clinics.

**Long-Term Air Quality Impacts:** The potential operational air quality impacts of future residential projects largely will be associated with motor vehicle trips generated by the proposed developments. Since most of the identified Housing Sites will result in the replacement of existing development with new housing and mixed-use projects, the increase in the number of vehicle trips is not expected to be significant. As shown in Exhibit 2 (Housing Sites Map), the majority of the Opportunity Sites are located within a half mile from a Caltrain station and a quarter mile from El Camino Real. The placement of the proposed developments is intended to encourage transit use and reduce auto dependency. Any minor increase in vehicle trips generated will only marginally increase daily emissions of ozone precursors and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) and will likely be below BAAQMD established thresholds for consideration of a significant impact.

Any individual development project will be subject to environmental review pursuant to CEQA and the City's local procedures to determine if any long-term air quality impacts will occur from the operation of a specific new development.

Any stationary sources on a given site will be subject to the BAAQMD Rules and Regulations. Compliance with BAAQMD Rules and Regulations will ensure that the project will not conflict with or obstruct implementation of the applicable air quality plans.

CEQA requires program level initial studies to evaluate individual as well as cumulative impacts of General (Comprehensive) Plans. Projects in compliance with BAAQMD's CAP are considered less than significant for long-term air quality impacts.

**Short-Term Air Quality Impacts:** Construction-related air quality impacts associated from a proposed project will be the result of dust-creating activities, exhaust emissions of construction equipment, and the use of typical construction materials such as asphalt and other construction materials that tend to volatilize into the atmosphere. Due to the negligible amount and short duration of these activities, all are considered to be less than significant, except the potential impacts from construction activities generating dust.

Construction activities such as excavation and grading operations and construction vehicles driving over and wind blowing over exposed earth generate fugitive particulate matter that will affect local and regional air quality. The effects of these dust generating activities will be increased dustfall and locally elevated levels of PM<sub>10</sub> downwind of construction activity. Construction dust also has the potential for creating a nuisance at nearby properties.<sup>3</sup> If uncontrolled, dust generated by construction activities could be a significant impact. Any future project's construction-related activities will be required to comply with BAAQMD and Palo Alto's regulations, which include implementation of all feasible dust control measures. Compliance with these regulations will reduce construction impacts to

---

<sup>3</sup> The word nuisance is used in this Initial Study to mean "annoying, unpleasant or obnoxious" and not in its legal sense.

a level that is less than significant. Therefore, future projects will not conflict with any applicable air quality plans or expose any sensitive receptors to substantial pollutants.

With regard to objectionable odors, neither construction activity nor the operation of housing units typically generates unusual odors.

**Mitigation Measures:** None Required

**Conclusion:** Increased density can result in increased traffic and consequent impacts on air quality. However, the areas proposed for higher density residential development are in already developed urban areas, so the new uses will be replacing uses which already generate traffic. In addition, a majority of the Housing Sites are located within one-half mile of major transit hubs (Caltrain) or other major transit routes such as El Camino Real. It is expected that any increase in density will be offset both by the fact that the new residential uses would replace existing uses and by the increased use of transit, thus reducing the potential impact on air quality.

Future development resulting from implementation of the Housing Element will not result in significant long-term or local air quality impacts. **(Less than Significant Impact)**

---

## D. BIOLOGICAL RESOURCES

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	1, 2, 5				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, including federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	1,2				X
c) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	1, 2, 5				X
d) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or as defined by the City of Palo Alto's Tree Preservation Ordinance (Municipal Code Section 8.10)?	1, 2, 5				X
e) Conflict with any applicable Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	1, 2, 5				X

### DISCUSSION:

The Comprehensive Plan Housing Element is a policy document that addresses housing need in the City; no actual development or rezoning/re-designation of land is proposed as part of the Housing Element. Therefore, its adoption would not, in itself, result in impacts on biological resources. The areas of Palo Alto identified for potential housing development are located within a fully developed urban settings that have very little native plant and animal life. There is no record of any rare, unique or endangered species of plants or animals in these areas.

The potential development sites are surrounded by office, commercial and residential development with limited cover and foraging habitat for wildlife.

Because the areas identified as Housing Sites have already been disturbed through urban development, no significant changes are anticipated in the diversity or number of species of plants or animals, or in the deterioration of existing wildlife habitat.

Any trees present on potential development sites will be evaluated on a case-by-case basis. Any future project on a property which includes any trees that are a species identified as “protected” under the City’s municipal code will require review in accordance with the requirements of Chapter 8.10 of the Municipal Code, Tree Preservation and Management Regulations.

**Mitigation Measures:** None Required

**Conclusion:** The proposed Housing Element update will not result in any biological impacts. **(No Impact)**

---

## E. CULTURAL RESOURCES

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Directly or indirectly destroy a local cultural resource that is recognized by City Council resolution?	1, 11			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5?	1, 2			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	1, 2			X	
d) Disturb any human remains, including those interred outside of formal cemeteries?	1, 2			X	
e) Adversely affect a historic resource listed or eligible for listing on the National and/or California Register, or listed on the City's Historic Inventory?	1, 2, 11			X	
f) Eliminate important examples of major periods of California history or prehistory?	1			X	

### DISCUSSION:

Proposed site for future housing development have already been disturbed, therefore future projects are not anticipated to impact prehistoric or historic archaeological resources. There is no evidence of recorded historic and/or prehistoric archaeological resources on or near any of the Housing Sites. None of the sites is listed on the City of Palo Alto's Historic Resources Inventory.

**Buried Prehistoric and Historic Resources:** Based on relevant archaeological reports for the immediate area, adoption of the Housing Element and future housing development on selected sites should have no effect on archaeological resources. Although it is unlikely that buried cultural materials will be encountered, standard conditions for excavation activities will be applied to a potential project as described below.

For all future projects, if during grading and construction activities, any archaeological or human remains are encountered, construction shall cease and a qualified archaeologist shall visit the site to address the find. The Santa Clara County Medical Examiner's office shall be notified to provide proper direction on how to proceed. If any Native American resources are encountered during construction, construction shall cease immediately until a Native American descendant, appointed by the Native American Heritage Commission of the State of California, is able to evaluate the site and make further recommendations and be involved in mitigation planning.

**Mitigation Measures:** None Required

**Conclusion:** Since any sites proposed for development have already been disturbed, future projects are not anticipated to impact prehistoric or historic archaeological resources. The proposed project will not result in significant impacts to cultural resources. **(Less Than Significant Impact)**

---

## F. GEOLOGY, SOILS, AND SEISMICITY

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	5, 10			X	
ii) Strong seismic ground shaking?	1, 2, 5			X	
iii) Seismic-related ground failure, including liquefaction?	1, 2, 5			X	
iv) Landslides?	2, 5				X
b) Result in substantial soil erosion or the loss of topsoil?	1, 5				X
c) Result in substantial siltation?	1				X
d) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	1, 2, 5			X	
e) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	1, 2, 5			X	
f) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	1, 5				X
g) Expose people or property to major geologic hazards that cannot be mitigated through the use of standard engineering design and seismic safety techniques?	1, 5				X

### DISCUSSION:

**Seismicity:** The San Francisco Bay Area is one of the most seismically active regions in the United States. Generally, the City of Palo Alto will experience a range of weak to very violent shaking in the

event of a major earthquake along the San Andreas or Hayward fault. Although hazards exist, development will not expose people or property to major geologic hazards that cannot be addressed through the use of standard engineering design and seismic safety techniques, as required by building codes. With proper engineering, new development is not expected to result in any significant adverse short or long-term impacts related to geology, soils, or seismicity.

The major cause of damage during an earthquake is ground shaking, with frequency and amplitude of motion dependent on local geologic conditions. Sites on bedrock tend to have sharp, high frequency jolts with little amplitude, while sites on deep alluvium receive lower frequency shocks but suffer movement with high amplitude. Regional studies have suggested that the response of certain soils such as bay muds to earthquakes will also vary according to the depth of soil and the magnitude of the quake. Thus, ground accelerations of smaller quakes are magnified as much as three times over the underlying bedrock, whereas ground accelerations of a large quake (7.5 or more on the Richter scale) will be reduced to a value below that of the underlying bedrock.

**Landslides:** The natural factors that promote landslides are steep slopes, poorly consolidated bedrock, and occasional heavy rainfall in hilly areas. All of the potential housing sites are on areas that are relatively flat.

**Liquefaction:** Soil liquefaction is a condition where saturated granular soils near the ground surface undergo a substantial loss of strength during seismic events. Loose, water-saturated soils are transformed from a solid to a liquid state during ground shaking. Liquefaction can result in serious deformations. Soils most susceptible to liquefaction are loose, uniformly graded, saturated fine-grained sands that lie close to the ground surface. Portions of Palo Alto, including the University Avenue area, are identified on the State of California Seismic Hazard Zones Official Map, Palo Alto Quadrangle as being susceptible to liquefaction, and soils in the area have a moderate potential for expansion.

The potential housing sites are located in areas with expansive soils and strong seismic ground shaking, and some of the sites may be subject to liquefaction. Any new construction will be required to meet current building code standards and, depending on project location and scope, may be required to prepare geologic reports to address potential geologic impacts associated with the development of the site, including ground shaking and liquefaction.

**Mitigation Measures:** None Required

**Conclusion:** Some areas of Palo Alto are impacted by geological constraints such as expansive soils and susceptibility to ground shaking. However, the areas proposed for new housing in the Housing Element update are primarily areas which are on level land and have previously been developed with urban uses. Any new construction will be required to comply with the current building code requirements and meet any geological and earthquake standards of the current code. **(Less Than Significant Impact)**

---



## G. GREENHOUSE GAS EMISSIONS

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	1, 4			X	
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	1, 4			X	

### DISCUSSION:

BAAQMD’s approach to developing a threshold of significance for greenhouse gas (GHG) emissions is to identify the emissions level for which a project will not be expected to substantially conflict with existing California legislation adopted to reduce statewide GHG emissions needed to move the state toward climate stabilization. If a project will generate GHG emissions above the threshold level, it will contribute substantially to a cumulative impact, and will be considered significant.

The thresholds of significance for operational-related GHG emissions are:

- For land use development projects, the threshold is compliance with a qualified GHG reduction strategy; or annual emissions less than 1,100 metric tons per year (MT/yr) of CO<sub>2</sub>e; or 4.6 MT CO<sub>2</sub>e/SP/yr (residents + employees). Land use development projects include residential, commercial, industrial, and public land uses and facilities.
- For stationary-source projects, the threshold is 10,000 metric tons per year (MT/yr) of CO<sub>2</sub>e. Stationary-source projects include land uses that would accommodate processes and equipment that emit GHG emissions and would require an Air District permit to operate. If annual emissions of operational-related GHGs exceed these levels, the proposed project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact to global climate change.

The BAAQMD has established project-level screening criteria to assist in the evaluation of impacts. If a project meets the screening criteria and is consistent with the methodology used to develop the screening criteria, then the project’s air quality impacts may be considered less than significant. Below are some screening level examples taken from the BAAQMD CEQA Air Quality Guidelines, 06/2010 (Table 1, Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes).

**Table 1**  
**Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes**

<b>Land Use Type</b>	<b>Operational GHG Screening Size **</b>
Single-family	56 du
Apartment, low-rise	78 du
Apartment, mid-rise	87 du
Condo/townhouse, general	78 du
City park	600 acres
Day-care center	11,000 sf
General office building	53,000 sf
Medical office building	22,000 sf
Office park	50,000 sf
Quality restaurant	9,000 sf

\*\*If project size is => screening size, then it is considered potentially significant.

State Housing Element law requires that each jurisdiction plan for the anticipated housing needs of the community. ABAG provides an estimate for the housing needs for the San Francisco Bay Area, which are assigned to each city and county through the RHNA process. The RHNA for each community represents the housing need that it must plan for during the 2015-2023 period for the Housing Element. The total allocation for Palo Alto is 1,988 housing units, which will serve the needs of all income levels from very low-income households to above moderate-income households. The City of Palo Alto has approved, permitted, or built 440 housing units since January 1, 2014 for the Housing Element planning period of 2015-2023. The housing need for the remainder of the planning period is 1,548 housing units.

As a programmatic land use project, the standard threshold used for the proposed project is 4.6 CO<sub>2</sub>e/SP/yr. However, since no actual development or rezoning/re-designation of land is proposed as part of the Housing Element, its adoption and implementation would not, in itself, generate greenhouse gas emissions. Even calculating the full buildout of the units, it is not projected to exceed this threshold. Any future development project proposal that is submitted will be reviewed to analyze its impact on GHG emissions and the established thresholds of the BAAQMD. If a project does not meet the criteria established in the BAAQMD CEQA Guidelines, additional analysis will be required. If it is determined that a project's impacts are significant, mitigation measures will be developed to reduce the air quality impacts to the extent feasible. As noted in the discussion regarding air quality, most of the identified Housing Sites are in areas that are fully developed, and are close to major transit hubs or along transit corridors. It is expected that any potential increase in traffic generation and air quality impacts associated with potential new residential development will be offset by the availability of transit hubs and corridors to accommodate some of the transportation needs of future residents. In addition, the Housing Element includes continuing policies and programs aimed at developing sustainable housing through green building incentives and requirements, conserving water and energy citywide, and reducing GHG gases through strategic connections between housing, employment and transit opportunities.

**Mitigation Measures:** None Required

**Conclusion:** The adoption of the Housing Element will not result in a significant impact on greenhouse gas emissions. **(Less Than Significant Impact)**

## H. HAZARDS AND HAZARDOUS MATERIALS

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routing transport, use, or disposal of hazardous materials?	1		X		
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	1		X		
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	1			X	
d) Construct a school on a property that is subject to hazards from hazardous materials contamination, emissions or accidental release?	1			X	
e) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	1, 2			X	
f) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	1, 2			X	
g) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working the project area?	1				X
h) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	1, 2				X
i) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	1, 2, 9				X
j) Create a significant hazard to the public or the environment from existing hazardous materials	1				X

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
contamination by exposing future occupants or users of the site to contamination in excess of soil and ground water cleanup goals developed for the site?					

**DISCUSSION:**

**Background Information:** Hazardous materials encompass a wide range of substances, some of which are naturally occurring and some of which are man-made. Examples of hazardous materials include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing. Determining if such substances are present on or near project sites is important because exposure to hazardous materials above certain thresholds can result in adverse health effects on humans, as well as harm to plants and wildlife.

Due to the fact that these substances have properties that, above certain thresholds, are toxic to humans and/or the ecosystem, multiple regulatory programs in place are designed to minimize the chance for unintended releases and/or exposures to occur. Other programs establish remediation requirements for sites where contamination has occurred.

**On-Site Sources of Contamination:** Each potential development site will be evaluated at the time of development proposal. If sites are determined to contain contaminants, proper remediation will be required. Removal/remediation of contaminated soils will be addressed through standard conditions of approval and site-specific mitigation based on site investigation at the time of construction. With implementation of mitigation measure H-1 which requires site-specific evaluation prior to entitlement approval, impacts will be less than significant.

**Other Hazards:** Portions of Palo Alto are located near areas subject to wildfires; however, the potential housing sites are not located in a fire threatened area, as they are all located in urban areas that do not have an urban/wildland interface. The Palo Alto Airport is located within the City boundaries. The Palo Alto Comprehensive Plan Amendment provides for City staff to review development proposals within the Airport Influence Area to ensure consistency with the guidelines of the Palo Alto Airport Comprehensive Land Use Plan, and when appropriate, refer development proposals to the Santa Clara County Airport Land Use Commission for review and comment. This review process provides for compliance with land use safety considerations on a project-by-project basis. None of the sites are located on a designated evacuation route.

The uses proposed consist of residential units. The types of hazardous materials used, stored, or generated will consist of typical household cleaners, solvents, fuel waste oils etc. These materials are well regulated by federal and state laws.

**Mitigation Measure H-1:** Prior to approval of entitlements for any future construction project that includes new residential development, the City shall determine whether the potential exists for site

contamination based on City and State records. Where such potential is shown to exist, the City shall direct the applicant to conduct a Phase I Environmental Assessment prepared in accordance with ASTM Standard E-1527-00 (Standard Practice for Environmental Site Assessments), and to submit such report to the Planning Department. Appropriate mitigation may be required by the Planning Department should assessment find the site to be contaminated or otherwise hazardous.

**Conclusion:** The proposed Housing Element update will not result in any hazardous materials impacts due to the nature of the uses proposed. **(Less than Significant with Mitigation Incorporated)**

---

## I. HYDROLOGY AND WATER QUALITY

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	1, 2			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	1, 2				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	1, 2			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	1, 2			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	1, 2			X	
f) Otherwise substantially degrade water quality?	1, 2			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	1, 2, 6			X	
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	6			X	
i) Expose people or structures to a significant risk of loss, injury or death involve flooding, including flooding as a result of the failure of a levee or dam or being located within a 100-year flood hazard area?	1, 2, 6				X
j) Inundation by seiche, tsunami, or mudflow?	1, 2				X
k) Result in stream bank instability?	1				X

## **DISCUSSION:**

**Hydrology and Flooding:** According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM), the potential project sites are not located within special flood hazard areas subject to inundation by a 100-year flood. Some sites are located in Zone X, areas subject to inundation by a 500-year flood. While there are locations within the City that are susceptible, the identified potential housing sites are not subject to inundation from a seiche, tsunami, or mudflow.

**Water Quality:** The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the USEPA and the State Water Resources Control Board have been developed to fulfill the requirements of this legislation. USEPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by water quality control boards, which for the Palo Alto area is the San Francisco Bay Regional Water Quality Control Board (RWQCB).

Proposed projects are required to comply with Provision C.3 of the City's NPDES permit and local policies and ordinances regarding urban runoff and water quality. In practical terms, the C.3 requirements seek to reduce water pollution by both reducing the volume of stormwater runoff and the amount of pollutants that are contained within the runoff. The methods used to achieve these objectives vary from site to site, but can include measures such as a reduction in impervious surfaces, onsite detention facilities, biofiltration swales, settlement/debris basins, etc.

**Drainage and Flooding:** None of the potential housing sites is located within a 100-year flood hazard area. Therefore, implementation of the project will not result in people or structures being exposed to any significant flood risk.

**Stormwater:** Construction activities on future development sites could temporarily generate dust, sediment, litter, oil, paint and other pollutants that could contaminate runoff from the site.

All future development on Housing Sites will be required to comply with codes that address stormwater runoff control. Development projects are required to implement Best Management Practices (BMPs) for construction activities as specified by the California Storm Water Best Management Practices Handbook (CASQA, 2003) and/or the Manual of Standards for Erosion and Sediment Control Measures (ABAG, 1995). The BMPs include measures guiding the management and operation of construction sites to control and minimize the potential contribution of pollutants to storm runoff from these areas. These measures address procedures for controlling erosion and sedimentation and managing all aspects of the construction process to ensure control of potential water pollution sources. All development projects must comply with all City, state, and federal standards pertaining to stormwater run-off and water quality.

**Mitigation Measures:** None Required

**Conclusion:** The propose project will not result in substantial adverse flooding or drainage impacts. With implementation of Best Management Practices during construction of individual housing projects, water quality impacts will be less than significant. **(Less Than Significant Impact)**

---



## J. LAND USE AND PLANNING

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Physically divide an established community?	1, 2				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	1, 2, 3			X	
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	1, 2, 3				X
d) Substantially adversely change the type or intensity of existing or planned land use in the area?	1, 2, 3				X
e) Be incompatible with adjacent land uses or with the general character of the surrounding area, including density and building height?	1, 2, 3				X
f) Conflict with established residential, recreational, educational, religious, or scientific uses of an area?	1, 2, 3				X
g) Convert prime farmland, unique farmland, or farmland of statewide importance (farmland) to non-agricultural use?	1, 2, 3				X

### DISCUSSION:

**Setting:** The potential housing sites are generally located within the University Avenue Downtown area, California Avenue Transit Neighborhood, El Camino Real Mixed Use Transit Corridor, San Antonio Avenue Mixed Use Corridor, South of Forest Area Coordinated Area Plan – Phase 2, and various sites in residential zoning districts with existing commercial uses.

**General (Comprehensive) Plan Land Use Designation:** The Palo Alto Comprehensive Plan designates certain portions of the community for residential use and commercial/residential mixed use, and anticipates new residential growth within these areas. The existing Housing Element adopted in 2013 proposed the addition of up to 2,860 housing units to Palo Alto’s housing stock. During that construction cycle (2007 – 2014), 1,206 housing units were approved, permitted, or issued by 2012.

The Housing Element update proposes to accommodate 1,988 housing units, based on ABAG’s RHNA process for Santa Clara County. As of January 1, 2014, Palo Alto had issued building permits

for 440 housing units for the 2015-2023 planning period. The housing need for the remainder of the planning period is 1,548 units. The 2010 Census reported a total 28,216 total housing units in Palo Alto. The addition of 1,988 housing units from the 2015-2023 planning period, which will represent an increase of 7 percent, is not considered to be substantial. All of the new development will occur on sites currently planned for residential uses and reflected in regional plans for regional growth.

**Zoning Designations:** The potential project sites are currently zoned for residential, commercial, and mixed use development and could develop with or without implementation of the updated Housing Element. No rezoning of any property is required to support the development of the planned new residential uses. To improve opportunities on existing residential sites, the following action programs are proposed in the updated Housing Element:

- H2.1.1 PROGRAM To encourage higher density residential development, consider amending the Zoning Code to allow high-density residential in mixed use projects in commercial areas within one-half mile of fixed rail stations and to allow limited exceptions to the 50-foot height limit for Housing Element Sites within one-quarter mile of fixed rail stations.
- H2.1.3 PROGRAM Amend the Zoning Code to increase the minimum density of the RM-15 Zoning District to at least eight dwelling units per acre consistent with the multi-family land use designation under the Comprehensive Plan.
- H2.1.4 PROGRAM Amend the Zoning Code to create zoning incentives that encourage the development of smaller, more affordable housing units, including units for seniors, such as reduced parking requirements for units less than 900 square feet and other flexible development standards.
- H2.2.3 PROGRAM Use coordinated area plans and other tools to develop regulations that support the development of housing above and among commercial uses.
- H3.1.1 PROGRAM Amend the City’s BMR (below market rate) ordinance to lower the BMR requirement threshold from projects of five or more units to three or more units and to modify the BMR rental section to be consistent with recent court rulings related to inclusionary rental housing.
- H3.1.7 PROGRAM Ensure that the Zoning Code permits innovative housing types, such as co-housing, and provides flexible development standards that will allow such housing to be built provided the character of the neighborhoods in which they are proposed to be located is maintained.
- H3.1.12 PROGRAM Amend the Zoning Code to provide additional incentives to developers who provide extremely-low income (ELI) housing units, above and beyond what is required by the Below Market Rate (BMR) program, such as reduced parking requirements for smaller units, reduced landscaping requirements and reduced fees.

**Land Use Compatibility:** Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere or 2) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. Both of these circumstances are aspects of land use compatibility. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope.

Depending on the nature of the impact and its severity, land use compatibility conflict can range from minor irritation and nuisance to potentially significant effects on human health and safety. The discussion below distinguishes between potential impacts from the proposed adoption of the Housing Element upon people and the physical environment and potential impacts from a project's surroundings upon the project itself.

**Impacts from a Potential Project:** Any proposed housing project could change the character of a project site. The proposed housing sites are located in areas currently developed with residential or mixed commercial/residential uses. The zoning established for these districts provides development standards intended to provide for new development to have similar characteristics (such as mass, bulk, height and density) as the surrounding areas. Proposed development will occur in sites already zoned for housing and will follow the City's standard procedures for review, including public notice, environmental review, and consideration of design and neighborhood context. The proposed sites could be developed in the future with or without the Housing Element Update. New residential development would be required to comply with all applicable plans and regulations including the Comprehensive Plan and the City's Municipal Code. All development projects are subject to environmental review as appropriate in compliance with CEQA prior to approval. Project and site-specific concerns will be evaluated and addressed as development projects for specific sites are proposed. Therefore, land use compatibility impacts are not anticipated from any proposed housing project.

**Impacts to a Potential Project:** Any proposed housing project will result in development on either a vacant or underutilized site. The proposed sites are expected to be developed in the future with or without the Housing Element Update. Because new development will comply with City codes and design regulations, proposed development will be compatible with both the existing and planned land uses. Some of the housing sites are adjacent to major roadways and public transit corridors. Appropriate analysis regarding noise and vibration at the time of a development proposal will be required. No on-going land use conflicts with adjacent uses are anticipated.

**Mitigation Measures:** None Required

**Conclusion:** The adoption of the Housing Element and subsequent development projects will not result in significant, adverse land use impacts. **(Less Than Significant Impact)**

---

**K. MINERAL RESOURCES**

<b>Issues and Supporting Information Resources</b> <b>Would the project:</b>	<b>Sources</b>	<b>Potentially Significant Issues</b>	<b>Potentially Significant Unless Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	1, 2				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	1, 2				X

**DISCUSSION:**

The City of Palo Alto has been classified by the California Department of Conservation (DOC), California Geological Survey (CGS) as a Mineral Resource Zone 1 (MRZ-1). This designation signifies that there are no aggregate resources in the area. The CGS has not classified the City for other resources. There is no indication in the draft Comprehensive Plan Amendment that there are locally or regionally valuable mineral resources within the City of Palo Alto. Therefore, adoption of the Housing Element and subsequent residential development will not result in impacts to mineral resources.

**Mitigation Measures:** None Required.

**Conclusion:** The proposed adoption of the Housing Element will not result in impacts to known mineral resources. **(No Impact)**

## L. NOISE

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	1, 2, 13			X	
b) Exposure of persons to or generation of excessive ground borne vibrations or ground borne noise levels?	1, 2, 13			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	1, 2, 13			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	1, 2, 13			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, would the project expose people residing or working in the project area to excessive noise levels?	1				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	1				X
g) Cause the average 24 hour noise level (Ldn) to increase by 5.0 decibels (dB) or more in an existing residential area, even if the Ldn would remain below 60 dB?	1, 2				X
h) Cause the Ldn to increase by 3.0 dB or more in an existing residential area, thereby causing the Ldn in the area to exceed 60 dB?	1, 2				X
i) Cause an increase of 3.0 dB or more in an existing residential area where the Ldn currently exceeds 60 dB?	1				X
j) Result in indoor noise levels for residential development to exceed an Ldn of 45 dB?	1				X
k) Result in instantaneous noise levels of greater than 50 dB in bedrooms or 55 dB in other rooms in areas with an exterior Ldn of 60 dB or greater?	1				X
l) Generate construction noise exceeding the daytime background Leq at sensitive receptors by 10 dBA or more?	1, 13				X

## DISCUSSION:

### *Fundamentals of Sound and Environmental Noise*

Noise can be defined as unwanted sound. Sound (and therefore noise) consists of energy waves that people receive and interpret. Sound pressure levels are described in logarithmic units of ratios of sound pressures to a reference pressure, squared. These units are called *bels*. In order to provide a finer description of sound, a *bel* is subdivided into ten decibels, abbreviated dB. To account for the range of sound that human hearing perceives, a modified scale is utilized known as the A-weighted decibel (dBA). Since decibels are logarithmic units, sound pressure levels cannot be added or subtracted by ordinary arithmetic means. For example, if one automobile produces a sound pressure level of 70 dBA when it passes an observer, two cars passing simultaneously would not produce 140 dB. In fact, they would combine to produce 73 dBA. This same principle can be applied to other traffic quantities as well. In other words, doubling the traffic volume on a street or the speed of the traffic will increase the traffic noise level by 3 dBA. Conversely, halving the traffic volume or speed will reduce the traffic noise level by 3 dBA. A 3 dBA change in sound is the level where humans generally notice a *barely perceptible* change in sound and a 5 dBA change is generally *readily perceptible*.<sup>4</sup>

Noise consists of pitch, loudness, and duration; therefore, a variety of methods for measuring noise has been developed. According to the California General Plan Guidelines for Noise Elements, the following are common metrics for measuring noise:<sup>5</sup>

**L<sub>EQ</sub> (Equivalent Energy Noise Level):** The sound level corresponding to a steady-state sound level containing the same total energy as a time-varying signal over given sample periods. L<sub>EQ</sub> is typically computed over 1-, 8-, and 24-hour sample periods.

**CNEL (Community Noise Equivalent Level):** The average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7:00 P.M. to 10:00 P.M. and after addition of ten decibels to sound levels in the night from 10:00 P.M. to 7:00 A.M..

**L<sub>DN</sub> (Day-Night Average Level):** The average equivalent A-weighted sound level during a 24-hour day, obtained after the addition of ten decibels to sound levels in the night after 10:00 P.M. and before 7:00 A.M..

CNEL and L<sub>DN</sub> are utilized for describing ambient noise levels because they account for all noise sources over an extended period of time and account for the heightened sensitivity of people to noise during the night. L<sub>EQ</sub> is better utilized for describing specific and consistent sources because of the shorter reference period.

### *Fundamentals of Environmental Groundborne Vibration*

Vibration is sound radiated through the ground. The rumbling sound caused by the vibration of room surfaces is called groundborne noise. The ground motion caused by vibration is measured as particle velocity in inches per second, and in the U.S. is referenced as vibration decibels (VdB).

---

<sup>4</sup> California Department of Transportation. Basics of Highway Noise: Technical Noise Supplement. November 2009.

<sup>5</sup> California Governor's Office of Planning and Research. General Plan Guidelines. 2003.

The background vibration velocity level in residential and educational areas is usually around 50 VdB. The vibration velocity level threshold of perception for humans is approximately 65 VdB. A vibration velocity level of 75 VdB is the approximately dividing line between barely perceptible and distinctly perceptible levels for many people. Sources within buildings such as operation of mechanical equipment, movement of people, or the slamming of doors causes most perceptible indoor vibration. Typical outdoor sources of perceptible groundborne vibration are construction equipment, steel-wheeled trains, and traffic on rough roads. If a roadway is smooth, the groundborne vibration from traffic is rarely perceptible. The range of interest is from approximately 50 VdB, which is the typical background vibration velocity level, and 100 VdB, which is the general threshold where minor damage can occur in fragile buildings.

The general human response to different levels of groundborne vibration velocity levels is described in Table 2 (Human Reaction to Vibration).

**Table 2**  
**Human Reaction to Vibration**

Vibration Velocity Level	Human Reaction
65 VdB	Approximate threshold of perception for many people.
75 VdB	Approximate dividing line between barely perceptible and distinctly perceptible. Many people find that transportation-related vibration at this level is unacceptable.
85 VdB	Vibration acceptable only if there are an infrequent number of events per day.

*Source: Federal Transit Administration, Transit Noise and Vibration Impact Assessment, May 2006*

Vibration is the movement of mass over time. It is described in terms of frequency and amplitude and unlike sound; there is no standard way of measuring and reporting amplitude. Vibration can be described in units of velocity (inches per second) or discussed in dB units to compress the range of numbers required to describe vibration. Vibration impacts to buildings are generally discussed in terms of peak particle velocity (PPV) that describes particle movement over time (in terms of physical displacement of mass). For purposes of this analysis, PPV will be used to describe all vibration for ease of reading and comparison. Vibration can impact people, structures, and sensitive equipment. The primary concern related to vibration and people is the potential to annoy those working and residing in the area. Vibration with high enough amplitudes can damage structures (such as crack plaster or destroy windows). Groundborne vibration can also disrupt the use of sensitive medical and scientific instruments such as electron microscopes. Common sources of vibration within communities include construction activities and railroads. Operation of the proposed facility does not include uses that cause vibration and there are no railroads in the project vicinity.

Groundborne vibration generated by construction projects is usually highest during pile driving, rock blasting, soil compacting, jack-hammering, and demolition-related activities. Next to pile driving, grading activity has the greatest potential for vibration impacts if large bulldozers or large trucks are used. Residential units, once constructed, do not utilize machinery that would generate substantial amounts of vibration. However, the construction of future potential housing developments could utilize machinery that would generate substantial amounts of ground vibration because multiple-lot

housing developments generally require mass grading. Construction of future development is not likely to require rock blasting considering the built-out character of the area or piling driving because the area is not subject to liquefaction hazards; however, jack hammering will also likely be required for demolition activities.

Table 3 (Common Construction Vibration) summarizes vibration levels from common construction equipment. Impacts to structures can occur from 0.08 PPV to 2.00 PPV depending on the duration of the vibration and the age of the structure. Similarly, human annoyance to vibration can occur from 0.01 PPV to 2.00 PPV depending on the duration.

**Table 1  
Common Construction Vibration**

Equipment	PPV (in/sec at 25 ft.)
Crack-and-Seat Operations	2.400
Vibratory Roller	0.210
Large Bulldozer	0.089
Caisson Drilling	0.089
Loaded Trucks	0.076
Jackhammer	0.035
Small Bulldozer	0.003
Source: California Department of Transportation 2004	

The City of Palo Alto is highly impacted by noise from major traffic arteries, including the Bayshore Freeway (SR 101), Southern Pacific Railroad (including Caltrain service), El Camino Real and the Junipero Serra Freeway (SR 280), Palo Alto Airport of Santa Clara County, and other major traffic arteries throughout the community. Residential and public facilities (schools, parks, hospitals) land uses adjacent to the City’s major traffic arteries are highly impacted by noise with the area adjacent to Bayshore Freeway being impacted to the greatest degree. Noise in these areas immediately adjacent to the arterials may be unacceptable from both a hearing conservation and land use compatibility standpoint. Noise levels in commercial areas are generally acceptable except in those areas immediately adjacent to major traffic arteries. The Palo Alto Comprehensive Plan Amendment provides for City staff to review development proposals within the Airport Influence Area to ensure consistency with the noise regulations and guidelines of the Palo Alto Comprehensive Land Use Plan. Staff reviews on an individual project basis will provide for compliance with noise/land use standards; impacts will be less than significant.

**Noise Exposure Impacts to a Potential Project:** Many of the potential housing sites are located near the railroad tracks serving Caltrain commuter rail service and the Southern Pacific Railroad, San Antonio Avenue mixed use and transit corridor, and near El Camino Real, a major transportation corridor. Existing noise levels at these locations may exceed noise standards considered suitable for outdoor activities associated with residential development. State building code insulation standards require that noise insulation be provided to achieve indoor noise levels of 45 CNEL or lower. Although noise levels for an individual project may exceed the standards for outdoor public uses, project design can work to locate any areas for outdoor activities, such as play areas and common open



space, away from the noise source or to shield those uses with walls. With appropriate project-level mitigation, it is not expected that a project will expose people to high levels of noise for any length of time that will cause a significant impact.

**Noise Impacts from Construction:** Construction of individual housing projects will generate noise, and will temporarily increase noise levels at adjacent land uses. The significance of noise impacts during construction depends on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, and the distance between construction noise sources and noise sensitive receptors.

Construction activities generate considerable amounts of noise, especially during the construction of project infrastructure when heavy equipment is used. Typical hourly average construction generated noise levels are about 75 dBA to 80 dBA measured at a distance of 100 feet from the source during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Construction generated noise levels drop off at a rate of about six dBA per doubling of distance between the source and receptor.

Construction noise impacts are more significant when construction occurs during noise-sensitive times of the day (early morning, evening, or nighttime hours near residential uses), the construction occurs in areas immediately adjoining noise sensitive land uses, or when construction lasts extended periods of time. Construction activities could result in annoyances to existing uses adjacent to the project site.

All development, including construction activities, must comply with the City's Noise Ordinance (PAMC Chapter 9.10), which restricts the timing and overall noise levels associated with construction activity. Short-term temporary construction noise that complies with the Noise Ordinance will result in impacts that are expected to be less than significant. The proposed Housing Sites are located in established residential and mixed use commercial/residential districts near major transportation corridors, including railroads, El Camino Real, and San Antonio Avenue; the existing noise conditions are not quiet and with compliance with the City's Noise Ordinance, the temporary construction activities will not create any new significant noise impacts.

**Mitigation Measures:** None Required

**Conclusion:** Because future projects will be required to comply with the City's Noise Ordinance, possible noise impacts will be reduced to a less-than-significant level. **(Less than Significant Impact)**

---

## M. POPULATION AND HOUSING

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	1, 2				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	1, 2				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	1, 2				X
d) Create a substantial imbalance between employed residents and jobs?	1, 2				X
e) Cumulatively exceed regional or local population projections?	1, 2				X

### DISCUSSION:

Implementation of the Housing Element will allow for the development of up to 1,988 housing units on designated sites. Palo Alto currently has an imbalance between employed residents and jobs; there are 80,000 jobs and 30,404 employed residents, which results in 2.63 jobs per employed resident.

According to the U.S. Census, the population of Palo Alto was 66,642 in 2013. ABAG's *2013 Projections and Priorities Report* projects that the population of Palo Alto will increase to approximately 73,700 people by the year 2025. Based on an average household size of 2.44 persons, the 1,988 additional units proposed in the Housing Element will accommodate the anticipated population growth.

The additional housing in Palo Alto will induce population growth in the City and alter the City's jobs/housing ratio, resulting in a jobs/housing ratio closer to 1.0, which will lessen the imbalance between employed residents and jobs, and will be a less than significant impact. A potential housing development project is not likely to displace housing or residents since the majority of identified housing sites are currently vacant or developed with underutilized commercial buildings.

**Mitigation Measures:** None Required

**Conclusion:** The proposed adoption of the Housing Element will not result in population or housing impacts. The potential impact on the jobs/housing balance is a positive one. **(No Impact)**

## N. PUBLIC SERVICES

Issues and Supporting Information Resources Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
a) Fire protection?	1			X	
b) Police protection?	1			X	
c) Schools?	1			X	
d) Parks?	1			X	
e) Other public facilities?	1			X	

### DISCUSSION:

The City of Palo Alto is a built-out community that can only add housing through infill development. Implementation of the Housing Element could result in an increase in the population of Palo Alto by approximately 4,851 persons (1,988 housing units at average household size 2.44 persons per housing unit, per the State Department of Finance). An increase in housing development will not adversely impact Police and Fire response times since Palo Alto is a built-out community, and new development will be in existing developed areas. The City of Palo Alto Police and Fire Departments will review proposed development on the identified sites prior to project approval to ensure that measures are incorporated into design and construction to provide for personal safety.

The City of Palo Alto includes 29 neighborhood and district parks totaling approximately 190 acres. Potential projects could generate population growth in certain areas, resulting in the increased use of public park facilities in the City by new residents. The City aims to use the National Recreation and Park Association Standards as a guideline for locating and developing new parks. This requires the City and developers to meet the standard of providing two acres of developed parkland per 1,000 residents. Currently, the City is providing 2.85 acres of developed parkland per 1,000 residents which exceeds its requirements. In addition, Palo Alto's Comprehensive Plan indicates the City will continue its efforts in improving park and recreational facilities in various goals and policies listed in the Community Services chapter.

Potential projects could generate new students, resulting in an increase in school population or result in the need for new or modified school facilities. Palo Alto Unified School District (PAUSD) collects school impact fees on new residential and commercial construction within district boundaries. Any impact on the provision of school services is mitigated through the payment of development impact

fees pursuant to the Leroy F. Green School Facilities Act. With payment of required fees, impact will be less than significant. The City of Palo Alto does not issue building permits for a project until PAUSD has certified that school impact fees have been paid. Therefore, any proposed development will contribute through payment of fees toward future construction of facilities to address the needs of increased school population.

**Mitigation Measures:** None Required

**Conclusion:** Implementation of the Housing Element and providing the potential for new housing units will not result in significant impacts to public facilities. **(Less Than Significant Impact)**

---

**O. RECREATION**

Issues and Supporting Information Resources  Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	1, 2			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	1, 2			X	

**DISCUSSION:**

The City of Palo Alto owns and operates 29 neighborhood and district parks that total approximately 190 acres. Neighborhood parks include small playgrounds for children and/or grass and landscape areas for playing or sitting, and a mix of active and passive recreational areas. District parks provide playing fields, picnic grounds, and community centers. The City’s recreational system is augmented by local school facilities, which are available to the general public.

The City aims to use the National Recreation and Park Association Standards as a guideline for locating and developing new parks. This requires the City and developers to meet the standard of providing two acres of developed parkland per 1,000 residents. Currently, the City is providing 2.85 acres of developed parkland per 1,000 residents which exceeds its requirements. A Parks, Trail, Open Space, and Recreation Master Plan (Parks Master Plan) is currently being drafted by the City. The Parks Master Plan provides necessary analysis and review of Palo Alto’s parks and recreation system for long term impacts and needs and provides guidance regarding future renovations and capital improvement needs for parks, trails, open space, and recreation facilities.

Additional housing could increase usage of nearby parks and recreation facilities. However, it is expected that the increase in population from any new housing units can be accommodated by the existing park and recreation facilities in Palo Alto. None of the proposed housing sites will displace any recreation facilities and will not have an impact on these facilities such that adverse physical effects would result.

**Mitigation Measures:** None Required

**Conclusion:** Implementation of the Housing Element will not result in significant impacts to parks and recreational facilities. **(Less Than Significant Impact)**

**P. TRANSPORTATION AND TRAFFIC**

<b>Issues and Supporting Information Resources</b> <b>Would the project:</b>	<b>Sources</b>	<b>Potentially Significant Issues</b>	<b>Potentially Significant Unless Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	1			X	
b) Conflict with an applicable congestion management program, including but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	1			X	
c) Result in change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	1				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	1				X
e) Result in inadequate emergency access?	1				X
f) Result in inadequate parking capacity that impacts traffic circulation and air quality?	1				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., pedestrian, transit & bicycle facilities)?	1, 2, 5, 6				X
h) Cause a local (City of Palo Alto) intersection to deteriorate below Level of Service (LOS) D and cause an increase in the average stopped delay for the critical movements by four seconds or more and the critical volume/capacity ratio (V/C) value to increase by 0.01 or more?	1, 5, 6				X
i) Cause a local intersection already operating at LOS E or F to deteriorate in the average stopped delay for the critical movements by four seconds or more?	1, 5, 6			X	

<b>Issues and Supporting Information Resources</b> <b>Would the project:</b>	<b>Sources</b>	<b>Potentially Significant Issues</b>	<b>Potentially Significant Unless Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
j) Cause a regional intersection to deteriorate from an LOS E or better to LOS F or cause critical movement delay at such an intersection already operating at LOS F to increase by four seconds or more and the critical V/C value to increase by 0.01 or more?	1, 5, 6		X		
k) Cause a freeway segment to operate at LOS F or contribute traffic in excess of 1% of segment capacity to a freeway segment already operating at LOS F?	1				X
l) Cause any change in traffic that would increase the Traffic Infusion on Residential Environment (TIRE) index by 0.1 or more?	1, 5, 6		X		
m) Cause queuing impacts based on a comparative analysis between the design queue length and the available queue storage capacity? Queuing impacts include, but are not limited to, spillback queues at project access locations; queues at turn lanes at intersections that block through traffic; queues at lane drops; queues at one intersection that extend back to impact other intersections, and spillback queues on ramps.	1, 5, 6				X
n) Impede the development or function of planned pedestrian or bicycle facilities?	1				X
o) Impede the operation of a transit system as a result of congestion?	1				X
p) Create an operational safety hazard?	1				X

## **DISCUSSION:**

**Existing Roadway Network:** The potential project sites are located along or near El Camino Real, California Avenue, San Antonio Avenue, and University Avenue, as well as smaller collectors and minor arterial streets.

**Existing Transit Service:** Transit service in the area includes local bus services provided by the Santa Clara Valley Transportation Authority (VTA), San Mateo County Transit District (SamTrans), train service from the Caltrain commuter rail line, as well as the Dumbarton Express, providing bus service from downtown Palo Alto across the Dumbarton Bridge to the Union City BART station, and the Stanford University Marguerite Shuttle between the Stanford campus and Palo Alto Caltrain station and Downtown Palo Alto.

**Existing Pedestrian and Bicycle Facilities:** Pedestrian facilities include sidewalks, crosswalks, and pedestrian traffic signals. Pedestrian facilities are around all of the proposed housing sites.

Bicycle facilities consist of dedicated paths (Class I), painted lanes (Class II), and signed routes (Class III). Bicycle paths are paved trails that are separate from roadways. Bicycle lanes are lanes on roadways designated for bicycle use by striping, pavement legends, and signs. Bicycle routes are roadways designated for bicycle use by signs only.

**Transportation Impacts:** A proposed housing project could generate new trips to a site and in the area, depending on the previous use of the site. Traffic impacts will be evaluated at the project proposal stage. However, many proposed Opportunity Sites are located in public transit-oriented districts to encourage public transit usage and reduce individual vehicle trips. The project trip generation estimates are based on trip rates defined by the Institute of Transportation Engineers (ITE) *Trip Generation (9<sup>th</sup> Edition)*. The land use code for “Residential Condominium/Townhouse (230)” was used to define the land use of the proposed Housing Element. Gross project trip generation (absent any discount of trips associated with existing uses) is summarized in Table 4 (Housing Element Trip Generation Summary) below.

**Table 4  
Housing Element Trip Generation Summary**

	AM Peak Hour	PM Peak Hour	Daily
Housing Element Trips	875	1,034	10,340
Source: MIG   Hogle Ireland. July 2014			

Based on the trip generations, new development on sites identified in the Housing Element is estimated to generate a total of 875 AM peak hour trips and 1,034 PM peak hour trips. Assuming that the PM peak hour trips are ten percent of daily trips for the area, the total daily trips generation from the Housing Element is 10,340.

Sites identified in the Housing Element are located throughout the City, and as the above referenced theoretical trips would be spread throughout the City. Furthermore, because Housing Element sites already designated in the Comprehensive Plan for housing, trips associated with new housing development have already been analyzed and accounted for in association with the adopted land use plan. A chapter of the Comprehensive Plan (a policy document), the Housing Element addresses housing need in the City; no actual development or rezoning/re-designation of land is proposed as part of the Housing Element. Therefore, its adoption would not, in itself, generate new traffic. In addition, for future individual development projects, the City will determine if a traffic impact analysis is required as part of the City’s standard environmental review process and will determine potential future project-specific impacts to the circulation system. (The Housing Element itself, a policy document with no associated land use/zoning changes, will not result in any new impacts on the circulation system.) With implementation of mitigation measure T-1 which requires site-specific evaluation prior to entitlement approval, impacts will be less than significant.



Infill housing development could potentially increase ridership of public transit, especially at those sites located near transit opportunities. Most of the sites are located near the two Caltrain stations (University and California Avenues) or along El Camino Real, a primary transit route.

New projects will be required to install or upgrade pedestrian or bicycle facilities, where appropriate and based on City plans. These requirements will be evaluated at the project proposal stage.

The potential housing sites are located along or near major transportation corridors. Emergency access will be provided to each housing site via existing or proposed public right-of-way. Emergency service providers will evaluate new projects at the project proposal stage.

**Mitigation Measure T-1:** Prior to entitlement approval for new residential development projects, preparation of site-specific assessment of transportation and traffic impacts shall be conducted per the City's standard environmental review process, as applicable. Appropriate mitigation shall be required by the Planning Department should assessment find project impacts.

**Conclusion:** Any proposed project will be evaluated for transportation impacts at the time of submittal. Implementation of the Housing Element will not result in significant transportation impacts. **(Potentially Significant Unless Mitigation Incorporated)**

---

**Q. UTILITIES AND SERVICE SYSTEMS**

Issues and Supporting Information Resources  Would the project:	Sources	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	1			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	1			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	1			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	1			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?	1			X	
f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?	1			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste?	1			X	
h) Result in a substantial physical deterioration of a public facility due to increased use as a result of the project?	1			X	

**DISCUSSION:**

The City of Palo Alto Utilities Department provides water and sewer services, as well as gas and electric service. The City also provides refuse service and manages the local storm drain system through the Public Works Department.

Any proposed housing project will be served by existing utilities in place in the area and will be required to provide appropriately sized and designed lateral connections. Also, as may be required by the Capital Improvement Plan or other facilities plans, fair-share fees for backbone system improvements will be paid. The City of Palo Alto is substantially built out, and public facilities in place are adequate to serve existing and proposed development identified in the Housing Element.

The Palo Alto Urban Water Management Plan indicates the total water consumption in the City will remain somewhat consistent from its current levels of 11,236 acre feet (AF) per year in 2010 to 15,969 AF per year by the end of 2030. This forecast includes an expected 17% increase in total number of population growth.<sup>13</sup>

Most of the housing sites are now developed with other uses, and it is anticipated that there will be no significant increase in the demand on existing utilities and service systems or impacts to these services.

**Mitigation Measures:** None Required

**Conclusion:** Implementation of the Housing Element will not exceed the capacity of existing utilities and service systems that serve the community. **(Less Than Significant Impact)**

---

**R. MANDATORY FINDINGS OF SIGNIFICANCE**

<b>Issues and Supporting Information Resources</b>  <b>Would the project:</b>	<b>Sources</b>	<b>Potentially Significant Issues</b>	<b>Potentially Significant Unless Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	1 - 13			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	1 - 13			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	1 - 13			X	

**DISCUSSION:**

The proposed project involves the adoption of the City’s Comprehensive Plan Housing Element, which guides future housing development through policy measures. No specific development projects would occur as a result of the Housing Element; and no redesignation/rezoning of land is proposed. Therefore, adoption of the Housing Element, in itself, would not result in cumulative impacts. Furthermore, cumulative impacts associated with future housing development have been evaluated at a program level in the 1998 Comprehensive Plan EIR, since no changes to land use designations are proposed.

Since the Housing Element is consistent with the Comprehensive Plan; therefore, adopting and implementing the Housing Element would not create new cumulative impacts or increase the significance of cumulative impacts identified in the Comprehensive Plan EIR.

With the implementation of policies in place and avoidance measures required by the City of Palo Alto and other agencies as described in the specific sections of this report (refer to Environmental Checklist and Discussion of Impacts), on pages 13 through 52 of this Initial Study, implementation of the Housing Element will not result in significant environmental impacts.

The results of the preceding analysis indicate that the proposed project will have less than significant impacts upon sensitive biological, historical, archaeological, paleontological resources, cumulative impacts, or adverse effects on human beings. Since the project will not authorize any development plan, redevelopment of any existing sites, or construction of new infrastructure, and will not change existing City land use policy regarding locations or intensities of development, it will not result in any significant impacts.

**Mitigation Measures:** None required.

**Conclusion:** Each potential future housing development project will be evaluated with regard to the mandatory findings of significance. The implementation of the Housing Element is not expected to have impacts that are cumulatively considerable. **(Less Than Significant Cumulative Impact)**

---

## SOURCE REFERENCES

1. CEQA Guidelines – Environmental Thresholds in Appendix G Palo Alto Comprehensive Plan, 1998-2010
2. Palo Alto Municipal Code, Title 18 – Zoning Ordinance
3. Bay Area Air Quality Management District, *CEQA Guidelines*, updated May, 2012
4. California Department of Conservation, *Geologic Map of the San Francisco-San Jose Quadrangle*, 1990.
5. Federal Emergency Management Agency, *Flood Insurance Rate Map, Community Panel Nos. 06085 C0010H, C0015H, C0016H, C0017H, C0018H, C0019H, C0030H, C0036H, C0038H, C0180H and C0185H*, May 18, 2009
6. Association of Bay Area Governments, *Dam Failure Inundation Hazard Map for Palo Alto/Stanford*, 1995. <http://www.abag.ca.gov/cgi-bin/pickdamx.pl>
7. Association of Bay Area Governments, *Projections 2013*, December 2013
8. Association of Bay Area Governments (ABAG), *Wildfire Hazard Maps and Information*, November 2004
9. Alquist-Priolo Earthquake Fault Zoning Map
10. Palo Alto Historic Resources Inventory
11. State of California, *Seismic Hazard Zones Palo Alto Quadrangle Official Map*, October 18, 2006
12. Palo Alto Municipal Code, Section 9.10 – Noise Ordinance
13. City of Palo Alto Utilities, 2010 Urban Water Management Plan, June 2011

# DETERMINATION

---

On the basis of this initial evaluation:

<p>I find that the proposed project <b>COULD NOT</b> have a significant effect on the environment, and a <b>NEGATIVE DECLARATION</b> will be prepared.</p>	
<p>I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A <b>MITIGATED NEGATIVE DECLARATION</b> will be prepared.</p>	<p><b>X</b></p>
<p>I find that the proposed project <b>MAY</b> have a significant effect on the environment, and an <b>ENVIRONMENTAL IMPACT REPORT</b> is required.</p>	
<p>I find that the proposed project <b>MAY</b> have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect: 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An <b>ENVIRONMENTAL IMPACT REPORT</b> is required, but it must analyze only the effects that remain to be addressed.</p>	
<p>I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an <b>earlier EIR or NEGATIVE DECLARATION</b> pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that <b>earlier EIR or NEGATIVE DECLARATION</b>, including revisions or mitigation measures that are imposed upon the proposed project, <b>nothing further is required.</b></p>	

---

Tim Wong, Housing Coordinator  
 City of Palo Alto

---

Date

This Page Intentionally Left Blank



## **SUMMARY OF MITIGATION MEASURES**

---

- H-1 Prior to approval of entitlements for any future construction project that includes new residential development, the City shall determine whether the potential exists for site contamination based on City and State records. Where such potential is shown to exist, the City shall direct the applicant to conduct a Phase I Environmental Assessment prepared in accordance with ASTM Standard E-1527-00 (Standard Practice for Environmental Site Assessments), and to submit such report to the Planning Department. Appropriate mitigation shall be required by the Planning Department should assessment find the site to be contaminated or otherwise hazardous.
- T-1 Prior to entitlement approval for new residential development projects, preparation of site-specific assessment of transportation and traffic impacts shall be conducted per the City's standard environmental review process, as applicable. Appropriate mitigation shall be required by the Planning Department should assessment find project impacts.

### 2015-2023 Housing Element Mitigation Monitoring and Reporting Plan

Mitigation Measures	Responsibility	Timing
<p>1. Prior to approval of entitlements for any future construction project that includes new residential development, the City shall determine whether the potential exists for site contamination based on City and State records. Where such potential is shown to exist, the City shall direct the applicant to conduct a Phase I Environmental Assessment prepared in accordance with ASTM Standard E-1527-00 (Standard Practice for Environmental Site Assessments), and to submit such report to the Planning Department. Appropriate mitigation shall be required by the Planning Department should assessment find the site to be contaminated or otherwise hazardous.</p>	<p>City of Palo Alto Department of Planning and Community Environment</p>	<p>If necessary, Phase I Report to be submitted and reviewed during permit application review</p>
<p>2. Prior to entitlement approval for new residential development projects, preparation of site-specific assessment of transportation and traffic impacts shall be conducted per the City's standard environmental review process, as applicable. Appropriate mitigation shall be required by the Planning Department should assessment find project impacts.</p>	<p>City of Palo Alto Department of Planning and Community Environment</p>	<p>If necessary, Traffic Study to be submitted and reviewed during permit application review</p>

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4

P.O. BOX 23660

OAKLAND, CA 94623-0660

PHONE (510) 286-6053

FAX (510) 286-5559

TTY 711

www.dot.ca.gov



*Serious Drought.  
Help save water!*

October 7, 2014

SCLGEN119  
SCL/GEN/PM VAR  
SCH# 2014092020

Mr. Tim Wong  
Planning & Community Environment Department  
City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301

Dear Mr. Wong:

**Palo Alto Housing Element 2015-2023 – Mitigated Negative Declaration (MND)**

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. We have reviewed the MND and have the following comments to offer.

***Traffic Impacts Study (TIS)***

One of Caltrans' ongoing responsibilities is to collaborate with local agencies to avoid, eliminate, or reduce to insignificance potential adverse impacts by local development on State highways. We recommend using the Caltrans *Guide for the Preparation of Traffic Impact Studies* (TIS Guide) for determining which scenarios and methodologies to use in the analysis.

The TIS Guide is a starting point for collaboration between the lead agency and Caltrans in determining when a TIS is needed for a site-specific project, as referenced in Mitigation Measure T-1. The appropriate level of study is determined by the particulars of a project, the prevailing highway conditions, and the forecasted traffic. The TIS Guide is available at the following website address: [http://dot.ca.gov/hq/tpp/offices/ocp/igr\\_ceqa\\_files/tisguide.pdf](http://dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf).

The TIS should include:

1. Vicinity map, regional location map, and a site plan clearly showing project access in relation to nearby State roadways. Ingress and egress for all project components should be clearly identified. The State right-of-way (ROW) should be clearly identified. The maps should also include project driveways, local roads and intersections, parking, and transit facilities.
2. Project-related trip generation, distribution, and assignment. The assumptions and methodologies used to develop this information should be detailed in the study, and should



be supported with appropriate documentation.

3. Average Daily Traffic, AM and PM peak hour volumes and levels of service (LOS) on all roadways where potentially significant impacts may occur, including crossroads and controlled intersections for existing, existing plus project, cumulative and cumulative plus project scenarios. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect study area roadways and intersections. The analysis should clearly identify the project's contribution to area traffic and any degradation to existing and cumulative LOS. Caltrans' LOS threshold, which is the transition between LOS C and D, and is explained in detail in the TIS Guide, should be applied to all State facilities.
4. Schematic illustration of traffic conditions including the project site and study area roadways, trip distribution percentages and volumes as well as intersection geometrics (i.e., lane configurations) for the scenarios described above.
5. The project site building potential as identified in the General Plan. The project's consistency with both the Circulation Element of the General Plan and the Congestion Management Agency's Congestion Management Plan should be evaluated.
6. Identification of mitigation for any roadway mainline section or intersection with insufficient capacity to maintain an acceptable LOS with the addition of project-related and/or cumulative traffic.

#### ***Lead Agency***

As the lead agency, the City of Palo Alto (City) is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

#### ***Vehicle Trip Reduction***

Caltrans commends the City for its ongoing progress in locating needed housing, jobs and neighborhood services near major mass transit centers, with connecting streets configured to facilitate walking and biking. By doing so, the City promotes mass transit use and reducing regional vehicle miles traveled and traffic impacts on the State highways.

We also commend and encourage the City to continue developing Travel Demand Management (TDM) policies to promote usage of nearby public transit lines and reduce vehicle trips on the State Highway System. These policies could include further lowering parking ratios, car-sharing programs, bicycle parking and showers for residents, and providing transit passes to residents, among others. Doing so will encourage active transportation, reduce vehicle miles traveled and lessen future traffic impacts on the state highways. We recommend that the City refer to, "Reforming Parking Policies to Support Smart Growth," an MTC study funded by the Department, for sample parking ratios and strategies that support compact growth and Transit Oriented Development



Mr. Tim Wong/City of Palo Alto

October 7, 2014

Page 3

([http://www.mtc.ca.gov/planning/smart\\_growth/parking/parking\\_seminar/Toolbox-Handbook.pdf](http://www.mtc.ca.gov/planning/smart_growth/parking/parking_seminar/Toolbox-Handbook.pdf)).

In addition, please ensure secondary impacts on pedestrians and bicyclists resulting from any traffic impact mitigation measures are analyzed. The analysis should describe any pedestrian and bicycle mitigation measures and safety countermeasures that would in turn be needed as a means of maintaining and improving access to transit facilities and reducing vehicle trips and traffic impacts on State highways.

### ***CEQA Streamlining***

Local jurisdictions and land use development infill project proponents should and are encouraged to coordinate and consult early with Caltrans District Local Development-Intergovernmental Review (LD-IGR) office on any land use proposal that is within 500 feet of state transportation facilities to enable consideration of the potential site specific drainage, visual, access, and operational safety impacts. Even if cumulative impacts were addressed in a prior environmental clearance document there may be direct impacts of concern with this proposal. A CEQA exemption is still an adequate environmental clearance as long as any necessary mitigation features are included as part of the project.

### ***Encroachment Permit***

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See this website for more information:  
<http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Should you have any questions regarding this letter, please contact Brian Brandert of my staff at (510) 286-5505 or [brian.brandert@dot.ca.gov](mailto:brian.brandert@dot.ca.gov).

Sincerely,



for

ERIK ALM, AICP  
District Branch Chief  
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse





## PUBLIC UTILITIES COMMISSION

320 WEST 4TH STREET, SUITE 500  
LOS ANGELES, CA 90013  
(213) 576-7083



October 7, 2014

Mr. Tim Wong  
City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, California 94301

Dear Mr. Wong:

SUBJECT: SCH 2014092020 Palo Alto (Santa Clara) Housing Element 2015-2012 - DMND

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings in California. The Commission Rail Crossings Engineering Branch (RCEB) is in receipt of the draft *Mitigated Negative Declaration (DMND)* for the proposed City of Palo Alto (City) Housing Element 2015-2023 Project.

The project area includes active railroad tracks. RCEB recommends that the City add language to the Housing Element so that any future development adjacent to or near the railroad/light rail right-of-way (ROW) is planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade crossings. This includes considering pedestrian circulation patterns or destinations with respect to railroad ROW and compliance with the Americans with Disabilities Act. Mitigation measures to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade crossings due to increase in traffic volumes, and continuous vandal resistant fencing or other appropriate barriers to limit the access of trespassers onto the railroad ROW.

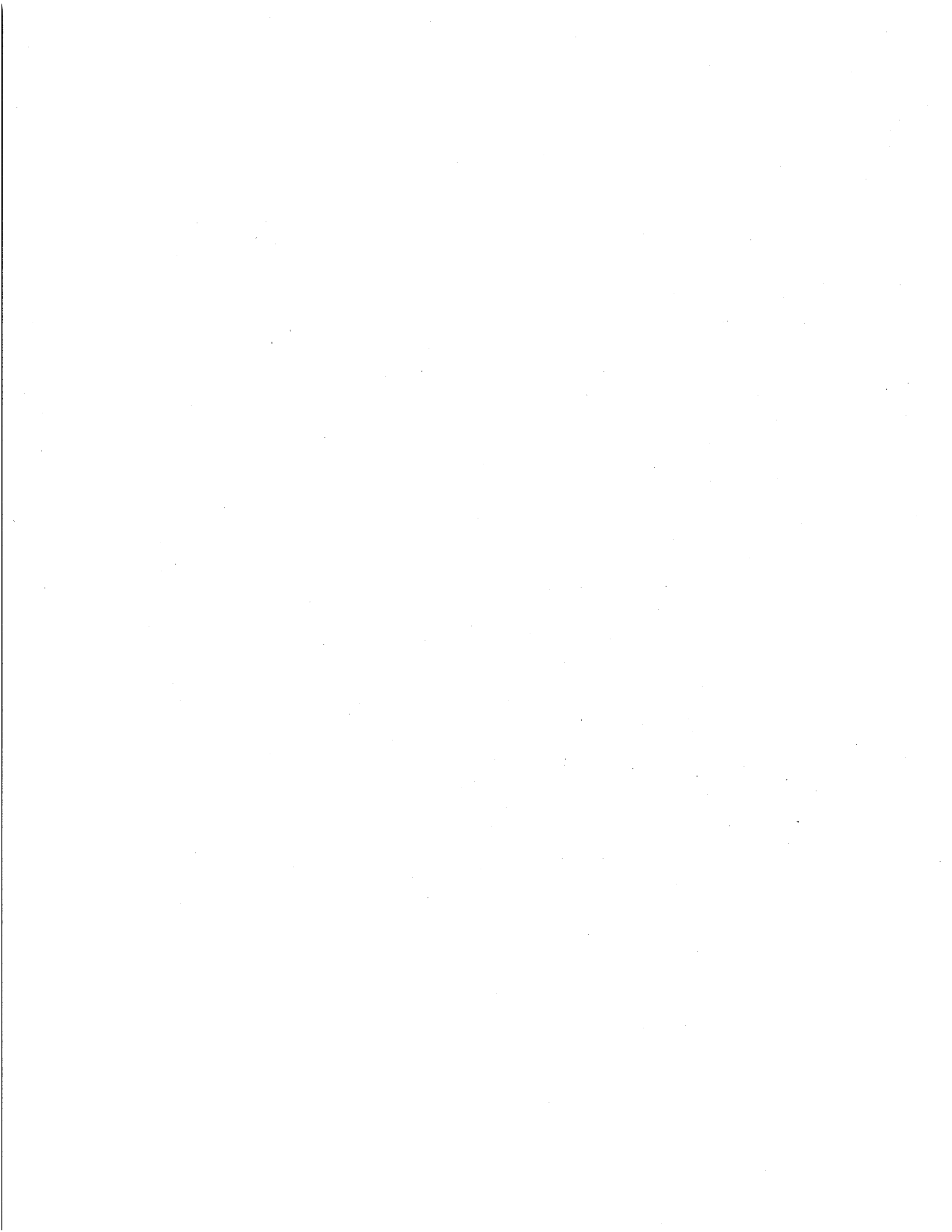
If you have any questions in this matter, please contact me at (213) 576-7076, [ykc@cpuc.ca.gov](mailto:ykc@cpuc.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Chiang".

Ken Chiang, P.E.  
Utilities Engineer  
Rail Crossings Engineering Branch  
Safety and Enforcement Division

C: State Clearinghouse



Attachment G

Public Comment

**Carnahan, David**

CITY OF PALO ALTO, CA  
CITY CLERK'S OFFICE

**From:** Ellen Forbes <eforbes820@att.net>  
**Sent:** Monday, November 03, 2014 10:43 AM  
**To:** Council, City  
**Subject:** LWVPA letter for Nov. 10 Council Packet  
**Attachments:** Let to City Co re Housing Element deadline.doc

14 NOV -3 AM 10:45

Thank you for getting this letter concerning the City's Housing Element to the Council members for their Nov. 10 meeting.

Regards,

Ellen Forbes, President  
League of Women Voters of Palo Alto

THE LEAGUE  
OF WOMEN VOTERS  
75 Years in PALO ALTO



---

3921 E. Bayshore Rd., SUITE 209 • PALO ALTO, CALIFORNIA 94303 • 650/903-0600 • [www.lwvpaloalto.org](http://www.lwvpaloalto.org)

November 3, 2014

Mayor Nancy Shepherd  
Palo Alto City Council  
285 Hamilton Avenue  
Palo Alto, CA 94301

Dear Mayor Shepherd and members of the Council:

The League of Women Voters of Palo Alto supports our City's efforts to provide more diverse and affordable housing for all income groups. We are therefore pleased that the City has prepared a draft Housing Element that is on schedule and that satisfies most of the State's requirements. We urge you to continue to support the submission of a complete Element by the deadline early next year.

Although the City has now identified a sufficient number of potential housing sites to satisfy the requirements, these sites are not always located as close to transit and walkable services as they might be. The Council itself has recognized the need to identify promising sites in such areas as Downtown, near California Avenue, and along El Camino Real. We urge you to continue the process of identifying promising sites and preparing them for appropriate zoning where necessary, even after the Element has been submitted.

Sincerely,

A handwritten signature in cursive script that reads "Ellen Forbes". The signature is written in black ink and is positioned above the typed name.

Ellen Forbes, President