



January 27, 2023

Gustavo Velasquez, Director
California Department of Housing & Community Development (HCD)
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833

Dear Director Velasquez:

Thank you for the opportunity to comment on the process of updating the Housing Element of the City of South Pasadena's general plan. We are writing on behalf of **Abundant Housing LA (AHLA)** and **YIMBY Law** regarding South Pasadena's subsequent draft 6th Cycle Housing Element (HE)¹. **Abundant Housing LA** is a pro-housing, nonprofit advocacy organization working to help solve Southern California's housing crisis, and **YIMBY Law's** mission is to make housing in California more accessible and affordable through enforcement of state housing law.

Executive Summary

We urge HCD not to indicate it will certify South Pasadena's subsequent draft HE upon formal adoption until it is revised to fully comply with the letter and spirit of state housing element law. This letter will analyze the plan's programs related to the sites inventory, government constraint removal, funding and incentives for affordable housing, tenant protections, and affirmatively furthering fair housing in light of our previous comments.

On the **sites inventory**, the HE fails to account for the likelihood of development, includes problematic sites, incorporates an overly optimistic ADU forecast and has inadequate no net loss buffers. On **constraints**, we are concerned about the voter-imposed height limit and lack of ambition in existing development patterns around the light rail station. Regarding **funding and incentives for affordable housing**, the latest version of the HE is more thoughtful in analyzing inclusionary zoning as a potential constraint, but is unclear on why the current target was selected and in its analysis of whether alternative policies would be more effective at producing deed-restricted affordable housing. **Tenant protections** are neglected as an area of focus in the plan and we provide some suggested policies. South Pasadena must also acknowledge its existing de facto segregated living patterns and create more housing opportunities throughout the city, to **affirmatively further fair housing**.

¹ On [9/4/2020](#), [3/10/2021](#), [4/23/2021](#), [11/22/2021](#), [6/17/2022](#) AHLA shared letters with South Pasadena and HCD, regarding drafts of the HE, providing comments on how South Pasadena should fulfill both the letter and the spirit of housing element law. On [11/2/2022](#), HCD sent a letter to South Pasadena regarding its subsequent draft 6th Cycle housing element, identifying corrections that need to be made to obtain certification of the plan. The [subsequent draft HE](#) which is currently being reviewed was received by HCD on 12/13/2022, per HCD's website.

I. Sites Inventory

In our [6/17/2022 letter](#) we noted several problems with the sites inventory that we will elaborate on below.

A. Failure to account for likelihood of development

The issue of the likelihood of development remains unaddressed. The density of development that a local government should anticipate from a given site is based on two factors: 1) the likelihood of development during the planning period and 2) the likely density of residential development if the site is redeveloped, given the various constraints on development². While the HE provides Appendix F³ attempting to justify the plan's assumption that realistic development capacity is equal to 95% of the maximum allowable density (exclusive of density bonuses), this analysis ignores the first factor, which is the likelihood that a site will redevelop in the first place. South Pasadena must address this issue for the sites inventory to be credible. By being overly optimistic about the likelihood of development during the planning period, South Pasadena is making it appear as if less land use reform is needed to achieve the RHNA than is actually the case. Providing the percentage of 5th cycle inventory sites that were actually redeveloped by property type and relating those trends to the types of properties included in the current sites inventory would be a reasonable method arriving at a valid estimate of realistic capacity in the sites inventory.

B. Examples of a problematic sites

In our previous letter we criticized the inclusion of three sites in the inventory: Site 21, Site 22, Site 25. Sites 22 and 25 no longer appear in the site exhibits in Appendix A. The site formerly known as Site 21 appears but has now been renumbered as Site 16. The issue with this site is that it is an active grocery store which the plan states is currently being remodeled. South Pasadena claims the owners have provided the City with a project description for a potential mixed-use project on the site⁴. However, the plan does not indicate that any application has been submitted for such a project. No analysis is provided regarding the most obvious constraints that could impede such redevelopment: existing leases and the city's own parking requirements. This underscores the importance of the issue raised in the previous paragraph. What is the likelihood of a mixed-use redevelopment on this site? Without a valid analysis of this issue, South Pasadena is effectively assuming the probability of redevelopment is 100%, without a reasonable basis for that assumption. The City is claiming 133 units of capacity on this site alone, primarily for lower income households, or 6.4% of the overall RHNA. The analysis provided is not substantial evidence that the existing use is likely to discontinue.

² Elmendorf et al. (2020). [“I Would, If Only I Could’ How Cities Can Use California’s Housing Element to Overcome Neighborhood Resistance to New Housing.”](#) UCLA Lewis Center For Regional Policy Studies. Page 25.

³ South Pasadena Subsequent Draft Housing Element, Redlined Version, page F1-1.

⁴ South Pasadena Subsequent Draft Housing Element, Redlined Version, page A1-28 (PDF page 286).

Two of the three vacant sites we sampled and criticized for their inclusion despite apparent development constraints in our previous letter are still included. These are parcel numbers 5311-009-058 (irregular shape and small frontage) and 5314-008-014 (steep slope). Parcel number 5308-034-016 has been removed⁵. The sample indicates that there could be wider problems in this set of properties and we encourage HCD to check the two remaining here and randomly sample a few others in conjunction with aerial photos and street views (e.g. via Google Maps) for obvious development constraints.

C. ADU Forecast

We previously criticized South Pasadena's Accessory Dwelling Unit (ADU) forecast as overly optimistic. The average of ADU permits issued per year between 2018 and 2021⁶ in South Pasadena was 9.5⁷, which should yield a projection of 76 ADUs during the eight-year planning period ($9.5 * 8 = 76$), per HCD's safe harbor calculation method. Instead, South Pasadena projects 320 ADUs. Although the data show an encouraging trend of year over year increases in ADU permitting in South Pasadena since 2018, we believe that a conservative ADU forecasting approach is preferable because it accounts for downside risks to ADU permitting, such as higher interest rates on construction loans or a recession potentially suppressing ADU construction during the planning period. An overly optimistic ADU forecast takes pressure off South Pasadena to implement more meaningful policies to encourage housing construction in places where apartments are currently banned.

D. No Net Loss

We previously criticized South Pasadena's inadequate "no net loss" buffers. Whereas HCD recommends 15-30% of excess capacity at each income level in the sites inventory, to reduce the risk of having to undergo inefficient mid-cycle adjustments should housing development not keep pace with expectations. Yet South Pasadena's buffer percentages are less than 15% overall at every income level except for above moderate⁸. Furthermore, the City combines the extremely low, very low and low income categories in its estimate of total capacity, when it should list them separately. The result is a plan that leaves little room for anything to go wrong if, as we expect, development does not keep pace with expectations, due to concerns elaborated throughout this letter.

⁵ South Pasadena Subsequent Draft Housing Element, Redlined Version, Table VI-44, page 170 (PDF page 178).

⁶ 2021 was the last full year for which data were available for this draft HE.

⁷ South Pasadena Subsequent Draft Housing Element, Redlined Version, page 175 (PDF page 183).

⁸ South Pasadena Subsequent Draft Housing Element, Redlined Version, page 199 (PDF page 207).

II. Government Constraint Removal

A. Voter-Imposed Height Limit

The City's commitment to create housing opportunities near the City's Downtown light rail stop on the L Line is weak. Program 2.n calls for a campaign to persuade the City's voters to raise the voter-imposed height limit to 60' or six stories for properties that allow development at a density of at least 50 dwelling units per acre⁹. While this is a step in the right direction, voter approval of such a change is not guaranteed. South Pasadena says it would address this scenario through a mid-cycle revision of the HE. This approach is reasonable, but a meaningful mid-cycle revision is unlikely to be any easier politically than changing the height limit.

The larger picture is that Los Angeles County has invested billions of dollars in improving public transportation, in part to pursue sustainability goals and enable more urban patterns of housing growth that support sustainability and affordability. Yet those goals cannot be met if cities deny people housing opportunities near the best transit stations in the County. While the South Pasadena station area has its charms, the existing development pattern is characterized by one and two-story buildings and is fundamentally unambitious despite light rail service being available here for the past 20 years (see Figure 1 below).

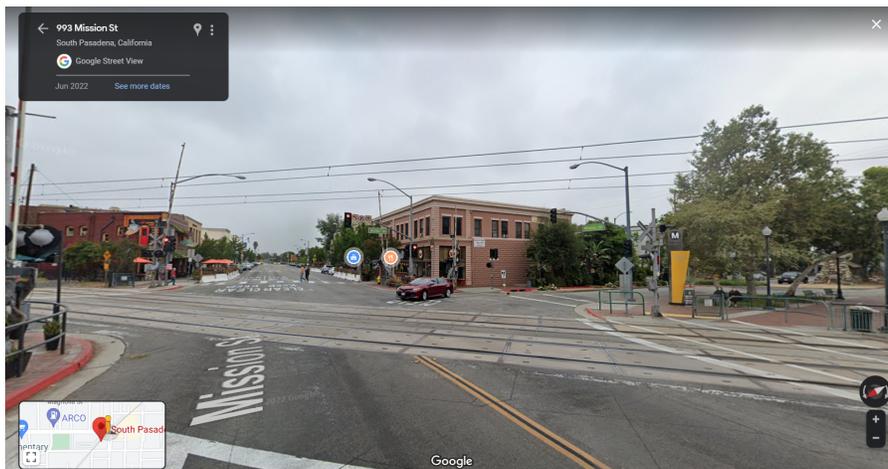


Figure 1 - Street view of South Pasadena light rail station area. Google Maps, January 2022.

III. Funding and Incentives for Affordable Housing

The HE should be more thoughtful about its strategy to promote deed-restricted affordable housing.

A. Inclusionary Housing Ordinance

⁹ South Pasadena Subsequent Draft Housing Element, Redlined Version, page 230 (PDF page 238).

We previously raised concerns about the prospect of South Pasadena's Inclusionary Zoning (IZ) ordinance potentially acting as a constraint on housing development. Program 2.m now contains a commitment to reduce the IZ requirement from 20% of units affordable for low or moderate income households to 15%. We appreciate South Pasadena's willingness to acknowledge the potential side effects of its IZ policies. Our point is not to assert that IZ is inherently a net positive or negative for housing affordability, but instead to underscore that such policies, when chosen, should be implemented with care, and structured based on independent economic analysis that seriously considers questions of development feasibility. One advantage of alternative policies such as stronger density bonuses, is that they inherently pass the feasibility test, by being voluntary for applicants. If a density bonus program provides meaningful incentives, developers will use it and provide market-based and deed-restricted affordable homes. Another alternative policy approach, the direct provision of subsidies for affordable housing construction based on taxes and fees that do not seriously constrain housing production, should also be more seriously considered in the plan.

IV. Tenant Protections

A. Lack of attention to the needs of tenants

South Pasadena's HE shows a lack of attention to and concern for tenant protections. Abundant Housing LA's [Policy Agenda](#) has a menu of suggestions for strengthening renter's rights. Examples include expanding just cause eviction protections beyond those found in existing state law¹⁰ and creating a citywide registry of rental properties, among others. South Pasadena should have at least one program in its HE that meaningfully protects tenants.

V. Affirmatively Furthering Fair Housing

A. Symbolism over substance

In our previous letter we noted that South Pasadena has engaged in symbolic commitments to Affirmatively Further Fair Housing (AFFH), such as a program to remove racial covenants (which are unenforceable) from property deeds, while failing to make deeper, substantive commitments, such as meaningfully expanding multifamily housing opportunities in high-opportunity neighborhoods where apartments are currently banned. The entire City is considered a "highest resource" area in Tax Credit Allocation Committee opportunity scores. The best thing that South Pasadena can do to AFFH is expand housing opportunities so that more people from throughout the region can access those opportunities regardless of race or income level.

¹⁰ See for example AB 1482 of 2019, where just cause eviction protections only apply to certain tenancies that have existed for at least 12 months.

Conclusion

In closing, we wish to reflect on some of HCD's prior comments on the previously adopted HE¹¹. HCD required South Pasadena to engage in more robust analysis of several specific sites as well as potential environmental constraints on development. Government constraints such as parking requirements were to be reduced in a more meaningful way. Stronger efforts were needed to AFFH by expanding access to housing opportunities that exist within South Pasadena.

On the whole, we concur with the points raised in HCD's correction list. South Pasadena is capable of putting forward a more meaningful plan that fully complies with the letter and spirit of state law. If the City won't take such action, consequences such as the Builder's Remedy in the Housing Accountability Act may prove more effective at opening up the City to housing opportunities. Local control over land use is a power cities hold in trust and must exercise in harmony with statewide goals such as ensuring that every person has a decent, affordable home. The most vulnerable people in our society are counting on HCD to insist on high standards for local housing plans in South Pasadena and throughout the state. The HE before you should be sent back with a correction list.

We request the opportunity to meet with you and your colleagues to address the concerns raised in this letter. Thank you for your time and consideration.

Sincerely,

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¹¹ Finney and McDougall (11/2/2022). "[RE: South Pasadena's 6th Cycle \(2021-2029\) Revised Draft Housing Element.](#)" HCD

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