

City of Brisbane

Index to City’s responses to HCD 4/5/23 comments. This index accompanies the 2023-2031 Housing Element excerpts with redlined edits proposed for Council adoption.

HCD Comment	City Response
<p>1. <i>An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality’s housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)</i></p> <p><i>Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory... (Gov. Code, § 65583, subd. (c)(1).)</i></p>	
<p><u>Progress toward the Regional Housing Need Allocation (RHNA):</u> As noted in the prior review, the element may utilize pipeline and potential development projects toward the RHNA but must also demonstrate their affordability and availability in the planning period. While the element now identifies 39 units toward the RHNA (p. B-14), it must still demonstrate the affordability of the units, particularly for units utilized toward the lower-income and moderate-income RHNA. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). Please see HCD’s prior review for additional information.</p> <p>In addition, the element now discusses that Remedial Action Plans have been approved and environmental clean up is estimated between three and four years to complete but should still demonstrate the availability of the Baylands in the planning period. Specifically, the element should still discuss the anticipated schedule, including timing for all entitlements, infrastructure, phasing requirements, build out horizons and any other factors or known barriers impacting the availability in the planning period.</p>	<p>Only 5 of the 39 pipeline units identified would be below market rate units and shall be deed restricted per the entitlement conditions of approval. A clarifying note and table has been added to Section 4.6 and Table B.7.2 of Appendix B - 2023-2031 Sites Inventory & Methodology.</p> <p>The Baylands is not a pipeline project, per sites inventory guidebook (see below). The Baylands is a rezoning site, per the Gov’t Code 65583.2(a)(4). A clarifying note has been added to Section 3.1.2 of Chapter 3 – Resources and Opportunities and a footnote added to Section 4.6 of Appendix B - 2023-2031 Sites Inventory & Methodology.</p> <p>Additionally, project milestones for Baylands CEQA processing/entitlement and an estimated housing production schedule in Section 3.1.1.1 of Chapter 3 – Resources and Opportunities. The estimated housing production schedule, or metrics, is also provided in Program 2.A.2 along with a commitment to notify HCD if significant schedule changes occur. Note that the Baylands schedule provided in Section 3.1.1.1 of Chapter 3 shows that the entitlements (subdivision maps and ministerial housing development permits) will be processed concurrently with site preparation work.</p>
<p><u>Nonvacant Sites:</u> The element now describes existing uses on sites identified in the PAOZ-1 and PAOZ 2 zoning districts and includes some recent experience with redevelopment on a similar site. However, the element should utilize additional experience or development trends on sites with similar uses to further support assumptions on PAOZ-1 and PAOZ zoned sites. The element may utilize development experience from nearby and comparable communities to complete this analysis.</p> <p>In addition, the element should evaluate the extent existing uses impede additional development on nonvacant sites outside of the PAOZ 1 and</p>	<p>Analysis and examples of development trends from other San Mateo County jurisdictions on sites with similar uses has been added to Section 4.4 and Table B.7.2 of Appendix B - 2023-2031 Sites Inventory & Methodology.</p> <p>The sites inventory includes 8, R-1 nonvacant properties that are large enough to be subdivided. Additional analysis, including the recent trend, was added to Section 4.3 and Table B.7.2 of</p>

<p>PAOZ 2 zoning districts. For example, several sites have existing single family residential uses where the potential added residential capacity does not far exceed the existing number of units (1 to 1 ratio).</p> <p>In addition, the inventory appears to identify sites with parking lots and the element should evaluate these existing uses and the potential for redevelopment. Please see HCD’s prior review for additional information.</p> <p>In addition, if the element relies on nonvacant sites to accommodate 50 percent or more of the RHNA for lower-income households, specific requirements are triggered to make findings (e.g., adoption resolution) based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period. While the element does not currently trigger this requirement, if future submittals do trigger this requirement, the appropriate findings must be made based on substantial evidence.</p>	<p>Appendix B - 2023-2031 Sites Inventory & Methodology. Section 4.3 of Appendix B indicates that the capacity for the referenced sites is a net increase of 1 unit for each of the eight sites in question, for an increase of 1 to 2, vs 1 to 1.</p> <p>These are non-utilized parking lots where housing development is actively being pursued by the owners. Additional analysis was added to Sections 4.2 and 4.3 and Table B.7.2 of Appendix B - 2023-2031 Sites Inventory & Methodology.</p> <p>The H.E. does not rely on nonvacant sites for 50% or more of the RHNA for lower income households as indicated in Section 4.1 of Appendix B - 2023-2031 Sites Inventory & Methodology. An additional clarifying note has been added to Table B.7.2 of Appendix B - 2023-2031 Sites Inventory & Methodology.</p>
<p><u>Electronic Sites Inventory:</u> Although the City has submitted electronic sites inventory as described in the prior review, if any changes occur, the City should submit revisions as part of any future re-adoption or submittal. Please see HCD’s housing element webpage at https://www.hcd.ca.gov/planning-and-community-development/housing-elements for additional information.</p>	<p>While the inventory numbers were not changed, notes have been added that tie in to the added discussion provided in Appendix B and this will be formally provided with the adopted amendment.</p>
<p><u>Programs:</u> As noted above, the element does not include a complete site analysis. Depending upon the results of that analysis, the City may need to add or revise programs. In addition, the element should be revised, as follows:</p> <ul style="list-style-type: none"> • Program 2.A.9 (Monitor Approvals of Pipeline Projects): As noted above, the element must complete an analysis of the availability of the Baylands in the planning period. This Program should be revised based on the outcomes of a complete analysis. In addition, the Program should be revised with the anticipated number of units by affordability, anticipated dates for final entitlements and building permits and should commit to a specified date when alternative sites will be identified if the pipeline is not completed as anticipated. 	<p>Site analysis is addressed above.</p> <p>Program 2.A.9: See edits in Chapter 5 Housing Plan with the requested clarifying text. Note: As discussed above, pipeline projects are deed restricted. A clarifying note and table has been added to Section 4.6 and Table B.7.2 of Appendix B - 2023-2031 Sites Inventory & Methodology. Note also, the small number of pipeline projects are not critical to achieve RHNA. We have a very large buffer for this purpose.</p> <p>The metrics for affordable units have been added to the Baylands production estimate provided in Program 2.A.2, along with the action of reevaluating housing opportunity sites to accommodate 2023-2031 RHNA if project has failed to proceed substantially in conjunction with the anticipated timeline.</p> <p>Program 2.A.8: See date change to 12/31/25 in Chapter 5 – Housing Plan. Also, Program 2.B.7 has been added to implement AB 2339.</p>

<ul style="list-style-type: none"> • Program 2.A.8 (Transitional and Supportive Housing): The Program should be revised with an implementation date earlier in the planning period (e.g., by 2025). • Prior Identified Sites: HCD’s prior review found the element must include a program to utilize sites identified in prior planning periods. In the City’s comment summary, vacant sites from two or more planning periods were not identified toward the lower-income RHNA. However, the element appears to identify nonvacant sites from the prior planning period toward the lower-income RHNA which triggers this requirement. The element should either demonstrate nonvacant sites from the prior planning period are not used toward the lower-income RHNA or add or modify a program, as appropriate. Please see HCD’s review for additional information. 	<p>PAOZ-1 and POAZ-2 was zoned to the allow housing by-right to the minimum densities at or above 20 units per acre during the 5th RHNA cycle, as described in Section 4.4 of Appendix B - 2023-2031 Sites Inventory & Methodology. Also, Program 2.E.4 has now been edited to ensure that the requirement of 20% or more of the units being affordable to lower income households is provided as part of the update to the Inclusionary Housing Ordinance. The ordinance update is scheduled to be completed by January 31, 2024.</p> <p>We previously addressed nonvacant site realistic development potential pursuant to GC Section 65583.2(g) in Sections 4, 4.1, and 4.4 and Table B.4.3 of Appendix B - 2023-2031 Sites Inventory & Methodology. This is also indicated in Section 3.1.2 and Table 3-3, Chapter 3 – Resources and Opportunities. Program 7.A.2 provides for adoption of objective standards for previously used nonvacant sites in the NCRO-2 District.</p>
<p>2. <i>An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)</i></p> <p><i>Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).</i></p>	
<p><u>Land Use Controls:</u> While the element now appears to show multifamily heights do not impact the ability to achieve maximum densities, it also notes multifamily height can constrain development. Further, the element indicates affordable housing developers regard the multifamily heights as a constraint and would need to seek exception to the development standards. As a result, the element should either demonstrate the heights are not a constraint or add or modify a program to address the multifamily heights as a constraint on development.</p>	<p>See added analysis to Section 4.1.1.2 of Chapter 4 – Housing Constraints, demonstrating development trends for affordable housing projects under the 3-story height limit and that the current height limit does not constrain affordable housing development as shown by those development trends.</p> <p>Additionally, a new Program 2.A.12 has been included, to amend the zoning ordinance to increase the maximum heights to be 36 feet in all districts allowing multi-family residential uses, except where higher heights are already permitted.</p>
<p><u>On/Off-Site Improvements:</u> The element now indicates that off-site improvements can substantially increase costs for additions or smaller developments. As a result, the element should either demonstrate these improvements are not a constraint or add or modify a program to address the identified constraint.</p>	<p>See updated Section 4.1.3.1 Infrastructure Improvements of Chapter 4 – Housing Constraints.</p>
<p><u>Persons with Disabilities:</u> HCD’s prior review found the element must analyze potential governmental constraints on housing for persons with disabilities, including the reasonable accommodation procedure, definition of family and requirements on group homes for seven or more persons. In response, the element now describes the definition of family which appears to explicitly exclude group homes for seven or more persons. Further, the City subjects these uses to a conditional use permit (CUP), a complex discretionary process that impacts timing, feasibility and approval certainty and acts as a constraint. As a result, the element</p>	<p>Section 4.1.5 of Chapter 4- Housing Constraints has been edited to reference a new program.</p> <p>Program 2.A.11: Added to Chapter 5 –Housing Plan, to remove the requirement for a conditional use permit for group homes of seven (7) or more persons, with objective standards similar to other residential uses in the same district, and remove group care provisions from the definition of “family.”</p>

<p>should include a program to modify the definition of family and revise or remove the CUP permit procedure as identified constraints. Permit procedures should allow group homes in all zones allowing residential uses with objectivity to facilitate approval certainty similar to other residential uses of similar form.</p>	
<p>3. <i>The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)</i></p>	
<p>While the element now includes Program 2.F.7 to assist in the development of housing for extremely low-income (ELI) households, timelines should be adjusted earlier in the planning period (e.g., by 2025). In addition, the Program should clarify that outreach and coordination with affordable housing developers includes identifying development and other housing opportunities.</p>	<p>Program 2.F.7: Modified in Chapter 5 – Housing Plan, to adjust the action dates to 2025 and clarify that outreach is to include identifying development and other housing opportunities for ELI households, per HCD comment.</p>
<p>4. <i>Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)</i></p>	
<p>While the element includes various programs to Affirmatively Furthering Fair Housing (AFFH), the programs should be modified with metrics or numerical targets and geographic targeting toward significant and meaningful outcomes. An example of a metric would be the number of households assisted or number of units produced. An example of geographic targeting would be throughout the City, higher income areas or lower density neighborhoods. Specifically, the following programs should include metrics and geographic targeting:</p> <p>Programs 1.A.2 (Outreach),</p> <p>1.A.3 (Targeted Outreach),</p> <p>2.A.5 (Small Lots and Housing Type Variety),</p> <p>2.B.1 (Baylands),</p> <p>2.D.2 (Accessory Dwelling Units),</p> <p>2.E.1 (Affordable Housing Strategic Plan),</p> <p>2.E.5 (Linkage Fee),</p> <p>2.E.6 (City-owned Sites),</p> <p>3.B.1 (Housing Choice Vouchers),</p>	<p>Edited all of the listed programs indicated, in Chapter 5 – Housing Plan, to add metrics and geographic targeting:</p> <p>Program 1.A.2: Geographic targets and metrics added Program 1.A.3: Geographic targets and metrics added Program 2.A.5: Geographic targets and metrics added Program 2.B.1: Geographic targets and metrics added Program 2.D.2: Geographic targets and metrics added Program 2.E.1: Geographic targets and metrics added Program 2.E.5: Geographic targets and metrics added Program 2.E.6: Metrics added Program 3.B.1: Geographic targets and metrics added Program 4.A.1: Geographic targets and metrics added Program 4.A.3: Geographic targets and metrics added Program 4.A.4: Metrics added Program 4.A.5: Metrics added Program 4.A.9: Geographic target and Metrics added</p>

<p>4.A.1 (Affordable Housing Strategic Plan),</p> <p>4.A.3 (Fair Housing Training),</p> <p>4.A.4 (Fair Housing Complaints),</p> <p>4.A.5 (Targeted Outreach) and</p> <p>4.A.9 (Homeshare).</p>	
<p>5. <i>Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)</i></p>	
<p>While the element now includes Program 5.A.(Stakeholder Committee) to establish a stakeholder committee, the Program should also commit to engage the Committee as part of the annual progress report on implementation pursuant to Government Code section 65400. In addition, as found in the prior review, moving forward as part of any future submittal, the City should employ additional methods for public outreach efforts in the future, particularly to include lower income and special needs households or representatives. For example, the City could conduct targeted stakeholder interviews.</p> <p>Finally, public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government’s website and to email a link to all individuals and organizations that have previously requested notices relating to the local government’s housing element at least seven days before submitting to HCD.</p>	<p>Program 5.A.9 Actions and dates has been expanded and updated.</p> <p>The City has continued to seek full public participation. Prior to the City Council public hearing on May 18, 2023, on May 5, 2023 HCD’s comment letter dated April 5, 2023 and the corresponding proposed redlined edits to the Housing Element were posted on the City’s Housing Element update webpage, an email blast was sent to all those who have requested housing element notices, and social media postings were made. Paper copies of the same materials were also placed at City Hall and the Brisbane Library on May 8th, of HCD comments and City responses at least 7 days before City Council’s public hearing on the housing element amendment, before submitting it back to HCD for certification.</p>