

City of Albany



TO: ALBANY PLANNING & ZONING COMMISSION
FROM: BARRY MILLER, GENERAL PLAN CONSULTANT
SUBJECT: GENERAL PLAN UPDATE
DATE: DECEMBER 10, 2014

REQUEST

This is the 18th Planning and Zoning Commission Study Session on the Albany 2035 General Plan Update. This Study Session will include two parts. Part One will address the 2015-2023 Housing Element and is the subject of this staff report. Part Two will address the Community Services and Facilities Element and is covered by a separate staff report. An opportunity for public comment will be provided for each part.

STAFF RECOMMENDATION

This item is a study session and no Commission action is required.

SITE LOCATION

The General Plan applies to all property in the City of Albany.

BACKGROUND

All cities and counties in the Bay Area are required to adopt new Housing Elements for the 2015-2023 period by January 31, 2015. The Housing Element includes the City's policies for housing conservation, housing production, affordable housing, and housing for persons with special needs. Through the local Housing Element, each city must demonstrate its ability to meet its assigned "fair share" of the region's housing needs.

Once completed, the Housing Element must be submitted to the State Department of Housing and Community Development (HCD) for a compliance determination. The Housing Element is the only part of a city's General Plan subject to this requirement.

The compliance determination is a two-step process. The first step is to submit a "working draft" of the Housing Element to HCD for administrative review. HCD has 60 days to provide comments. During the 60 days, HCD may contact the city and provide feedback on the draft. Cities are given an opportunity to revise their Elements based on the feedback, and may submit addenda to

HCD within the 60 days. At (or before) the end of the 60 day period, HCD issues a letter indicating the additional steps (if any) the city will need to take to be found in compliance. The second step in the process is to formally adopt the Housing Element, inclusive of any changes requested by the state, and then resubmit the document. Once the state receives the adopted document, it issues its formal determination.

On October 20, the Albany City Council authorized staff to submit the Working Draft 2015-2023 Housing Element for the administrative review by HCD. The document was submitted on October 22, and logged in by HCD on October 24. Thus, HCD’s findings were “due” back to the city 60 days later, or by December 23.

On November 10, the City received an e-mail from HCD indicating it had completed its preliminary review of the document. A conference call took place on November 13 and HCD suggested only minor edits. City staff prepared a Draft Addendum with these edits and resubmitted the Addendum to HCD on November 19. Attachment “A” of this staff report includes the Draft Addendum.

The principal comments from HCD and the changes made are summarized below

HCD Comment	Change
The Draft Housing Element identifies several amendments to the Zoning Code as “pending.” If any of these amendments have not been completed by the time the Housing Element is adopted, they should be added back in to the Element.	The document was edited to note that all of the zoning changes were adopted in November 2014 except one—the allowance for ground floor residential uses in the San Pablo Commercial Zone. That action has been added back in to the document, and assigned a very high priority ranking.
Explain if the program addressing displacement is addressing direct displacement (demolition of units) or indirect displacement (gentrification, rising rents, etc.).	The text has been added to note the focus is on indirect displacement, since it is a more pervasive concern than direct displacement through demolition.
Many programs in Chapter 6 indicate the intent to create “affordable” housing. This term should be defined so it is clear if this refers to all income groups (including above moderate) or specific income groups.	A definition of affordable housing has been added to the beginning of Chapter 6.
In Program 1.G (Shared Housing), clarify if there is a particular constraint this program is trying to mitigate, or the City is simply wishing to promote shared housing. Clarify if the intent of this program is to allow people to divide up existing homes to create second units within the home, in the event this is not allowed today.	Additional information on shared housing has been included. The intent is not to encourage second units within the footprint of existing homes (although this is permitted), but rather to recognize the opportunities for households to pool resources and live more affordably in shared housing.
In Program 2.B (Nexus Study), clarify that once the study is completed the City will take appropriate action based on the findings (such as adopting an impact fee).	This change was made.
In Program 2.D (Affordable Housing Incentive Program), clarify that the program would not in any way diminish the State’s density bonus incentives, and is intended to complement the State density bonus program.	This change was made.

On December 4, the City received a letter from HCD (dated December 1) indicating they had completed their review. The letter noted that the Element (including the Addendum) would be deemed compliant if adopted.

The City has scheduled a Planning and Zoning Commission hearing on the Housing Element on January 7, 2015. Resolutions to recommend adoption of a Mitigated Negative Declaration and the Housing Element by the City Council will be considered at that time. The City Council is scheduled to hold a hearing to adopt the Element on February 2, 2015.

As noted at the November 2014 General Plan Study Session, the Housing Element is still a “Working Draft” at this time. Even with the Addendum and a letter of “pre-certification” from HCD, the Planning and Zoning Commission may still consider changes to the document to incorporate public input. In fact, the “pre-certification” letter from HCD explicitly encourages the City to continue to seek public input as the document moves through the adoption process. Future changes are unlikely to affect HCD’s preliminary compliance determination as long as they continue to advance housing production and conservation goals, and maintain consistency with Government Code requirements.

As the Commission is aware, a group of concerned Albany residents and housing advocates have organized the “Diverse Housing Working Group” to discuss housing-related issues. The DHWG convened several community meetings and discussion forums in November and early December, focusing on housing issues and Housing Element proposals. The DHWG is presently distilling the feedback from those discussions into a series of recommended actions. Some of these actions could be considered as additions to the Housing Element; others are refinements to implementation measures or “next steps” that do not necessarily require changes to Housing Element. Some of these recommendations may be discussed at the December 10 Planning and Zoning Commission meeting.

The Commission may ask staff for additional edits to the Draft Housing Element that go beyond those made in the HCD Addendum. These edits could incorporate some of the ideas raised by the DHWG or additional ideas from Planning and Zoning Commissioners. Edits will be summarized through a “Second Addendum” to the Working Draft and incorporated into a Public Review Draft using track change text.

ENVIRONMENTAL REVIEW

Because the Housing Element is considered a “project” under CEQA, an Initial Study was prepared to evaluate its potential impacts on the environment. The analysis considers the potential effects of adopting Housing Element policies and programs, and any mitigation measures that may be necessary to reduce potentially significant impacts. This potential is substantially reduced by the fact that no rezoning is proposed through the document. In addition, any development projects that may be proposed in the future would be subject to their own environmental review processes and studies.

A number of potentially significant impacts are identified, and mitigation measures are prescribed. These impacts include construction-related air emissions such as dust, air quality issues due to the proximity of some sites to major roadways, seismically-related dam safety issues associated with a water tank in the Kensington area, and the proximity of one site to the 100-

year flood plain of Codornices Creek. Mitigation measures are prescribed to ensure that these impacts will be less than significant.

The Initial Study is being circulated to agencies, cities, and interested parties. The comment period will close before the end of December 2014. Any comments will be communicated to the Planning and Zoning Commission at their January hearing.

ATTACHMENT A: Housing Element Addendum (11/19/14)

ATTACHMENT B: Draft Pre-Compliance Letter from HCD (12/1/14)

ADDENDUM TO HOUSING ELEMENT

Following a conference call between Jess Negrete (California Department of Housing and Community Development), Barry Miller, and Albany City Staff on November 13, 2014, the following changes are proposed to the Working Draft 2015-2023 Albany Housing Element:

1	<p>HCD Comment: Please clarify the status of the zoning amendments noted in this Draft as “pending” and likely to be completed before January 31, 2015. If any of these action items have not been completed by then, they should be added back in to the Element.</p>										
	<p><i>City Response: The 2007-2014 Housing Element identified five programs requiring changes to the Zoning Ordinance. As of November 18, 2014, four of these programs have been implemented, as noted in the edits below. The fifth program is still being implemented, and will be added back in to the 2015-2023 Element as a program to be completed by 2016.</i></p> <p><i>The following amendments are made to the October 2014 Draft to reflect the status of each program. Page numbers listed below refer to the <u>tracked change</u> version and are highlighted in yellow:</i></p> <p><i>On Page 2-12, the first row of Table 2-4 is amended as follows:</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30px; text-align: center; vertical-align: top;">2.A</td> <td style="width: 30%;"> <p>Amend the Albany zoning regulations to establish minimum densities of 20 units per acre for any mixed use or residential development along the San Pablo and Solano Avenue corridors.</p> </td> <td> <p>ACHIEVED. <i>A minimum density of 20 units per acre has been established for the SC and SPC zoning districts. The City brought this Zoning Code amendment to the Planning and Zoning Commission in October 2014. Its first reading before the City Council was on November 17, 2014. Second reading is scheduled for December 1, 2014.</i></p> <p>PENDING. <i>The City anticipates bringing this zoning code amendment to the Planning and Zoning Commission in November 2014 and the City Council in December 2014. It will be adopted prior to the end of the current (2007-2014) planning period. This action can be deleted upon adoption.</i></p> </td> </tr> </table> <p><i>On Page 2-13, the first row of continued Table 2-4 (at the top of the page) is amended as follows:</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30px; text-align: center; vertical-align: top;">2.D</td> <td style="width: 30%;"> <p>Maintain a density bonus ordinance consistent with state requirements. Encourage applicants to apply for density bonuses as a tool to produce affordable housing and promote new housing subject to the parking standards defined by state law.</p> </td> <td> <p>ADVANCE. <i>This is an ongoing program that is implemented as applications are received. Density bonuses were provided for the senior housing development at UC Village, enabling housing exceeding the zoning density of 63 units per acre. Bonuses are also available to developers providing affordable units on-site through the Inclusionary Ordinance. In November 2014, the City Council adopted a clarifying amendment to the Density Bonus ordinance by noting that “An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d)”. This makes the City’s density bonus ordinance completely consistent with state requirements, and also clarifies that parking incentives are available to prospective developers of affordable and mixed income projects.</i></p> </td> </tr> </table> <p><i>On Page 2-19, edit the first row of Table 2-6 as follows:</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30px; text-align: center; vertical-align: top;">4A</td> <td style="width: 30%;"> <p>Eliminate the use permit requirement for multi-family development in the R-4 (Residential Towers) zoning district. Multi-family uses should be allowed by right in this district.</p> </td> <td> <p>ACHIEVED. <i>Multi-family housing is now permitted by right in the R-4 District. The City brought this Zoning Code amendment to the Planning and Zoning Commission in October 2014. Its first reading before the City Council was on November 17, 2014. Second reading is scheduled for December 1, 2014.</i></p> <p>PENDING. <i>The City has initiated work on this action and anticipates bringing it to the Planning Commission in November 2014 and to the City Council in December 2014.</i></p> </td> </tr> </table>		2.A	<p>Amend the Albany zoning regulations to establish minimum densities of 20 units per acre for any mixed use or residential development along the San Pablo and Solano Avenue corridors.</p>	<p>ACHIEVED. <i>A minimum density of 20 units per acre has been established for the SC and SPC zoning districts. The City brought this Zoning Code amendment to the Planning and Zoning Commission in October 2014. Its first reading before the City Council was on November 17, 2014. Second reading is scheduled for December 1, 2014.</i></p> <p>PENDING. <i>The City anticipates bringing this zoning code amendment to the Planning and Zoning Commission in November 2014 and the City Council in December 2014. 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Item 1, continued

Second from bottom row on Page 2-19 (Table 2-6) is edited as follows:

4D	Consider modifications to the development standards for mixed use development (e.g., residential over commercial) and revise these standards as appropriate to further incentivize the development of housing on commercially zoned sites. Projects in which at least 49% of the units are affordable to lower income households should be allowed on the ground floor in the SPC zone (with a use permit).	<p><i>ADVANCE. The City commenced work on this action in September 2014, and has had extensive discussion of next steps with the Planning and Zoning Commission and City Council. Given the staffing demands to complete four other zoning code amendments, and the additional level of analysis required to complete this action, it has been postponed to 2015. An action similar to this one will be added to the 2015-2023 Housing Element and prioritized for completion by 2016.</i></p> <p><i>PENDING. The City has initiated work on this action and anticipates bringing it to the Planning Commission in November 2014 and to the City Council in December 2014. A subsequent action should be included in the 2015-2023 Element to look at other mixed use development (SC, SPC zoning district) standards, including setback requirements, daylight plane standards, and height limits.</i></p>
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Bottom row of Page 2-19 (Table 2-6) is edited as follows:

4E	Amend the zoning code to establish a use category for SROs and allow such uses in the San Pablo Commercial (SPC) zone.	<p><i>ACHIEVED. An SRO definition, development standards, and a use permit requirement are now included in the City's Municipal Code. The City brought this Zoning Code amendment to the Planning and Zoning Commission in October 2014. Its first reading before the City Council was on November 17, 2014. Second reading is scheduled for December 1, 2014.</i></p> <p><i>PENDING. The City has initiated work on this action and anticipates bringing it to the Planning Commission in November 2014 and to the City Council in December 2014.</i></p>
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Page 5-7, edit third full paragraph on page as follows:

Development standards for residential uses in the SC and SPC district are summarized in Table 5-2. Both districts allow densities of up to 63 units per acre and have a minimum density requirement of 20 units per acre where residential uses are included.

Page 5-9, edit third paragraph as follows:

Multi-family housing is considered a permitted use in the SPC and SC zones, provided it is not on the ground floor facing the street. In the SC zone, ground floor, street-facing housing is allowed with a use permit. ~~A pending (November 2014)~~ In 2015, the City will consider a zoning code amendment to ~~would also~~ allow residential on the ground floor in the SPC zone with a use permit, provided that at least 49 percent of the units are affordable and the parcel is not in the San Pablo/ Solano commercial "node."

Page 5-14, edit footnote (1) as follows:

(1) Zoning Code change is pending and expected to be approved by 2016 before January 31, 2015

Page 5-19, edit second full paragraph as follows:

The City currently has a land use category for boarding homes, which are allowed in residential areas. **On November 17, 2014, the City Council approved a zoning amendment creating a new use classification for Single Room Occupancy hotels (SROs). The Zoning Amendment also allows SROs as a conditional use in the San Pablo Commercial (SPC) zoning district.** However, there is not a land use definition or category for SRO (single-room occupancy hotels). SRO's are often small in size and used as transitional housing, which include those at risk of becoming homeless. Such units are desirable because their small size and often shared or limited amenities generally make them affordable. ~~At the time of publication of this Housing Element, a Zoning Code amendment to formally define SROs and conditionally allow them in the SPC zoning district was pending.~~

Page 6-33, edit Program 4.D narrative as follows:

At the time of production of the 2015-2023 Housing Element, the City was **considering a moving toward completion of zoning amendments that would allow projects that are entirely residential on sections of San Pablo Avenue outside the Solano Avenue commercial node.** This provision would apply only to projects in which at least 49 percent of the units were affordable to low or very low income households. **This particular amendment had not been completed at the end of the 2007-2014 planning period and is being carried forward to 2015-2023. Completion of the zoning amendment is a high priority and should be completed by 2016. In the interim period, developers of low and very low income housing may apply for an exemption to the ground floor retail requirement through the density bonus ordinance (the exemption would be considered a zoning incentive).**

2 HCD Comment: Explain if the policy on displacement is addressing direct displacement (demolition of units) or indirect displacement (gentrification, rising rents, etc.).

City Response: On P. 6-41(tracked change version), Policy 5.7 is amended as follows (new text in highlighted font):

Policy 5.7: Displacement. Work proactively to avoid the displacement of tenants due to rising rents, temporary financial hardship, demolition or conversion of rental housing, and other factors. **During the planning period, the City will consider measures to protect tenants from indirect displacement due to very steep rent increases and arbitrary evictions. The risk of direct displacement through demolition is less likely since Albany's housing opportunity sites have very few existing units. However, the City will also work to avoid displacement in the event that lower-cost units are redeveloped with new units at higher densities.**

3	<p>HCD Comment: Many programs in Chapter 6 indicate the intent to create “affordable” housing. This term should be defined so it is clear if this refers to all income groups (including above moderate) or specific income groups.</p>
	<p><i>City Response: Make the following edits:</i></p> <p><i>On Page 6-2, add a new paragraph following the paragraph at the top of the page and before Goal 1 as follows:</i></p> <p><u>Unless otherwise indicated, references to “affordable housing” in this chapter refer to housing that requires no more than 30 percent of a household’s income for extremely low, very low, low, or moderate income households. Occupancy of such housing is typically limited to persons with incomes below thresholds set by the US Department of Housing and Urban Development and the California Department of Housing and Community Development, although some smaller and/or older units may be considered “affordable by design” as their market rents or sales prices place them within the affordability ranges of lower and moderate income households.</u></p>
4	<p>HCD Comment: In Program 1.G (Shared Housing), clarify if there is a particular constraint this program is trying to mitigate, or the City is simply wishing to promote shared housing. Clarify if the intent of this program is to allow people to divide up existing homes to create second units within the home, in the event this is not allowed today.</p>
	<p><i>City Response: On Page 6-6 (tracked change version), the top paragraph is edited as follows</i></p> <p><u>Shared housing is permitted in Albany and there are no specific regulatory constraints to increasing the number of shared homes in the city. The intent of this program is simply to make clear the City’s support for shared housing as a practical, effective solution to meeting local housing needs. The program complements similar programs supporting second units and programs supporting the construction of larger housing developments with units specifically reserved for persons of low, very low, and extremely low incomes.</u></p>
5	<p>HCD Comment: In Program 2.B (Nexus Study), clarify that once the study is completed the City will take appropriate action based on the findings (such as adopting an impact fee). Indicate a timeline for the subsequent action.</p>
	<p><i>City Response: Page 6-12 (tracked change version) top paragraph is edited as follows</i></p> <p>In response, this action would conduct a study of the “nexus” between the development of market rate rental housing (and potentially other types of development, such as retail and office space) and the need for affordable housing. <u>The City will take a specific course of action based on the findings of the study, either proceeding to implement a fee, deciding not to implement a fee, or taking an alternative course of action.</u> The findings will be used to determine if there should be an obligation from developers to pay an impact fee to help finance affordable housing. The fee would either be calculated on a per unit or per square foot basis. The decision to apply it a fee to non-residential development would depend on the findings, and further input from the community and City Council.</p> <p><i>P. 6-12, adjust “timing” as follows:</i></p> <p>Timing: 2016 <u>Initiate study in 2016. Take action, if appropriate, by 2018.</u></p>

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HCD Comment: In Program 2.D (Affordable Housing Incentive Program), clarify that the program would not in any way diminish the State's density bonus incentives, and is intended to complement the State density bonus program. Also, note that if the "study" indicates an incentive program is feasible, the City will take action to implement it.

City Response: Page 6-13 (tracked change version) top paragraph is edited as shown below.

The AHIP would establish a set of zoning incentives to new projects in which at least 49 percent of the units are affordable to low or very low income households. It would differ from the state-mandated density bonus program in that: (a) it would provide a guaranteed set of specific zoning incentives, rather than the discretionary incentives associated with the state density bonus program; (b) it would provide relief from the ground floor commercial requirement, without a use permit; and (c) it would allow higher densities than those offered through the state density bonus requirements. The AHIP would be designed so that it augments the state density bonus program, and in no way conflicts with state density bonus standards. If the City determines that an AHIP program will be an effective catalyst for development of affordable housing based on program costs, community feedback, affordable housing development feasibility, and other factors, it will implement the program. The City may also use the findings of the study to make other changes to its zoning standards in order to improve the viability of housing affordable to low, very low, and extremely low income households.

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

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December 1, 2014

Mr. Barry Miller, Consulting City Planner
Community Development Department
City of Albany
1000 San Pablo Avenue
Albany, CA 94706

Dear Mr. Miller:

RE: City of Albany's 5th Cycle (2015-2023) Draft Housing Element

Thank you for submitting Albany's draft housing element update which was received for review on November 10, 2014, along with revisions received on November 19, 2014. Pursuant to Government Code (GC) Section 65585(b), the Department is reporting the results of its review. Our review was facilitated by a conversation on November 13, 2014 with you, Mr. Jeff Bond, Director, and Ms. Anne Hersch, Senior Planner. In addition, the Department considered comments from Albany's Diverse Housing Working Group pursuant to GC Section 65585(c).

The Department conducted a streamlined review of the draft housing element based on the City meeting all eligibility criteria detailed in the Department's Housing Element Update Guidance. The City also utilized ABAG's pre-approved housing element data.

The draft housing element with revisions meets the statutory requirements of State housing element law. The draft housing element with revisions will comply with State housing element law (GC, Article 10.6) when they are adopted and submitted to the Department, in accordance with GC Section 65585(g).

To remain on an eight year planning cycle, pursuant to Senate Bill 375 (Chapter 728, Statutes of 2008) the City must adopt its housing element within 120 calendar days from the statutory due date of January 31, 2015 for ABAG localities. If adopted after this date, GC Section 65588(e)(4) requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit our Department's website at: http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.pdf.

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.

The Department appreciates your efforts and dedication in preparation of the housing element and looks forward to receiving Albany's adopted housing element. If you have any questions or need additional technical assistance, please contact Jess Negrete, of our staff, at (916) 263-7437.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. McDougall". The signature is stylized and somewhat abstract, with the first letter being a large, bold "P" and the last letter being a large, bold "G".

Paul McDougall
Housing Policy Manager