

Subject: San Mateo's Draft Sixth Cycle Housing Element
From: Adam Buchbinder
To: chorrisberger@cityofsanmateo.org
cc: HousingElements@hcd.ca.gov, Paul.McDougall@hcd.ca.gov

February 1, 2022

To whom it may concern:

The Campaign for Fair Housing Elements is a coalition dedicated to ensuring that every city in California produces a Housing Element which complies with the California Department of Housing and Community Development's requirements. We have reviewed San Mateo's Housing Element process and Draft Adequate Sites List as of January 14¹.

We have the following concerns. The city's estimates of ADU production are too optimistic. The expected density of sites is unrealistic. There's no evidence that sites will be developed in the first place. The site inventory is not informed by AB 686's requirements to Affirmatively Further Fair Housing.

ADU Estimates

The city's ADU estimates are incorrect. According to HCD's Site Inventory Guidebook² (page 31), there are two "safe harbor" options for ADU construction estimates. These are (1) five times the average annual construction before 2018, or (2) the average annual construction since 2018. According to San Mateo's Annual Progress Reports and the city's claims, data is available as follows:

2015	2016	2017	2018	2019	2020	2021
2	3	16	8	45	52	67

The safe harbor options are then as follows:

Option (1) (2015-2017)	$\frac{2+3+16}{3} \times 5 = 35$ per year, 280 over eight years.
Option (2) (2018-)	$\frac{8+45+52+67}{4} = 43$ per year, 344 over eight years.

The City's estimate of 480 ADUs is not supported by these calculations. If the City doesn't use a Safe Harbor option, it must provide additional evidence. If the City doesn't provide evidence it must reduce its ADU projections.

¹ <https://cityofsanmateo.org/DocumentCenter/View/86766/Draft-Adequate-Sites-List-and-Methodology>

² https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf

Realistic Capacity

The City states on page 2: “When establishing realistic unit capacity calculations, the jurisdiction must consider existing development trends of existing or approved residential developments at a similar affordability level in that jurisdiction”. The city must not only consider previous development trends, but also whether a site will be developed *at all*. HCD requires cities to account for the difference between a site’s *nominal capacity* (the number of units it can theoretically support) and its *realistic capacity* (the number of units likely to be developed there over the next RHNA cycle).³ The City assumes that its entire site inventory will be developed--an unwarranted and unsupportable assumption.

Specifically, at least half of the city’s lower-income inventory is assigned to non-vacant sites. Cities are to presume that they will not be developed, in the absence of “substantial evidence” to the contrary.⁴ The City states on page 1: “The analysis does not include the economic feasibility of specific sites, nor does it take into consideration the owner’s intended use of the land now or in the future.” As substantial evidence of development has not been provided, the city should use the probability of development of these sites over the previous cycle³.

Results from the last RHNA cycle shed light on the sites’ realistic capacity. An acceptable Site Inventory would take into account San Mateo’s historic rate of development. Only one in twelve sites were developed during the Fifth Cycle.⁵

Fifth Cycle Development History

Sites listed in 5th HE	Sites developed during 5% of 5th Cycle	Percentage (Projected)
94	5	8.5%

The City has not provided evidence of future development for each site. Therefore, the City is *required* to use this percentage to compute the realistic capacity of its sites.⁶ San Mateo has a **total allocation of 7,081 units**. Given this likelihood of development, a site capacity of 10,898 units will produce only **908 units** over the planning period. Counting expected development of

³ Housing Element Site Inventory Guidebook, pp. 20-21, “Local or regional track records, past production trends, or net unit increases/yields for redeveloping sites or site intensification. This estimate may be based on the rate at which similar parcels were developed during the previous planning period, with adjustments as appropriate to reflect new market conditions or changes in the regulatory environment. **If no information about the rate of development of similar parcels is available, report the proportion of parcels in the previous housing element’s site inventory that were developed during the previous planning period.**” [Emphasis mine.]

⁴ Housing Element Site Inventory Guidebook, p. 27, “If a housing element relies on nonvacant sites to accommodate 50 percent or more of its RHNA for lower income households, **the nonvacant site’s existing use is presumed to impede additional residential development, unless the housing element describes findings based on substantial evidence that the use will likely be discontinued** during the planning period.” [Emphasis mine.]

⁵ Kapur, S., Damerdjii, S., Elmendorf, C. S., & Monkkonen, P. (2021). What Gets Built on Sites That Cities “Make Available” for Housing? UCLA: The Ralph and Goldy Lewis Center for Regional Policy Studies. Retrieved from <https://escholarship.org/uc/item/6786z5j9>. Maps available at <https://lewis.ucla.edu/RHNAmaps/>

⁶ See note 3, above.

1,721 units on non-inventory sites and **344 ADUs**, this means that the Site Inventory has a **shortfall of 4,108 units**. In order to produce this many units at a one-twelfth probability, sites must be identified for **49,824 units**. (See Appendix A for details.)

These numbers are high, but they underscore that if San Mateo continues to proceed as it has over the previous planning cycle, it is planning to fail. The city can either produce roughly fifty thousand more units of planned capacity, or justify these favorable assumptions by identifying and changing the factors that made development so unlikely. Unless that happens, the Draft Housing Element is not in compliance with HCD's guidance and should be rejected.

Expected Density

On page 3, an attempt is made to calculate the average built density of large residential projects. But this is overly optimistic in two ways. First, the Kiku Crossing project is a clear outlier. Will one in fourteen future projects be a 100% below market rate project within a half-mile of a Caltrain station using AB 1763 to develop at nearly four times base density? Calculating a median would have been better here. Secondly, the "average" was calculated by averaging all of the per-acre numbers, rather than dividing the total number of units by the total acreage, which yields 40 du/ac (without Kiku Crossing) and 43 du/ac (with). The method used by the city does not reflect the typical yield of an acre of housing, and the city should not use it.

Furthermore, the City refers to "proposed and/or approved" projects, then uses them to "demonstrate that **as-built** densities are consistently above zoned density" so the City may assume more realistic capacity for the sites. Six of the 14 projects included on this list also appear on the Cycle 6 Draft Adequate Sites List. Projects that are being counted towards Cycle 6 should not be used to calculate "as built" densities over Cycle 5. Eliminating these six projects yields 38 du/ac. Thus, the assumption of 100% zoned density production for R3, R4, R4D and R5 parcels (base density 35-50 du/ac), which the City applies to 31 sites with one of these designations, is wrong.

The City performs a similar analysis on the average built density of commercial & mixed use projects with residential development by averaging all of the per-acre numbers, which yields 48 du/ac, rather than dividing the total number of units by the total acreage, which yields 40 du/ac. The city then notes that only 75% of commercial & mixed use projects included residential development and multiplies their calculated "average dwelling unit per acre **for projects with residential**" by 0.75 to get an expected dwelling unit per acre for **all** commercial & mixed use projects. This is overly optimistic as the city has eliminated commercial & mixed use projects with no residential from their calculation, which is then applied (after a 25% discount) to **all** commercial & mixed use projects. It would be more accurate to simply calculate and apply the built residential density of all commercial & mixed use projects, which is 29 du/ac.

However, seven of the 20 projects included on the list of commercial & mixed use projects also appear on the Cycle 6 Draft Adequate Sites List. Eliminating these seven projects yields 1.7 du/ac. Thus, the City's "conservative" assumption of 30 du/ac for commercial & mixed use projects does not reflect the typical yield and the City should not use it.

Additionally, the City states on page 8, “For those sites less than 0.5 acres, in general it was assumed that the realistic capacity would be approximately 50% of zoned capacity, given the difficulty of maximizing use of those sites.” However, of the 82 sites less than 0.5 acres and zoned for commercial & mixed use, only one has a realistic capacity of less than or equal to 50% zoned capacity. Sixty-three have a realistic capacity of 60%-80% of zoned capacity and 18 have a realistic capacity of 100% of zoned capacity.

Specific Issues

We’ve looked at some of the factors which have caused actual development to fall short of expectations in the past, and these errors continue to be reflected in the current inventory.

Forty-two of the 212 sites identified on the City’s Adequate Sites List were also included on the site inventories for Cycle 4 and Cycle 5. Three of these sites are rated 4 (out of 5) on development potential and 26 of these sites are rated 5. The city does not identify any constraints to development of these sites over the past fifteen years, nor note any new incentives to development, beyond the rezoning required by AB 1397.

One site appears on the City’s Sites List twice, with different unit allocations:

Site Address	Assessor Parcel Number (APN)	Very Low	Low	Moderate	Above Moderate	Total
4060 EL CAMINO REAL	042-241-180	13	8	8	22	51
4060 El Camino Real	042-241-180	10	6	7	17	40

For each site, the City notes the “Max Density Allowed (units / acre)”, “Realistic Max Density (units/acre)”, and “Parcel Size (gross acres)”. The City also notes the “Realistic Density times size”, which is presumably calculated by multiplying the Realistic Max Density by the Parcel Size. The “Total” number of units on each site is equivalent to the number reported for the “Realistic Max Density times size”, except for sites that already have an approved number of units.

However, 35 sites have a “Realistic Max Density times size” / “Total” that is larger than the Realistic Max Density multiplied by the Parcel Size. For 9 of these sites, it appears Max Density Allowed was used instead of Realistic Max Density in the calculation (highlighted orange below). For 9 of these sites, a number larger than Max Density Allowed was used (highlighted red below), and for 17 sites, a number between Realistic Max Density and Max Density Allowed was used (highlighted yellow below). Between the duplicate APN and the overestimation of Realistic Density, the Sites List overestimates capacity by 616 units.

Assessor Parcel Number (APN)	Max Density Allowed (units / acre)	Realistic Max Density (units / acre)	Parcel Size (gross acres)	Realistic Density times size [reported]	Total	Realistic Density times size [actual]
035-466-010	50	30	1.66	83	83	50
035-466-060	50	30	9.21	461	461	276
039-060-440	50	50	0.73	57	57	37
033-191-040	50	30	0.44	59	59	31
033-191-060	50	30	0.13			
033-191-070	50	30	0.45			
034-142-200	30	30	0.43	35	35	21
034-142-220	30	30	0.26			
034-302-140	50	30	0.68	34	34	20
035-381-020	30	30	0.58	332	332	200
035-381-030	30	30	6.07			
039-030-400	50	40	1.54	77	77	62
039-353-050	50	30	1.08	54	54	32
039-353-070	50	30	1.18	59	59	35
042-121-040	50	30	1.81	90	90	54
042-121-080	50	30	0.65	32	32	20
042-241-180	50	40	1.02	51	51	41
042-242-060	50	40	0.25	296	296	268
042-242-070	50	40	0.24			
042-242-160	50	40	0.20			
042-243-020	50	40	2.09			
042-244-040	50	40	0.13			
042-244-050	50	40	1.19			
042-245-040	50	40	0.12			
042-245-050	50	40	0.12			
042-245-060	50	40	0.12			

042-245-070	50	40	0.12			
042-245-080	50	40	0.12			
042-245-090	50	40	0.12			
042-245-100	50	40	0.24			
042-245-110	50	40	0.24			
042-245-120	50	40	0.30			
042-245-130	50	40	0.36			
042-263-010	50	40	0.73			
032-122-210	35	35	0.14	7	7	5

Additionally, on page 8, the city states that “For this inventory, no individual site less than 0.5 acres is allocated toward lower income units; however, as per State guidance, such small sites can be considered either moderate income, above moderate income, or both.” However, the following sites are allocated toward lower-income units and are below a half-acre in size.

Site Address	Assessor Parcel Number (APN)	Parcel Size (gross acres)	Allocation
117 N San Mateo Dr	032-292-080	0.41	3 VLI, 2 LI
402 Tilton	032-331-010	0.13	1 VLI, 1 LI
406 Tilton	032-331-020	0.13	1 VLI, 1 LI
487 El Camino Real	034-144-220	0.42	5 VLI, 3 LI
20 42nd Ave	042-242-180	0.21	2 VLI, 1 LI
4142 El Camino Real	042-242-170	0.3	3 VLI, 2 LI
4100 El Camino Real	042-242-080	0.42	4 VLI, 2 LI
2028 El Camino Real	039-060-430	0.38	3 VLI, 2 LI
717 Woodside Way	032-122-210	0.14	2 VLI, 1 LI

Affirmatively Furthering Fair Housing (AB 686)

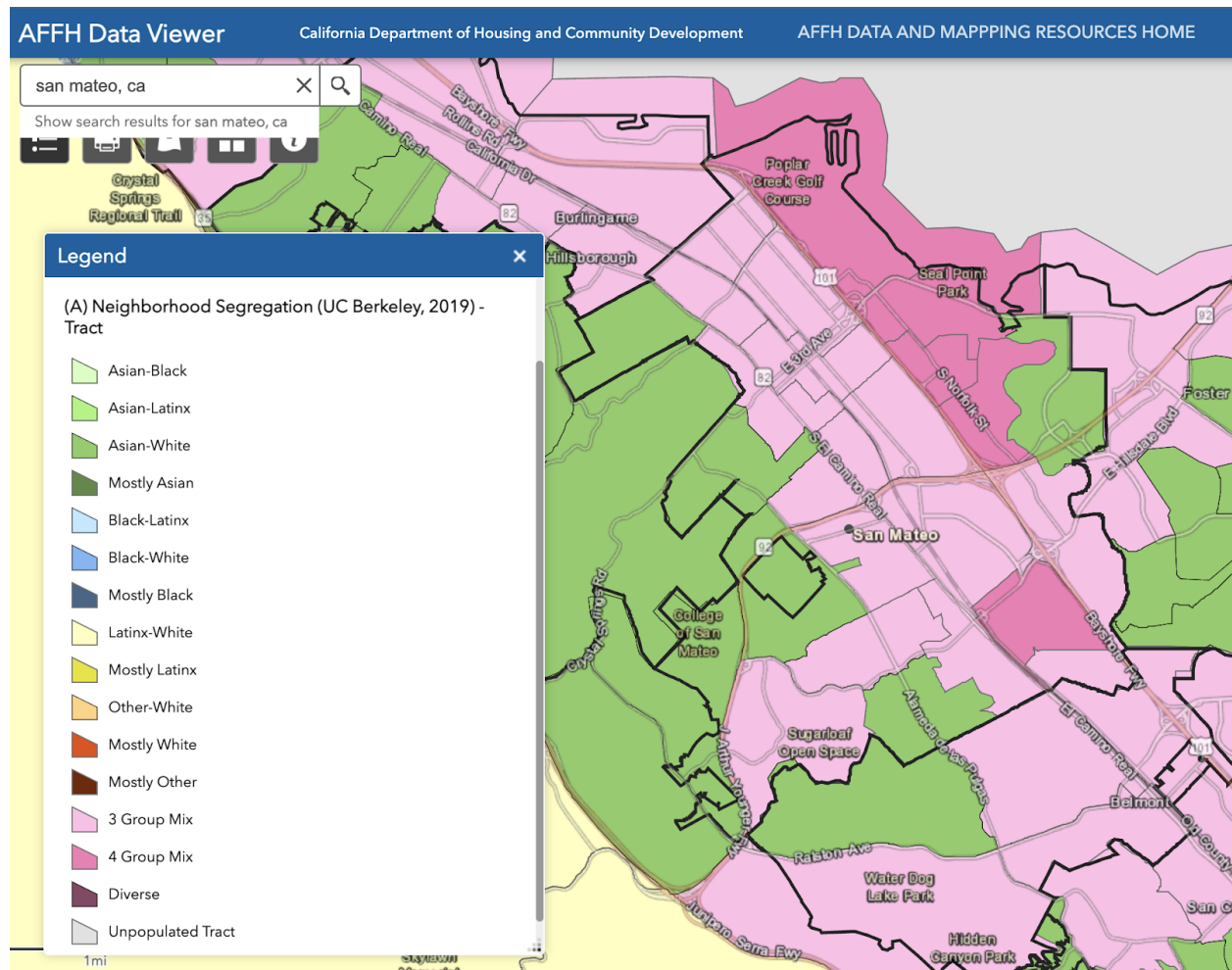
Per HCD’s Guidance Memo on Affirmatively Furthering Fair Housing, “AB 686 now requires that a jurisdiction identify sites throughout the community in a manner that is consistent with its duty to affirmatively further fair housing (AFFH) and the findings of its assessment of fair housing, pursuant to Government Code section 65583, subdivision (c)(10)(A).⁷ While the City has

⁷ California Department of Housing and Community Development, Affirmatively Furthering Fair Housing, Guidance for All Public Entities and for Housing Elements, April 2021, [pg.12](#)

released excerpts from their Housing Needs Data Report⁸ it is unclear how the data assessments presented in the report informed the selection of sites.

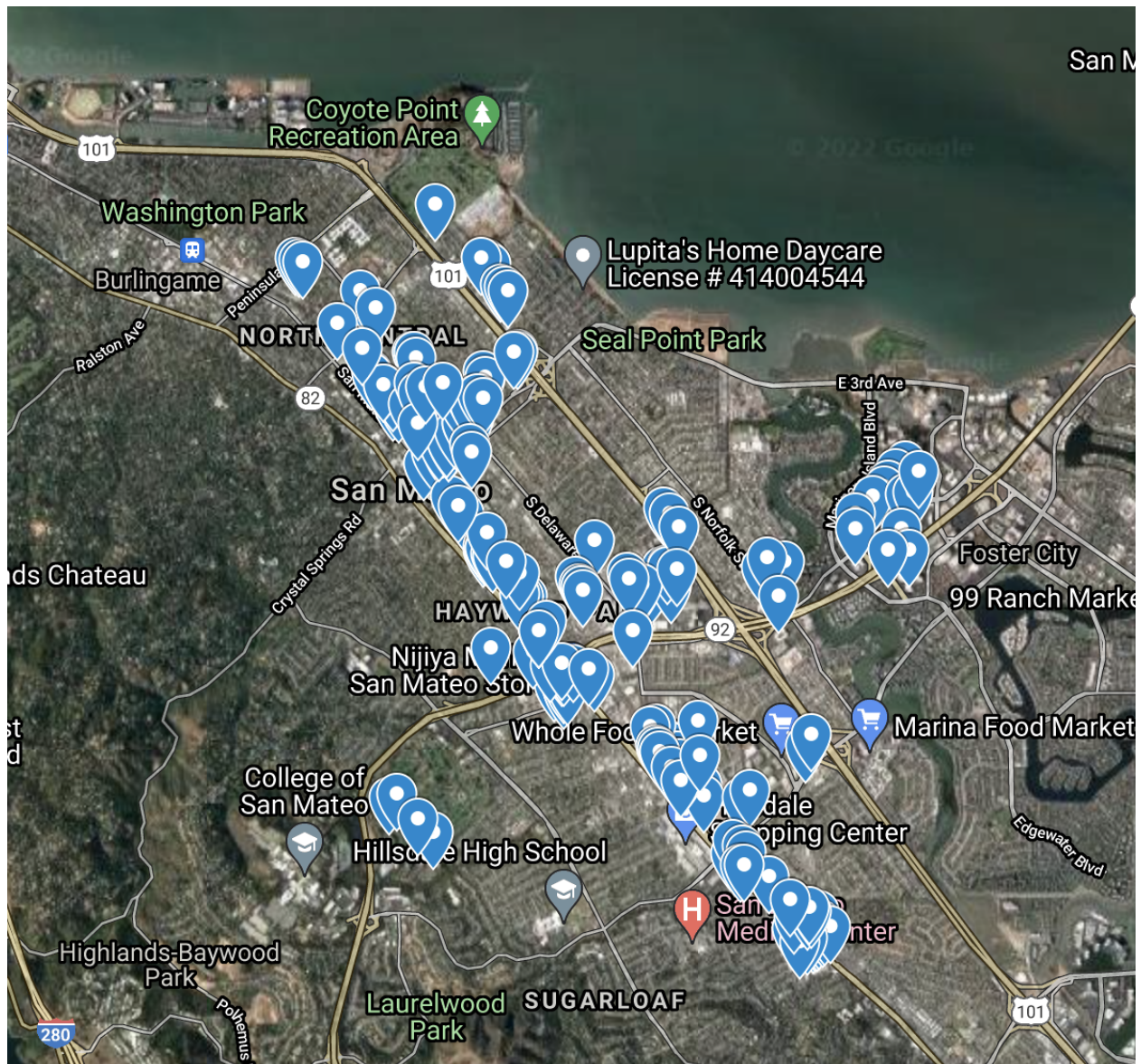
For example, no sites fall into the “Highest Resource” TCAC Opportunity Area designation and it appears that the sites predominantly fall into areas where three or four racial groups mix.

Map of Neighborhood Segregation by Census Tract, 2019



⁸ Excerpts from Draft Housing Needs Data Report: San Mateo, [December 2021](#)

Map of Sites listed on San Mateo's Draft Site Inventory



Please identify enough sites and commit to an appropriate program of rezoning and constraint removal in a manner that is consistent with your duty to affirmatively further fair housing and such that the actual capacity of the Sites Inventory over the next eight years meets or exceeds your RHNA.

The housing crisis is a regional problem, and our cities must work together to solve it. Thank you for your time and consideration,

Adam Buchbinder
Campaign for Fair Housing Elements

Peninsula for Everyone

Appendix A

Of the sites listed in the City's Site Inventory in the Fifth Housing Element, only about 8.5%, or one-twelfth, have been developed. (Data is available for five years of the cycle, so the math is $\frac{5}{94} \times \frac{8}{5} = 0.085$.) The Draft Housing Element must include this information and use it to adjust its Sixth Cycle estimates of realistic capacity.

Credit is also given for development on non-inventory sites, minus ADUs, as follows. Take the total production over the 2015-2020 timeframe. Subtract development on inventory sites, as reported on HCD's dashboard⁹ for 2018-2020 and by the City before that¹⁰. Because AMI projects are not reported by address, assume that none were in the site inventory. Because site names were not identified by address or APN, manual matching was necessarily fuzzy. Finally, scale the remainder by 8/6 to get the expected development over the entire Fifth Cycle.

Development on Non-Inventory Sites

	VLI	LI	MI	AMI
Production 2015-2020	126	52	94	1545
ADUs (2015-2017)	0	0	0	21
ADUs (2018-2020)	0	0	0	105
Development on Inventory Sites (2015-2017)	0	19	15	293
Development on Inventory Sites (2018-2020)	0	6	0	67
Net Non-Inventory Production	126	27	79	1059
Multiplied by 8/6	168	36	105	1412

⁹ <https://app.powerbigov.us/view?r=eyJrIjoiMDA2YjBmNTItYzYwNS00ZDdiLTNmMGMtYmFhMzc1YTAzMDM4IiwidCI6IjJiODI4NjQ2LWlwMzctNGZINy04NDE1LWU5MzVjZDM0Y2Y5NiJ9&pageName=ReportSection3da4504e0949a7b7a0b0>

¹⁰ <https://www.cityofsanmateo.org/4477/Housing-Element-2015-23-Annual-Progress->

New Capacity Needed to Accommodate RHNA

	VLI	LI	MI	AMI	Total
RHNA floor	1819	1047	1175	3040	7081
Nominal Capacity	2162	1599	1530	5604	10895
Realistic Capacity (Adjusted to 1/12)	180	133	128	467	908
Projected Non-Inventory Production	168	36	105	1412	1721
ADUs (6% VLI, 31% LI, 48% MI, 15% AMI)	21	107	165	51	344
RHNA floor - Realistic Capacity - ADUs - Non-Inventory Production = Shortfall	1450	771	777	1110	4108
Nominal Capacity Required To Eliminate Shortfall	17400	9252	9324	13320	49296

From: Eldridge, Karyl <>

Sent: Monday, February 07, 2022 10:21 AM

To: Rick Bonilla <RBonilla@cityofsanmateo.org>; Amourence Lee <alee@cityofsanmateo.org>; Diane Papan <dpapan@cityofsanmateo.org>; Joe Goethals <jgoethals@cityofsanmateo.org>; Eric Rodriguez <erodriguez@cityofsanmateo.org>

Cc: Adam Nugent <anugent@cityofsanmateo.org>; Ramiro Maldonado Jr. <rmaldonado@cityofsanmateo.org>; Margaret Williams <mwilliams@cityofsanmateo.org>; Seema Patel <spatel@cityofsanmateo.org>; John Ebnetter <jebnetter@cityofsanmateo.org>; Drew Corbett <dcorbett@cityofsanmateo.org>; Patrice Olds <polds@cityofsanmateo.org>

Subject: OSM remarks on housing element programs



Dear Mayor Bonilla and Members of the San Mateo City Council,

In response to the staff report dated February 7, 2022, whose subject is “Housing Element Goals, Policies and Programs”, One San Mateo would like to offer the following remarks on a few items that are of special interest to us.

FRAMING. First, we would like to support the utilization of the Three P’s in the framing of the Housing Element goals. This reflects current thinking about the high-level categories of actions that need to be included in a comprehensive plan to promote inclusion and provide for a jurisdiction’s future housing needs. It is a crisp and effective way to organize thinking about the myriad strategies that can be used to address our affordability problem and ensure a suitable living environment for all San Mateans. We encourage adoption of the Three P’s framework and support the addition of a sustainability goal as well. In the interest of consistency, this fourth goal might begin with the word “Pursuit.”

DISPLACEMENT. Under the “Fair Housing” heading on Attachment 3, we encourage the inclusion of a number of strategies that have been upheld by community members in the context of surveys and forums and whose importance was acknowledged at the council’s blue skies event on January 29. These strategies are intended to reduce displacement by preventing people from being forced from their homes. The specific entries that address this are as follows:

- Require documentation from landlords who use remodel exemption to evict tenants (AB 1482)
- Require tenant relocation payments for No Fault evictions for those with tenure less than one year (extend 1482)
- Establish a rental registry to track rents and evictions citywide

POPULATION PRIORITIES. The individuals most underserved by the market, whose very survival is threatened by our spectacular housing costs, are those with the lowest incomes and those with special needs. Therefore, under the “Fair Housing” heading, we also encourage the prioritization of ELI and VLI units, along with units to serve people with special needs, in city-assisted affordable housing projects.

SITES. We are aware of the letter that has been forwarded to council from the Campaign For Fair Housing Elements and are sympathetic to the concerns that prompted the writing of this letter. Recent changes to the sites identification process have been made in the interest of increasing its authenticity and ensuring that it serves equity goals. If the current sites inventory for San Mateo fails to fulfill the newly imposed requirements, we encourage the city to remedy this in the interest of creating a Housing Element that both succeeds in its intended purpose and receives approval by HCD.

R-1 ZONING. Finally, we feel compelled to mention that we continue to take exception to the strenuous efforts that have been made during this Housing Element update to avoid making changes to R-1 neighborhoods. R-1 zoning was originally introduced as a workaround to racially explicit zoning, and its status as a progenitor of white privilege was cemented during the decades when government-imposed policies excluded all but whites from owning homes in these neighborhoods. When Richard Rothstein addressed the SAMCAR community in October of 2020, he was asked what should be done to reverse the injustices of the past, and the first approach he mentioned was the modest densification of R-1 neighborhoods, i.e. allowing both plexes and modest-scale garden apartments to be built in neighborhoods currently zoned R-1. We concur with his thinking on this and regret that San Mateo has resisted moving in this direction, which would serve significantly to advance the goal of Affirmatively Furthering Fair Housing.

Thank you in advance for your consideration to our thoughts and for the opportunity to share them with you.

Sincerely,

Karyl Eldridge
Vice Chair of One San Mateo

From: Evelyn Stivers <estivers@hlcsmc.org>

Sent: Monday, February 7, 2022 4:29 PM

To: Rick Bonilla <RBonilla@cityofsanmateo.org>; City Council (San Mateo) <CityCouncil@cityofsanmateo.org>; Planning Commission <PlanningCommission@cityofsanmateo.org>

Cc: Eldridge, Karyl <>; Jordan Grimes <>; Adam Nugent <>; Justin Alley <>; Bob Whitehair <>; Chris Blom <>; Ellis Berns <>; Schneider, Nancy <>; Jim Sell <>; Jan Stokley <>; John Ebnetter <>; John Tastor <>; Abreu, Ken <>; Karyl Eldridge <>; Valerie Rynne <>

Subject: Joint Meeting on Housing Element

Hello Mayor, members of the city council, and planning commission:

HLC is very interested in tonight's joint Planning Commission and Council meeting to discuss policies for the housing element and I would like to share our perspective and our policy priorities. Housing Element policies are usually designed and formed to both meet the needs identified in the needs assessment and to overcome barriers identified under constraints. Additionally this year, the city must complete a fair housing analysis that would also present opportunities for solutions.

While this could hurt the city's ability to get a certified housing element on the first try, if the city changes task order, it will make it easier to engage with the local community and to, make a better plan, and shorten the review process..

That said, we have some specific policies that we would like you to consider:

Funding:

1. Increase the commercial linkage fee and design it to preference partnerships between affordable housing providers and commercial developers.
2. Increase the transfer tax on real estate sales over 1 million dollars.
3. Make affordable homes exempt from some fees (like park fees) to decrease the cost and make the city's limited resources stretch further.

On sites:

1. Beyond following state guidelines on the process for developing a sites list, look at publicly owned sites, including areas that are owned by other agencies, for the opportunity to provide affordable homes.
2. Also look at quasi public sites (churches, nonprofits). If an institution is interested in developing affordable homes, what steps (including rezoning) does the city need to take to enable that development.

Overcoming Constraints:

1. Again, complying with state law and identifying constraints before you make decisions on policies is critical.
2. Strategies for parcel assembly
3. Lower your parking requirements, where appropriate
4. Review the neighborhood associations practices for electing leaders, hosting meetings, and providing opportunities for everyone in the neighborhood to participate.

In addition, the city needs specific policies and programs to create ELI housing and housing for special needs populations, and to help prevent displacement and homelessness.

The process for developing a housing element has changed significantly since the last cycle. It is challenging to keep up with the changes and meet the deadlines. But San Mateo has some of the strongest housing leaders on both the Planning Commission and City Council. It is HLC's hope that the City will create a model Housing Element - one of the best in the state that will serve as an example to other communities in our county and follow the process as outlined by HCD. We look forward to the continued conversation about policies and programs after other work has been completed.

Thank you for your time and leadership.

Evelyn Stivers
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February 9, 2022

Regarding: San Mateo DRAFT Adequate Sites List, December 2021

Dear City Of San Mateo Officials,

It has come to our attention that the City Of San Mateo has listed as 'moderate' the chance that property which is owned by the IBEW on Leslie Street may change its current use to housing during the RHNA cycle six which runs from 2023 through 2031.

I am writing to inform you that the IBEW has absolutely no intention of changing its use during that time period. We are viewing the current use as a long-term investment.

Respectfully,

A handwritten signature in blue ink that reads "David M. Mauro".

David M. Mauro
Business Manager/Financial Secretary
IBEW Local Union 617

DMM:mfb
Opeiu29/afl-cio