



# **2023-2031 HOUSING ELEMENT UPDATE**

**ERRATA SHEET FOR THE REVISED HCD REVIEW DRAFT**

**July 19, 2023**

This document includes extracted pages from the Revised HCD Review Draft Housing Element which contain revisions. The teal highlighted text was added in response to comments received from the Department of Housing and Community Development (HCD) during a phone conversation on July 14, 2023, during their preliminary review. Earlier revisions are shown in tracked changes and with yellow highlighted text.



# **CHAPTER 5**

# **CONSTRAINTS ANALYSIS**

Multiple-family dwellings are permitted by right in the RM, TOM, CC, CN, and San Pablo Avenue TOHIMU and TOMIMU transect zones. Multiple-family structures that contain more than 25 units require a conditional use permit in the CC zone. However, as described earlier, the TOHIMU and TOMIMU transect zones of the San Pablo Avenue Specific Plan replaced most of the CC and TOM zoned sites in the city. Table 5-5 describes multiple-family development standards in commercial areas and the San Pablo Avenue Specific Plan TOHIMU and TOMIMU transect zones. [The form-based code of the Specific Plan relies on height, setbacks, and shadow standards rather than density \(unit per acre\) or intensity \(floor area ratio\) to regulate development. Development projects approved in the San Pablo Avenue Specific Plan area are generally five to six stories and at densities ranging from 84 to 271 units per acre, with an average density of 166 units per acre.](#)

### Height

[The height limit in the RM zone and commercial zones \(CN and CC\) is 35 feet, or up to 50 feet with a CUP in the CC zone. The 35 foot height limit enables construction to reach three stories, which lends itself to an architectural design for a variety of housing types such as townhomes, condominiums, or apartments. The TOM zone allows up to 50 feet, which allows for an even greater density of housing. However, as described previously, there is very little available land zoned RM, CN, or CC and the TOM district was essentially replaced by the zoning districts in the San Pablo Avenue Specific Plan. The zoning districts where the vast majority of development potential exists are the TOHIMU and TOMIMU districts within the Specific Plan. The TOMIMU zone allows for up to 55 stories and the TOHIMU zone allows for up to 65 stories, which generally allows for five and six story buildings. These heights have allowed for development projects to be approved at heights ranging from 84 to 271 units per acre, with an average density of 166 units per acre. Further, height variations in the San Pablo Avenue Specific Plan area of up to 10 percent of the maximum height may be permitted through the waiver process, which can be approved by City staff in order to grant additional flexibility.](#)

### Setbacks

[Setback or yard requirements allow for open space, landscaping and greenery, emergency access, and pedestrian and vehicular circulation on a site. Requirements are set in order to ensure there is adequate available space designated to these elements on a property when considering new development or improvements. In the RM zone, the front yard minimum is 10 feet. In the commercial and mixed use zones, there is no minimum setback requirement. Instead, there is a maximum setback requirement ranging from 10 to 15 feet to ensure that new development creates a pedestrian friendly environment with buildings fronting on to the sidewalk.](#)

### Lot Coverage and FAR

[The residential zoning districts have maximum lot coverage requirements ranging from 40-50 percent in the single family zones, depending on slope, to 40-60 percent in the RM zone, depending on slope. The City allows up to 80 percent lot coverage in the RM zone when underground parking is provided. Maximum lot coverage in the CN zone is 1.0. The maximum in the CC and TOM zones is 2.0 and up to 3.0 through the incentives program. However, as described previously, there is very little available land zoned RM, CN, or CC and the TOM district was essentially replaced by the zoning districts in the San Pablo Avenue Specific Plan. The zoning districts where the vast majority of development potential exists are the TOHIMU and TOMIMU districts within the Specific Plan. There are no lot coverage or FAR maximums in the San Pablo Avenue Specific Plan area \(TOHIMU and TOMIMU zones\).](#)

### Shadow Standards

[To minimize the impact of shadows, protect solar access, and in some cases protect privacy of adjacent residential uses, the Zoning Code and Specific Plan contains standards shadow standards and daylight plane standards. The RM, CN, CC and TOM zones do not have daylight plane or shadow standards. The San Pablo Avenue Specific Plan greatly increased permitted building heights in 2014. In doing so, the plan also adopted shadow standards to ensure that some solar access was preserved. The shadow standards generally limit building shadows from casting past the curblines on opposite side of the street. Due to the solar angle of many sites and building orientation relative to adjacent streets, there is effectively no shadow requirement \(i.e., especially on streets to the west and south of a](#)

proposed building). As a whole, the Specific Plan development standards are intended to allow the intensification of development while ensuring that new development acknowledges the unique context of each development site.

Open Space

In the RM zone, the City requires 150 square feet of common open space per unit and requires that 80 percent of units provide private open space at a ratio of 100 square feet per unit on the ground floor and 50 square feet per unit on upper floors. In the commercial and mixed use zones, the City requires a combination of private, common, and public open space as described in Table 5-5 below. This approach provides applicants with flexibility in how they meet the combined open space requirements. Further, in the San Pablo Avenue Specific Plan area, applicants can pay a fee to support creation and enhancement of public open space in-lieu of providing on-site public open space.

Parking

See text below Table 5-5 for a description of parking requirements. It should be noted that with the passage of AB 2097 (2021), local governments in California can no longer require developers to include a minimum number of parking spaces within one half-mile of public transit. While the City’s parking standards in the Specific Plan area are written as parking maximums rather than parking minimums, this legislation definitively eliminates parking requirements within the entirety of the Specific Plan area, as well as other areas of the City.

Cumulative Analysis

All of the lower-income sites in the inventory are within the TOMIMU and TOHIMU zones of the Specific Plan area. There are no CN, CC, or TOM zoned sites in the inventory and the two RM-zoned sites in the inventory are 6,500 square feet or less, which might accommodate a duplex or triplex only. Therefore, the standards of the Specific Plan are the most important in determining the feasibility of development during the planning period. The development standards of the specific plan facilitate higher-density multifamily housing and are not a constraint to the development of housing. The City does not regulate residential density or development intensity through floor area ratio. Instead, development intensity is dictated by height limits, shadow standards, open space requirements, and parking standards. The standards have resulted in developments ranging from 84 to 271 units per acre, with an average density of 166 units per acre.

As an example of practicable residential density, one entitled project, Cerrito Vista, located at 10963 San Pablo Avenue received Tier II Design Review approval in May 2018. The Final Certificate of Occupancy for the project was granted in February 2021. This project complied with all applicable development standards of the San Pablo Avenue Specific Plan, including maximum building height, shadow standards, and public and private/common open space requirements. The project complied with these standards while achieving a residential density of 119 units per acre. Other projects in the San Pablo Avenue Specific Plan area such as the Mayfair project (156 market rate units completed in 2022; 69 affordable units pending construction) were able to provide all required public open space on-site while achieving a project density of 142 units per acre.

In order to further demonstrate that the San Pablo Avenue Specific Plan development standards are not constraints to developing at market-feasible densities, a sample project is described below in Table 5-5. The City conducted analysis of a prototype project that contains similar characteristics (density, unit breakdown, average unit sizes) as the constructed Cerrito Vista project. The following table provides an analysis of current site development requirements in the TOMIMU district to determine if the assumed density (120 units/acre) can be achieved.

Table 5-5 Analysis of TOMIMU District Requirements – Prototype Site Development	
Prototype Project Size	43,560 SF (1 ac)
Net site size w/required setbacks (no setbacks required)	43,560 SF (1 ac)
Maximum site volume at 5 story height	217,800 SF
Assumed Density	120 du/ac
Studio (446 sf)	10 units
1 bdrm (632 sf)	48 units

1 bdrm (632 sf)	48 units
2 bdrm (900 sf)	48 units
3 bdrm (1,166 sf)	14 units
Unit square footage total	94,320 SF
<b>Parking Requirements*</b>	
120 units @ 0.5 spaces/unit	60 spaces
Square Footage for Parking (162 sf/space)	9,720 SF
Total SF to Accommodate Project	104,040 SF
Total Excess Available SF	+113,760 SF

\*These parking requirements are no longer enforceable with the passage of AB 2097, which frees up additional building square footage for additional housing units and/or the elements listed below.

The above analysis concludes that a prototypical 120 du/ac project is feasible in the TOMIMU district when applying the development standards in the district. As shown in the table above, ample additional on-site space remains available to provide necessary internal circulation, respond to setbacks dictated by building code compliance, increase the maximum dwelling unit yield, provide on-site open space, respond to the shadow standard that may be applicable to a specific site, and/or to provide amenities such as private open spaces and community rooms.

The Specific Plan allows for the granting of administrative waivers to certain standards. The range of standards eligible for administrative waivers was expanded with the 2022 update to the San Pablo Avenue Specific Plan. Further, the Tier IV Design Review process allows for the approval of exceptions to any development standard not eligible for an administrative waiver. The Tier IV Design Review process was also revised as part of the 2022 update to increase its applicability. A review of exceptions granted under the Tier IV Design Review process to date found a variety of exceptions, based largely on the context of the site and the proposed development. Although the granted exceptions are diverse, multiple projects have requested relief from various shadow standards. The shadow standards were also revised as part of the 2022 update to streamline their applicability. More details on approved projects can be viewed on the City website at: <http://www.el-cerrito.org/198/New-Development>

	CN	CC	TOM	TOHIMU (San Pablo Avenue Specific Plan)	TOMIMU (San Pablo Avenue Specific Plan)
Minimum Lot Size (sq. ft.)	5,000 2,000 for commercial	5,000	5,000	5,000	5,000
Minimum Residential Density	—	—	35 units per acre within 300 feet of the BART stations	N/A	N/A
Maximum Residential Density – lot area per unit (sq. ft.) (may be in addition to non-residential FAR)					
Base Density	20 units per acre	35 units per acre	35 units per acre	N/A	N/A
Density for Mixed Use Development	—	—	35 units per acre	N/A	N/A
Density with City Incentives	25 units per acre	45 units per acre	45 units per acre; up to 70 du/ac for housing for elderly and persons with disabilities if services are provided.	N/A (See State Affordable Housing Bonuses)	N/A (See State Affordable Housing Bonuses)



# **CHAPTER 7**

# **HOUSING PLAN**



**\*NEW\* Program H-1.E. Zoning ~~for Innovative to Expand~~ Housing ~~Types~~ Choice in Single-family Neighborhoods**

The City shall evaluate current zoning standards and ~~consider potential~~ adopt zoning modifications and/or incentives to ~~encourage allow development of~~ innovative housing types, including tiny homes, efficiency units, and missing middle housing types. ~~The City shall evaluate ways to mitigate fire risk considerations in the hillside area to facilitate by-right ministerial lot splits and duplexes as well as ADUs more housing variety~~ in the city's existing single-family neighborhoods as a way to expand housing opportunity in high resource areas ~~and racially concentrated areas of affluence~~. The City shall engage the public in this process, including targeted outreach to lower-income households and stakeholder interviews. ~~Once fire risk mitigations have been developed and zoning standards modified, the City shall prepare educational materials and conduct workshops in high resource neighborhoods to educate homeowners on opportunities for infill missing middle housing. The City shall conduct a mid-term evaluation to determine the effectiveness of this program. If the City is not on target to meet the objective, the City will consider alternative approaches to expand housing choices in high resource neighborhoods/racially concentrated areas of affluence. Alternatives approaches may include working with property owners on upzoning, identifying higher density housing opportunities on institutional or quasi-institutional lands, adaptive reuse, and/or acquiring and adding affordability to existing structures.~~

- ❖ Objective: Encourage ~~the development of at least 25170 units through~~ innovative housing types (e.g., SB 9 lot splits or duplexes, tiny homes, ADUs) as a way to diversify high resource single-family neighborhoods ~~considered racially concentrated areas of affluence~~
- ❖ Timeframe: 2026
  - ~~Conduct fire risk evaluation and development mitigation in conjunction with the Safety Element Update in 2024/25.~~
  - ~~Evaluate zoning standards and implement zoning modifications to facilitate more housing variety in single family neighborhoods by 2026.~~
  - ~~Distribute educational materials and conduct two educational workshops in high resource neighborhoods by 2027.~~
  - ~~Conduct a mid-term evaluation in April 2028 and consider alternatives approaches within 6 months.~~
- ❖ Responsible Department or Agency: Community Development Department

**\*NEW\* Program H-1.F. Facilitate Development of Pipeline Projects**

~~The City shall work with applicants of pipeline projects counted in the Housing Element sites inventory to facilitate development. The City shall coordinate with applicants to expedite remaining entitlements and support funding applications. The City shall monitor the progress made on these sites in the inventory and if entitlements expire, the City shall remove them from the approved project list, reclassify them as vacant/non-vacant opportunity sites, unless conditions are found that will preclude development in the planning period, and recalculate the capacity on the sites according to the methodology used in the sites inventory chapter. If determined that the City no longer has sufficient capacity to meet the RHNA, the City will take action to identify additional sites, which may require rezoning another parcel to allow for increased density.~~

- ❖ Objective: 1,712 units, including 79 very low-, 415 low-, 611 moderate-, and 607 above moderate-income units
- ❖ Timeframe: Throughout the planning period
- ❖ Responsible Department or Agency: Community Development Department

**\*NEW\* Program H-1.G. SB 35 Ministerial Approval Procedure**

~~The City shall establish a written procedure for a streamlined ministerial approval process in compliance with Senate Bill 35 and implement the approval process if and when HCD determines it applies to El Cerrito.~~

- ❖ Objective: Compliance with State law



### Program H-2.D. Assist in Affordable Housing Development

The City shall assist and support ~~in~~ the development of extremely low-, very low-, and low-income housing units, including supportive housing for seniors and persons with physical and developmental disabilities, by supporting applications for Measure X funds and State and Federal funding, providing match funding with Affordable Housing Trust funds and other local funding sources, and providing development incentives and fee waivers or deferrals. The City will look for opportunities to cooperate with non-profits and other agencies to expand the City's supply of affordable housing, prioritizing locations within high resource areas and areas currently underserved by affordable housing.

- ❖ Objective: Support development of 55 extremely low-, 125 very low-, and 130 low-income housing units, including 25 units of supportive housing for special needs populations
- ❖ Timeframe: Review funding opportunities at least annually and reach out to non-profit affordable housing developers at least annually
- ❖ Responsible Department: Affordable Housing Division



### \*NEW\* Program H-2.E. Develop Mixed Income Housing and Amenities on BART Lands

BART owns approximately 20 acres of land in El Cerrito at the El Cerrito Del Norte and El Cerrito Plaza BART stations that are suitable for affordable and market-rate housing development. The City shall partner with BART to develop mixed-income housing in transit-oriented development (TOD) on BART lands, with a goal of providing 15 percent moderate/middle-income units and 35 percent affordable units for lower-income households. This includes maintaining a point of contact with BART and meeting at least quarterly to determine how the City can partner with and support BART, diligently pursuing necessary actions to remove barriers and support housing on BART owned site, demonstrating local support through policy alignment and commitment of staff resources, and supporting BART in acquiring sufficient fundings for housing development. The City shall also support BART efforts to provide amenities, such as bicycle and pedestrian improvements, open space, and community facilities to transform San Pablo Avenue into an area of opportunity. The City shall monitor progress made in providing the identified number of housing units at both stations and if the steps outlined in the timeline below are not completed as anticipated, the City will identify alternative actions within 6 months such as rezoning, demonstrating sufficient capacity at other sites, or taking other actions facilitate housing development at both stations.

- ❖ Objective:
  - 750-850 at least 743 total units at the El Cerrito Plaza BART Station, including 15 percent missing middle units and 35 percent lower-income units 35 deed-restricted very low-, 316 deed-restricted low-, 196 market-rate moderate-, and 196 market-rate above moderate-income units
  - 670 total units at the Del Norte BART Station, including 235 very low- and low-income units, 217 market-rate moderate-income units, and 218 market-rate above moderate income units
- ❖ Timeframe:
  - Identify and maintain a point of contact at BART and meet at least quarterly to determine how the City can continue to support BART with development of housing at El Cerrito Plaza Station and Del Norte Station
  - Provide ongoing support to BART in acquiring sufficient funding for development of both stations
  - Continue to facilitate entitlement of El Cerrito Plaza Station TOD 2022-2027
  - Break ground on development of El Cerrito Plaza Station TOD by 2025, with a goal of completing construction by 2029.
  - Initiate discussions with BART in 2025-2024 on goals and objectives for ~~on~~ development of Del Norte Station TOD.
  - Support the development of an RFQ for Del Norte Station and participate in developer selection process by 2026/27



objectively and with approval certainty similar to other residential uses of the same type in the same zone consistent with State law and the City's obligation to affirmatively further fair housing requirements.

- Modify the definition of family to remove the reference to "single nonprofit housekeeping unit" and ensure the definition of family does not pose a potential barrier to housing for protected classes.
- Add a definition of emergency shelters to the Zoning Code to ensure compliance with Government Code Section 65583: "Emergency shelter is housing with minimal supportive services for people experiencing homelessness and is limited to occupancy of six months or less. No individual or household may be denied emergency shelter because of an inability to pay. Emergency shelters shall also include other interim interventions, including but not limited to navigation centers, bridge housing, and respite or recuperative care."
  - ❖ Objective: Compliance with State law
  - ❖ Timeframe: June 2024
  - ❖ Responsible Department: Community Development Department

#### \*NEW\* **Program H-2.I. State Density Bonus**

The City shall amend the Affordable Housing Bonus Program in Chapter 19.22 of the El Cerrito Municipal Code to ensure compliance with State Density Bonus Law.

- ❖ Objective: Compliance with State law
- ❖ Timeframe: Update Ordinance by June 2024; and review legislative changes annually thereafter to maintain compliance
- ❖ Responsible Department: Community Development Department

#### \*NEW\* **Program H-2.J. Affordable Housing and Places of Assembly**

The City shall explore the creation of an overlay zone or other zoning mechanism that would allow and provide incentives for affordable housing development on property owned or leased by places of assembly. The City shall seek public input on this strategy, including targeted outreach to lower-income households and stakeholder interviews with places of assembly to gauge interest and opportunities for building affordable housing.

- ❖ Objective: Create new opportunities for affordable housing
- ❖ Timeframe: Evaluate potential zoning mechanisms and adopt an overlay zone or other zoning mechanism by December 2026
- ❖ Responsible Department: Community Development Department

#### \*NEW\* **Program H-2.K. Infrastructure Priority for Affordable Housing**

Immediately following adoption of the Housing Element, the City shall provide a copy of the adopted Housing Element to water and sewer providers, East Bay Municipal Utility District and the Stege Sanitary District. The City shall communicate to both providers the requirements of Government Code Section 65589.7 for water and sewer providers to establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households.

- ❖ Objective: Ensure water and sewer providers have procedures in place to grant priority service to lower-income housing units
- ❖ Timeframe: Within one month of adoption of the Housing Element
- ❖ Responsible Department: Community Development Department



**\*NEW\* Program H-4.C. Housing Choice Voucher (HCV) Program**

The City shall collaborate with the Housing Authority on an educational campaign to educate landlords about their obligation to accept Section 8 Housing Choice Vouchers under fair housing laws and to encourage landlords in high resource, single-family neighborhoods to actively participate in the HCV Program as a way to affirmatively further fair housing.

- ❖ Objective: [Maintain at least the 140 HCVs used in El Cerrito and increase HCVs in high resource single family neighborhoods identified as racially concentrated areas of affluence](#) by 5 percent
- ❖ Timeframe: Initiate collaboration with Housing Authority in 2023 with the goal of implementing a landlord education campaign by 2024
- ❖ Responsible Department or Agency: Affordable Housing Division



**\*NEW\* Program H-4.D. Community Opportunity to Purchase Act**

The City shall research best practices related to Community Opportunity to Purchase Act (COPA) programs in California, and based on the findings of the research, consider establishing a COPA ordinance or similar policy that would give tenants priority to purchase a building when a landlord sells their property. [The City shall seek public input on potential adoption of a COPA ordinance, including targeted outreach to lower-income households and stakeholder interviews.](#)

- ❖ Objective: Enhance tenant protections and increase community ownership
- ❖ Timeframe: Initiate study in 2025 and consider adopting an ordinance or policy by July 2026
- ❖ Responsible Department or Agency: Affordable Housing Division



**\*NEW\* Program H-4.E. Home Match Contra Costa**

[The City shall participate in the Home Match Contra Costa County program to match homeowners and home seekers to create long-term shared living arrangements. The City shall publicize the program throughout the city with a concerted effort to increase participation in high resource single-family neighborhoods as a way to increase housing mobility in concentrated areas of affluence.](#)

- ❖ Objective: [Provide services to match at least 4 home seekers per year with people who have an extra room or separate unit available to facilitate housing mobility in high resource, single-family neighborhoods in concentrated areas of affluence](#)
- ❖ Timeframe: [Launch Home Match program by 2027. Ensure that 100 percent of residents requesting information about the Home Match program are connected with relevant materials and resources.](#)
- ❖ Responsible Department or Agency: [Affordable Housing Division](#)



**\*NEW\* Program H-4.F. Community Engagement and Capacity Building**

[The City shall work to increase awareness and build capacity within the community by targeting public outreach and community engagement efforts to reach residents with the greatest need. The City shall look for opportunities to expand its outreach and public education on available housing services and programs to reach vulnerable and at-risk households by offering information in other languages, conducting targeted social media and e-blast efforts, combining information on resources, getting feedback from residents, and partnering with local service providers and religious facilities to disseminate information.](#)

- ❖ Objective: [Build capacity and awareness of housing programs and services](#)
- ❖ Timeframe: [Develop outreach strategies in 2025](#)
- ❖ Responsible Department or Agency: [Community Development Department](#)