

May 19, 2021

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cc: City Council Members, HCD Housing Element Enforcement, Davis  
Citizen Review Committee

*Sent via email*

## **RE: City of Davis Housing Element Public Review Draft**

Dear Ms. Lynch,

On behalf of House Sacramento, thank you for allowing me the opportunity to provide feedback on the Draft 2021-2029 Housing Element for the City of Davis dated May 3, 2021 ("Housing Element"). Our members have attended and commented at various virtual public housing element workshops and the previous committee meetings to provide input and feedback.

House Sacramento is an organization formed to advocate for building inclusively affordable communities in the Sacramento region. We formed to represent renters, young people, and other communities disproportionately harmed by NIMBYism and California's long standing culture of opposition to developing adequate housing supply.

The Housing Element begins with noting that Davis "takes pride in being an inclusive, progressive community and has long recognized the provision of a diverse range of housing opportunities as a key priority and obligation." We see the Housing Element as an opportunity to address regional inequities using housing and land use policy. This Housing Element falls far short of advancing the City's own ideals as an inclusive, progressive community and does not adequately address the mandated requirements of a housing element in accordance with Government Code Article 10.6.

We have identified the following key issues.

### **Issue #1: Adequacy of Public Facilities, Services, and Infrastructure for Site Suitability Analysis**

The site analysis includes the inclusion of 2,409 units as part of the Housing Capacity (Table 59), which is composed of 14 "Planned or Approved" projects (Table 56).

According to Government Code Section 65583.2.b.5.B "Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing

development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development.” **The Housing Element ignores this analysis and only notes that the projects “have been analyzed and the City has determined these parcels do not have significant infrastructure constraints” without providing any documentation to support this conclusion.** Of the two largest projects identified in the Housing Capacity Analysis (Nishi Student Housing and West Davis Active Adult Community (WDAAC)), these sites are well known to not have existing utility connections or infrastructure.

By definition, Nishi Student Housing has not been annexed to the City and cannot be provided with utility connections until approved by the Yolo County Local Area Formation Council (LAFCO). The DEIR for the Nishi project notes that “there are no potable water connections/uses at the site” and “there is no existing sewer connection or infrastructure located on the Nishi site” (see Attachment 1: Utility Analysis). The DEIR goes on to note that “the existing water pipes within Olive Drive, east of Richards Boulevard, would not be sufficient” and “existing sewer pipelines in the area do not have adequate capacity to accommodate peak wet weather flows”. Similar critiques can be said of WDAAC, which requires significant infrastructure expansion prior to the construction of housing. The inclusion of 100% of these units towards the Site Analysis without additional documentation is not appropriate and undermines the credibility that the City analyzed any of the identified sites.

## **Issue #2: Adequacy of Environmental Constraints for Site Suitability Analysis**

Government Code Section 65583.2.b.4 requires “A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction.” The Housing Element provides only a cursory review. It also fails to note that WDAAC is located within FEMA Zone A which represents an area that is within the designated 100-year floodplain and that significant, yet unfunded, infrastructure is required in order to develop this housing including the 150 Very Low-Income Units.

Likewise, the Housing Element includes 27 units associated with Trackside Center, but does not include any discussion regarding the litigation around this project and the high probability that this project may not proceed. On May 15, 2019, the Court stated “it is the conclusion of this Court that Trackside is not consistent with the City of Davis planning provisions”. To count all these units towards RHNA allocations with such certainty when the actual likelihood of development is highly unlikely is not appropriate.

The Chiles Ranch Subdivision was approved in 2009 and is “pending construction” but the City makes no mention of what barriers remain for this project or why it has not proceeded since approved, and its inclusion after so many years remains highly questionable.

Holistically, these arguments point towards a bad faith effort by the City of Davis in their tabulation of their “Approved” units and draws into question what actual “analysis” was undertaken with the other sites not mentioned.

### **Issue #3: Sites Used in Previous Planning Periods Housing Elements**

The Housing Element does not clearly identify which sites in previous housing elements and would either be not applicable towards the site analysis or subject to mandatory rezoning, as required by Government Code Section 65583.2.c.

As noted in the housing element, sites smaller than half an acre or larger than 10 acres are not considered adequate to accommodate lower-income housing need unless it can be demonstrated that sites of equivalent size were successfully developed during the prior planning period or other evidence is provided that the site can be developed as lower-income housing. As demonstrated in Table 55, the smallest project size developed at high density (20 - 39.99 du/ac) was 1.0 acres, thus inclusion of any projects less than half an acre does not appear to be justifiable. Table 57 includes a site identified as “Site Number 1” which appears to be an agglomeration of many smaller sized sites, the smallest of which 0.06 acres. This site does not appear to be under common ownership. To assume the Site could be developed to 66 units does not seem to be realistic or appropriate, and only the largest parcel (220 E Street) appears appropriate for inclusion towards the lower income capacity based on site size.

### **Issue #4: Failure to Adequately Identify Candidate Rezone Sites**

In a supplemental publication, the City identified candidate rezone sites to meet the identified shortfall. These sites are not distributed throughout the community per the intent of AB 686. The selected sites also run counter to the City's state policy 3.4.1:

*In implementing the rezone program described in Program 1.1.2, ensure that sites that are rezoned to accommodate lower-income housing are dispersed throughout Davis and are in locations that offer amenities and access to opportunity*

### **Issue #5: Lack of Sites for Emergency Shelters**

Table 63 states that emergency shelters with 35 beds or fewer are allowed by right in the Core Area Infill (C-I) and Industrial (I) districts. Emergency shelters with more than 35 beds are conditionally allowed in the Core Area Infill (C-I) and Industrial (I) districts. In addition, emergency shelters, regardless of size, are conditionally allowed in the Residential One-Family (R-1), Residential One- and Two-Family (R-2), Residential One- and Two-Family Conservation (R2-CD), Residential Restricted (R-R), Residential One- and Two-Family and Mobile Home (R-2-MH), Residential Garden Apartment (R-3), Residential High Density Apartment (R-HD), Interim Residential Conversion (RC), Residential Transitional (R-T), and Central Commercial (C-C) districts.

Most of Davis, especially its commercial and industrial districts are zoned using a Planned Development (PD) designation. Only four properties with an Industrial (I) zoning designation and no parcels with the Core Area Infill (C-I) could be identified using the online zoning map

viewer. As noted in the Housing Element, three sites are need to shelter the City's need of 105 additional shelter beds. This does not comply with the spirit of AB 139.

We strongly support and propose expanding program action 2.7.5 to "Amend the Zoning Code to allow low barrier navigation centers to be a use by right in mixed-use zones and nonresidential zones permitting multifamily uses if specified requirements in compliance with Government Code Section 65662 are met, in accordance with AB 1010 (2019)" and housing action 2.7.7. Zoning policies should be clarified that Emergency Shelters are allowed by right in *any* Planned Development (PD) zoning designation so long as the underlying General Plan designation is Industrial. We recommended enacting policies to extend this by right designation to properties with a Business Park General Plan designation as well.

### **Recommendation #1: Housing Supply Buffer**

Housing Program Action 1.1.2 recommends a buffer of 140 above the RHNA targets with rezoning. The objective erroneously notes this results in 439 lower-income units accommodate this policy. At minimum, the objective should be revised to 463 units (323+140). We recommend substantially increasing this buffer to ensure the city can meet its RHNA objectives through the development pipeline. House Sacramento recommends a buffer of at least 25% on all income categories, or 233 additional units above the 930 lower income units included in the RHNA allocation. This will also potentially reduce future staff time of rezoning sites to be in compliance with the State No Net Loss Law.

### **Recommendation #2: Vouchers**

Housing Program Action 1.3.2 reads:

*Work with the Housing Authority to provide Housing Choice Vouchers to small households with extremely low and very low incomes.*

The reference to small households does not seem appropriate. We recommend revising the policy to the following:

*Work with the Housing Authority to provide Housing Choice Vouchers to qualifying households.*

### **Recommendation #3: Incentives**

Housing Program Action 2.1.3 reads:

*Create incentives to the development of affordable housing through measures such as flexible development standards that are compatible with the surrounding neighborhood. The PD zone is meant to foster development flexibility. For non-PD sites, the City can consider parking reserves or waivers on development standards such as setbacks, lot coverages, and open space of up to 10 percent.*

"Compatible with the surrounding neighborhood" is vague and unnecessary. We recommended revising to the following:

*Create incentives to the development of affordable housing through measures such as*

*flexible development standards. The PD zone is meant to foster development flexibility. For non-PD sites, the City can consider parking reserves or waivers on development standards such as setbacks, lot coverages, and open space of up to 10 percent.*

#### **Recommendation #4: Teacher Housing**

Housing Policy 2.6 reads:

*Provide housing for Davis' workforce, including but not limited to teachers, UC Davis faculty and staff, retail and service workers, healthcare workers, and City employees*

We recommend the addition of a program action that would support the use of publicly owned land, including City- and School District-owned land for the provision of affordable housing.

#### **Recommendation #4: Affirmatively Further Fair Housing (AFFH)**

Housing Policy 3.1 reads:

*Affirmatively further fair housing opportunities for all persons regardless of race, color, religion, sex, national origin, familial status, disability, age, marital status, sexual orientation, source of income, and receipt of Section 8 or other subsidized rental program*

We are disappointed to see the view the City takes on AFFH. HUD requires cities to consider the following with AFFH:

- Determine who lacks access to opportunity and address any inequity among protected class groups
- Promote integration and reduce segregation
- Transform racially or ethnically concentrated areas of poverty into areas of opportunity

The proposed actions do not reflect national standards of AFFH. We recommend the develop program actions that would examine how existing city housing policies limit integration and contribute to segregation and then address these barriers. Many of these barriers have been well documented in publications such as The Color of Law which explicitly ties modern zoning practices to segregation.

#### **Recommendation #5: Housing Near Amenities**

Housing Policy 3.4 reads:

*Facilitate the production of housing for low-income households and special needs households in all parts of Davis and near amenities including neighborhood centers, shopping centers, public transportation, and/or parks and greenbelts.*

We recommend revising this policy to include both low-income and moderate income households, considering that moderate income households are increasingly priced out of these neighborhoods near amenities. We recommend the inclusion of sites that would be able to accommodate moderate-income households throughout Davis. This should include increasing the feasibility of Missing Middle housing in neighborhoods that are exclusively single family housing.

**Recommendation #6: Repeal one-percent growth policy permanently**

Housing Policy 4.4 reads:

*Suspend enforcement of the one-percent growth policy as required by State law*

We strongly support this policy and fully endorse repeal of the one-percent growth policy on a permanent basis.

**Recommendation #7: Infill Housing as a Climate Policy**

We strongly support the City's efforts to reduce Greenhouse Gas Emissions. We recommend adopting policies and program actions that facilitate housing which reduces per capita greenhouse gas emissions, especially those from transportation. In particular, we recommend a policy which supports the inclusion of infill housing throughout the City as a means of facilitating a lower carbon lifestyle for all residents.

Regards,

*Kevin Dumler*

Kevin Dumler  
Chair, House Sacramento  
[www.housesac.org](http://www.housesac.org)

Attachments:

1. Nishi EIR Utility Analysis
2. Trackside Center Statement of Decision. Yolo Superior Court for the State of California.  
Case No.:PT-17-2111