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CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

April 3, 2012

Mr. Jeremy Graves
Community Development Director
Department of Community Development
City of Sausalito
420 Litho Street
Sausalito, CA 94965

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

Dear Mr. Graves:

Thank you for submitting Sausalito's draft housing element received for review on February 3, 2012, along with revisions received on March 27, 2012. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). Communications with you, Ms. Lilly Schinsing, Associate Planner, Ms. Karen Warner, Mr. Geoff Bradley, and Ms. Karen Hong, the City's consultants, facilitated the review. In addition, the Department considered comments from League of Women Voters, Public Advocates, and Ms. Gerry Fait, pursuant to Government Code Section 65585(c).

The draft element addresses some statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must include complete analyses of adequate sites and potential governmental constraints. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department appreciates your efforts and also those of Ms. Schinsing and Ms. Warner during the course of the review. We are committed to assist Sausalito in addressing all statutory requirements of housing element law. 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

Glen A. Campora
Assistant Deputy Director

Enclosure

APPENDIX
CITY OF SAUSALITO

The following changes would bring Sausalito's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov/hpd. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at www.hcd.ca.gov/hpd/housing_element2/index.php, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

   Sausalito has a regional housing need allocation (RHNA) of 165 housing units, of which 75 are for lower-income households. To address this need, the element relies on small underutilized residential and mixed-use sites, uncounted and new projected liveaboard vessels, converting illegal structures to second-units, and new projected second-units. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

   Liveaboard Vessels: The element utilizes berths for liveaboard vessels to accommodate a significant portion of the regional housing need for lower-income households. While the Department recognizes liveaboards provide a unique and important housing opportunity for lower-income households in Sausalito, to demonstrate the adequacy of this strategy to accommodate the City's RHNA for lower-income households, the element must include complete analyses as follows:

   - Uncounted Existing Berths: The element must demonstrate liveaboard berths counted to meet a portion of the RHNA have never been previously included in the City's housing stock. The element proposes to permit and report to the Department of Finance, 38 units which the City asserts have never been included in the housing stock due to the unique nature of this type of housing. While these occupied berths have previously received permits through the San Francisco Bay Conservation and Development Commission (BCDC), according to conversations with City staff some marinas never attained the requisite permits from the City and therefore did not report several existing berths. The element references Census track information to demonstrate the number of berths which were counted in the housing stock at the time of the 2000 census and compares the total against the current actual number of berths allowing liveaboards. However, information is needed demonstrating units not counted

in the Census were not subsequently reported to Department of Finance (DOF) to now warrant reporting uncounted existing berths as new units to the housing stock and receiving credit towards meeting RHNA objectives. To address this finding, the element could compare City records of new housing units built against annual unit dated reported to DOF for the years subsequent to the 2000 Census.

- Projected Future Berths: The element must demonstrate that the projected new berths for liveaboards will be available within the planning period. The element states that there is additional capacity for 55 new berths in the Clipper Yacht Harbor, Sausalito Yacht Harbor and Schoonmaker Marina. However, for these berths to be available for new liveaboard units, they have to apply for a conditional use permit from the City. In addition, while BCDC has authorized the additional berths at the Sausalito Yacht Harbor, the owners of the marina have to obtain the necessary permits from BCDC. The element could describe and analyze the permitting process for both BCDC and the City and include a program to make these berths available within the planning period.

- Affordability of Liveaboards: The element should support the affordability assumptions for liveaboard units. All new liveaboard units in Sausalito are assumed to be affordable to lower-income households based on a survey of current liveaboard owners and marina owners. While the analysis takes into account housing costs such as berth fees, parking and storage fees, utility costs, and pump-out charges, to accurately reflect the affordability of new liveaboards, the element should also evaluate current sales prices and consider financing availability for lower-income households. The analysis should also account for all other applicable costs such as taxes and insurance. Given new liveaboard units may not all be affordable to lower-income households, the City could modify its affordability methodology to assume a portion of new liveaboards to include moderate or above moderate-income households.

Second-Units: The element states that since 1984 second-unit development has been prohibited. However, to address a portion of the RHNA for the current planning period, the City proposes to adopt a second-unit ordinance which will permit the construction of new accessory dwelling units (ADUs) and implement an amnesty program to legalize ADU structures constructed without permits. For the remaining two years of the planning period the element estimates 48 new second-units will be constructed and 26 units will be legalized based on a survey of ADUs within the City. However, the capacity analysis should also account for the timeframe for development and adoption of the ordinance and amnesty program and sufficient time to develop new second-units and implement the amnesty program. The analysis could also consider trend data from nearby jurisdictions and the length of time to bring illegal structures to current building code requirements for residential use.

In addition, estimates should account for units which are available for rent to a separate household versus units used for guests or vacation rentals, additional living/office space or any other use other than for occupancy by a separate household. The element could also describe and analyze the proposed development

standards of the ordinance to demonstrate how the implementation of the ordinance and amnesty program including proposed incentives will encourage and facilitate housing for lower-income households. For example, the City could include a program to make funding available to make necessary improvements to ADUs that do not meet current health and safety code requirements when the owner agrees to restrict the unit to lower-income households.

Realistic Capacity: For mixed-use or commercial sites allowing residential uses, the residential capacity estimate should account for potential development of non-residential uses and could consider any performance standards mandating a specified portion of a mixed-use site as non-residential (e.g., first floor, front space as commercial). The element could also describe any existing or proposed regulatory incentives and standards to facilitate housing development in the mixed-use or commercial zones and on the identified non-vacant sites. See the *Building Blocks*' and sample analysis at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#capacity.

Suitability of Underutilized Sites: The element appears to rely on potential reuse or intensification of sites with existing residential development to accommodate a portion of the remaining regional housing need. The element must demonstrate the potential for redevelopment of these sites and evaluate the extent to which existing uses may impede additional residential development. This analysis should consider developments trends, market conditions and regulatory or other incentives to encourage additional residential density.

In addition, most of the higher density sites within the sites inventory (Appendix G) are less than a quarter of an acre. While the element provides some examples of higher density residential development on small lots (Page IV-6 and C-4), it needs revision to demonstrate these sites can realistically accommodate new residential development, particularly new multifamily rental development and housing affordable to lower-income households. Revisions could describe the affordability of recently developed small sites and describe and analyze how the City's development standards facilitate this type of development. The element could also consider the appropriateness of parcel sizes, opportunities for lot consolidation, and describe existing and proposed regulatory or other incentives or standards to encourage and facilitate residential development affordable to lower-income households. While it may be possible to build housing on small parcels, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units.

Map of Sites: The element did not address this requirement and must include a general map of identified sites for reference purposes.

Lack of Higher Density Housing: Government Code Sections 65583(c)(1) and 65583.2(c), including amendments pursuant to Chapter 724, Statutes of 2004 (AB 2348), require jurisdictions to demonstrate the availability of zoning to encourage

and facilitate a variety of housing types. The element relies primarily on liveaboard units and second-units to address the need for housing for lower-income households despite the need to promote a variety of housing types and facilitate more compact development with a mix of uses to address climate change, energy conservation, and air quality. The City should consider adding programs to promote a variety of housing types to address housing needs including housing for large families, and identify additional acreage allowing higher density housing. Adding programs to increase capacity in multifamily zones in the current planning period will not only address housing needs in this planning period, but also will help prepare the City for addressing future housing needs.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

   Land-Use Controls: While the element lists zoning and development standards on Table B.3, it must also include an analysis of the impacts of those standards including the cumulative impact on the cost and supply of housing and ability to achieve maximum densities. For example, the element should specifically analyze the 30-foot height restriction in the R-3 zone for potential impacts on the cost and supply of housing. In addition, the element should describe and analyze the development standards for housing within the mixed-use zone, including any performance standards. Additional information is available in the *Building Blocks*' at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php.

   Local Processing and Permit Procedures: The element indicates design review is required as part of the approval procedure for residential development (page B-16). The element should include a description and analysis of the design criteria review guidelines and process, including identifying requirements and approval procedures and analyzing the impact of the guidelines and process on housing costs and approval certainty.

B. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

   As noted in Finding A-1, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

   For your information, where the inventory does not identify adequate sites pursuant to Government Code Sections 65583(a)(3) and 65583.2, the element must provide a program to identify sites in accordance with subdivision (h) of 65583.2 for 100 percent of the remaining lower-income housing need with sites zoned to permit owner-occupied and rental multifamily uses by-right during the planning period. These sites must also be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 20 units per acre. Also, at least 50 percent of the remaining need must be planned on sites that exclusively allow residential uses.

   Should the City rely on underutilized sites and the potential for mixed-use development to accommodate its RHNA for lower-income households, the element must include specific program actions to promote redevelopment of underutilized sites and lot consolidation including financial assistance, regulatory concessions or incentives to encourage and facilitate additional or more intense residential development on non-vacant and underutilized sites. Examples of incentives include: 1) organizing special marketing events geared towards the development community; 2) posting the sites inventory on the local government's webpage; 3) identifying and targeting specific financial resources; and 4) reducing appropriate development standards.

   In addition the following programs should be revised:

   Program 10a (Adoption of Zoning Regulations to Encourage New ADUs): As the City is relying on ADU's to accommodate its RHNA for lower-income households, the Program must include a specific timeframe for adopting the ministerial approval process for accessory dwelling units. This timeframe should be early enough to allow the projected ADUs to be developed within the planning period.

Program 10b (ADU Registration and Amnesty Program): The Program requires amnesty program applicants to demonstrate the unit did not have an individual address as of the 2000 census and did not have a building permit. Because this requirement puts the burden on the applicant to demonstrate the illegal unit had never been counted as a unit, it should be analyzed as a potential deterrent to participation and for impact on success of the program. In addition, as stated above, the Program could include additional incentives such as access to funding to address necessary repairs to address building code violations to specifically encourage and facilitate housing for lower-income households.

Program 11 (Liveaboards and Houseboats): The Program states that reporting to DOF of the liveaboard permits will begin in 2013. In order to credit the undocumented berths and include them in the housing stock, all units counted towards meeting the City's RHNA must be reported by a date specific within the planning period. In addition, to credit the new berths at Sausalito Yacht Harbor, the element must commit to completing the BCDC and City permit processes within the planning period.

Program 21 (Zoning Text Amendments for Special Needs Housing): The Program states all zoning text amendments will be completed by the end of 2013. Pursuant to Chapter 633, Statutes of 2007 (SB 2), the Program must reflect amendments to the zoning ordinance will occur to allow emergency shelters within one year of the adoption of the housing element. In addition, the Program should clarify that emergency shelters will be a permitted use without discretionary review in the Public Institutional Zoning District.

2. *The housing element shall contain programs which address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing (Section 65583(c)(3)).*

As noted in Finding A2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs to address and remove or mitigate any identified constraints.