



CITY of CALABASAS

October 11, 2021

Mr. Jon Wizard
YIMBY Law
Policy Director
57 Post Street
San Francisco, CA 94104

Dear Mr. Wizard:

Thank you for sharing with us your October 4, 2021 letter to the California Department of Housing and Community Development, in which you provided comments on the City's 2021 – 2029 Housing Element update. Please find enclosed our responses to your comments.

Overall, and as demonstrated in the individual responses to the various concerns and observations you raised, the 2021 – 2029 Housing Element already sufficiently addresses each of your stated concerns, and no revisions to the document are required.

Again, we appreciate your interest and the time you invested in reviewing our updated housing plan.

Sincerely,

Maureen Tamuri, AIA, AICP
Community Development Director

Cc: California Department of Housing and Community Development
Mayor Bozajian and Calabasas City Council
Kindon Meik, Calabasas City Manager
Matthew T. Summers, Calabasas City Attorney

City Response to the comment letter from YIMBY Law, Received October 4, 2021 via email

To Whom it May Concern:

Please find below our comments regarding the City of Calabasas' September 28, 2021 Adopted 6th Cycle Housing Element:

- Insufficient public review period
 - HCD's letter was dated September 3, 2021, but the current version of the housing element was adopted on September 28, 2021, meaning there was fewer than 30 days between revisions and adoption during which the public had an opportunity to participate and comment

Response: The revised draft Housing Element responding to HCDs September 3rd comment letter was made available to the public on September 20th, one week prior to the City Council meeting on September 28th, and three weeks prior to the City Council's meeting to consider readoption on October 13. These one and three week review periods are consistent with Government Code section 65585, which requires local governments post subsequent drafts of revised Housing Element on the internet and notice its availability at least seven days before submitting the draft revision to HCD. There have also been forty days between HCD's comments, dated September 3, and the Council's proposed readoption of the Housing Element, on October 13. State law also states that any procedural insufficiency only results in overturning a land use decision, such as the Housing Element's adoption, if there was prejudice and that the complaining party shows substantial injury resulting from the procedural error. (Gov't Code § 65010.) Even if there were any procedural error, no such prejudice nor injury exists here.

- The quantified objectives analysis is deficient
 - Program 10a estimates the city will permit 96 ADUs at varying levels of affordability, and there's a footnote on Page V-36 that mentions a 20-unit set-aside for a lower-income RHNA shortfall through an upcoming annexation, but other than that, there is no quantification of housing element policies, programs, or objectives with regard to the city's RHNA, making the QOs arbitrary, lacking foundation, and untethered to the policies, programs, and objectives

Response: Please see Table V-6 (page V-55) for a summary of the City's quantified objectives for new construction, housing rehabilitation and housing conservation for the planning period.

- Substantial evidence
 - Despite several claims in support of adding housing to nonvacant sites, the city provides no proof—in the form of letters, emails, or responses to surveys, i.e., substantial evidence—that any of its many nonvacant sites' owners are interested in discontinuing their sites' current use to facilitate housing development or adding housing by converting existing parking. The city also describes several buildings on nonvacant sites as in poor shape or dilapidated but offers no objective analysis verified by either an appraisal or inspector's report, then uses said subjective analysis to justify a high likelihood of

development. While one site has a building that is nearly 100 years old, why that site was not redeveloped in the 5th Cycle but will nearly definitely be redeveloped in the 6th Cycle remains unanswered

Response: As detailed in the Housing Element itself, housing opportunity sites were chosen carefully based on a variety of factors, including but not limited to staff's historical knowledge of each site and contact with property owners. Pages V-19 - V-23 include substantial evidence supporting the inclusion of each of the non-vacant sites identified as viable candidates for redevelopment within the inventory over the eight-year planning period. Non-vacant sites were selected for inclusion in the sites inventory based on several factors supporting their viable redevelopment over the eight-year planning period, including: 1) significant underutilization of permitted density or floor area; 2) existing use greater than 30+ years old; 3) surface parking lot use; 4) low building to land value ratio; and 5) property owner and/or developer interest. State law does not require the City to provide further letters, emails or other written documentation as to each site's redevelopment potential. Instead, the Housing Element itself, including the narrative description of each of the Focused Development Sites, together with the additional information contained therein, provides the required substantial evidence that the existing use on each non-vacant site does not serve as an impediment to residential development over the next eight years. With regards to a site from the 5th cycle that has a building that "is nearly 100 years old", the oldest building on a prior Housing Element site is the Rancho Pet Kennel which dates to 1956 (65 years old), and the owners of this property have been in recent discussion with the City about possible redevelopment on this site.

- Site inventory

- There is no mention of infrastructure in the site inventory

Pages V-25 to V-26 include a discussion of availability to utilities, as such "All Housing Element sites are adjacent to existing public roadways and are serviceable by Los Angeles County Sheriff and Los Angeles County Fire departments, the Las Virgenes Municipal Water District, and private companies that provide phone, cable, gas, and electric service." In other words, all listed Housing Element sites are serviceable by all needed public utilities and would not need significant off-site utility infrastructure installations or improvements for the sites to be developed or redeveloped.

- The site inventory is unsupported by substantial evidence

- Site 1 was entitled on February 14, 2018 and reported in the 2018 APR. This is well outside of the project period of June 30, 2021 – October 15, 2029 and cannot be double-counted.

Response: The 2018 APR reported the entitlements for the Raznick project, as required by HCD rules. However, the 42 units have not been counted towards the 5th Cycle RHNA because Building Permits have not yet been issued. As a result, per HCD requirements, these units will be counted towards the 6th Cycle RHNA when Building Permits are issued after October 15, 2021, as the project develops. The

precise timing is uncertain and will depend on when the property owner chooses to complete the entitled redevelopment project.

- The majority of Site 2's northern side is on slopes at angles precluding development; there is no documentation validating whether the site's owner truly desires to build housing on their site or if they've merely "been in recent discussions with the city"

Response: As stated in Appendix C of the Housing Element, "While the northern portion of the site is hilly, a sizable flat area of approximately 4 acres is readily buildable. Furthermore, potential developers have held community meetings (including a publicized Community Development forum on May 20, 2018) to discuss multi-family development of this site.

- There are also AFFH issues with this site due to its proximity to the highway and the subsequent noise and air pollution problems

Response: Page V-15 addresses this issues by stating the following, "In terms of potential environmental constraints, because the site is located within 500 feet of a freeway, the General Plan will require a health risk analysis to demonstrate residents would not be exposed to health risks exceeding SCAQMD standards. In addition, the General Plan will require mitigation to achieve acceptable interior noise levels, and depending on the layout of the project, may also require mitigation for exterior noise." These site-specific issues will be addressed in the planning and entitlement process, and can be resolved with appropriate on-site mitigation measures, such as incorporating air filtration systems and noise attenuation strategies within the building plans.

- There is no documentation supporting the owner of Site 3 being interested in developing housing

Response: The property owner has held a community meeting on September 14, 2020 to discuss development of a Mixed Use project and remains in contact with staff about opportunities developed through the Housing Element update.

- Site 4 is not a vacant site despite being described as such: It is an improved parking lot with a use permit—which runs in perpetuity with the land—to allow the sale of Christmas trees each year

Response: This is an inaccurate statement. There is no Conditional Use Permit tied to the property. The Christmas tree lot is permitted annually with a Temporary Use Permit and expires as soon as the tree lot is closed. The site is not permitted for any other purpose, and is not improved with any structure nor is it permitted for parking.

- "The included glossary of terms lists the following: "Vacant: Lands or buildings that are not actively used for **any** purpose." **[emphasis added]** Even by the city's own definition, Site 4 is not vacant because they allow the sale of Christmas trees there each year

Response: See comment above.

- Site 5 is a strip mall with multiple lessees, and there is no documentation from the owner that the owner can cancel all leases simultaneously or that the owner wants to do so

Response: Site #5 is occupied by a small and very old shopping center (total of 12,131 s.f. constructed in 1965). County Assessor records show that the building improvements contribute less than 50% toward the overall property value. More importantly, the building is functionally obsolete on many levels, and would require a substantial investment even just to perpetuate only commercial retail uses long-term. Furthermore, the property zoning is Commercial Mixed-Use (CMU) with an allowable maximum FAR (0.60), double the current building FAR (0.31). The substantially greater FAR limit, and thus leasable square footage limit, alone is a massive incentive for the owner to redevelop the property. Moreover, with the 2021 – 2029 Housing Element update, the site will also benefit from the Affordable Housing Overlay (AHO), which will increase the maximum allowable FAR to 1.4 (4.5 times the current FAR), and will relax a number of other site development standards for a project that includes at least 25% affordable housing units. Planning staff discussed the zoning and the Housing Element update with the property owner, who expressed a favorable position towards the residential development opportunity provided by the Housing Element update and the accompanying zoning overlay.

- Site 6 is an underutilized church, but the city provides no documentation that the owner wishes to build housing at the site

Response: Surface parking lots do not count toward FAR. Also, the church buildings, which are a temporary type of construction and occupy only 10% of the property, were constructed thirty years ago. Not surprisingly, County Assessor records show that the land represents 100% of the assessed property value. The extant temporary buildings are functionally obsolete on many levels, and perpetuating the church use through a long term would require a substantial investment to update the structures to meet modern use needs and to conform to the current building codes. Underutilized church properties routinely redevelop for higher intensity commercial or multifamily residential uses – often the church sells the property and relocates to a new site where entirely new facilities may be constructed using the property sale proceeds or enters into a development agreement providing for redevelopment of the existing site with residential uses and new church facilities all built by the developer.

- Additionally, unless the city does not count parking lots toward FAR and site coverage, there is no possible way this church and its parking use only 8% of the 2.47 acre site

Response: In accordance with CMC Section 17.90, parking does not count towards FAR, whether it is surface parking or located within a structure. Here, the parking is in a lot and not a structure, and is thus also a candidate for residential redevelopment.

- Site 7 is a legal nonconforming use, and while the city claims—without evidence—that multiple developers have approached them about this area, the city makes no claim that the current owner is interested in selling or redeveloping the site with housing

Response: Page V-21 addresses the use of office conversion in the City of Calabasas, stating “A recent CoStar office report of the Calabasas/Westlake Village submarket indicates office vacancies have been on the rise over the past year and are presently at 12%, and vacancy rates are projected to increase to over 13% in 2022 (Refer to Appendix E for a copy of the Report) ... The three office sites identified in the inventory total approximately 150,000 square feet, representing just seven percent of the total 2.6 million square feet in office inventory in Calabasas. The local, Calabasas and environs market conditions further support the conversion of underutilized office space to residential, as evidenced by the approved redevelopment of the two-story Raznick office building with the 42-unit Calabasas Creekside Apartments, and two recent inquiries received by City staff from developers interested in residential-to-office conversions.” Further, as noted in the Housing Element’s site-specific narrative, the inquiries from developers for this site prove that there is market interest in its redevelopment. Expressed site-specific interest from developers demonstrates that the site is a viable redevelopment housing opportunity zone site.

- Site 8 is the infamous Avalon Apartments, which is 30.5 acres in size. The city claims an additional 71 units will sprout out of the parking lots without explaining where the cars that park in the current lots will go

Response: Staff completed a comprehensive review of a Specific Plan that was submitted for the then-proposed initiative and concluded that the site has more than adequate space to accommodate up to 160 new units. Parking would be relocated to underutilized portions of the site and in the new buildings with private garages. A complete report of staff’s analysis can be found here: <https://www.cityofcalabasas.com/home/showpublisheddocument/7387/637261925871400000>

- Additionally, this site is more than three times larger than the maximum site size presumptively allowable for lower-income housing, and the city has failed to complete an analysis describing how this phenomenon will be overcome

Response: As described on page V-17, the building footprint for up to 71 additional units on this site is approximately two acres. The viability of an additional up to 71 units is demonstrated, in part, by the property owner's past application for significantly more units. If 160 units can be accommodated on site, from a site-planning perspective, so too can an additional 71 units. The sites inventory makes no presumptions about accommodating an affordable housing development on this site beyond the requirements under the City's inclusionary housing ordinance (ref. chapter 17.22 of the CMC).

- Site 9 is comprised of two legal nonconforming office buildings that the city has zoned as mixed use; however, there is no evidence that the owner(s) of the site intend to sell or redevelop the building(s) as housing

Response: See comment above for Site No. 7 As above, the recent market history in Calabasas and environs demonstrates a reasonable probability of redevelopment of this paid of existing, older, substandard office buildings for residential uses.

- Site 10 is an office building the city claims will be redeveloped into housing because of rising commercial vacancy rates, despite offering no evidence of such a phenomenon in their city and no evidence that the owner(s) of the site intend to sell or redevelop the building(s) as housing

Response: See comment above for Site No. 7. As above, the recent market history in Calabasas and environs demonstrates a reasonable probability of redevelopment of this existing, older, substandard office building for residential uses.

- Site 11 is a large, "high-end" shopping center the city claims will be redeveloped with multifamily housing; however, the city provides no evidence that the owner(s) want to redevelop the site and that the claimed interest by the developer is substantial
 - Furthermore, like Site 6, there is no way this site is using only 0.20 of its FAR unless the city doesn't count parking and landscaping toward lot coverage; there is no mention in the constraints or programs sections of the housing element that the city intends to count only buildings toward FAR and exempt parking, setbacks, and other development features from FAR calculations
 - Additionally, this site is roughly 2.5 times larger than the maximum site size presumptively allowable for lower-income housing, and the city has failed to complete an analysis describing how this phenomenon will be overcome

Response: Site 11 is zoned Commercial Mixed-Use (CMU), which allows for multi-family housing in addition to commercial retail uses. The property owner, Caruso, is well aware of the site's zoning and its redevelopment opportunities, and has been in frequent contact with the

City's Community Development Department about the owner/developer's intent to redevelop a portion of the shopping center to accommodate multi-family housing in conjunction with new retail space. According to the most recent communications and meetings, the owner/developer intends to initiate the entitlement process within the next six months. The particular area of focus for the proposed project involves approximately 2.5 acres of the entire property – well below the 10-acre maximum size indicated in the HCD guidelines. Also, affordable housing is required to be included in the project, per the City's municipal code (Calabasas Municipal Code chapter 17.22). Furthermore, the owner/developer has accomplished similar mixed-use projects elsewhere in the greater Los Angeles area, all of which have been highly successful, and demonstrate the owner's ability to mix significant residential development with "high-end" retail in unified, mixed-use projects. As was mentioned in the response to comments about site 6, parking lots (and landscaping) do not count toward floor area ratio calculations. By definition (per Calabasas Municipal Code chapter 17.90), a project's floor area ratio is determined by dividing the floor area of the building(s) – in square feet - by the square-footage of the property. Parking lots are not included in the City's FAR calculation, and thus this element of the comment is misplaced. Most importantly, the comment fails to understand that the proposal is not to redevelop, and thereby displace, the entire existing, successful retail development. The commenter's inherent claim that the project would never move forward because the owner/developer would not redevelop existing, successful retail spaces is false, as that's not the current proposal. Instead, the proposal is to redevelop a small portion of the site, about 10%, into a combination of affordable and market-rate residential units, replacing some underutilized elements of the site and a portion of the existing large parking lot.

- Site 12 is three different parcels, all of which present numerous challenges to development
 - 5034 Parkway Calabasas appears to be a large storage yard, multiple businesses, and a service entrance to the adjacent gated community, some of which lies on sloping terrain
 - The city provides no evidence regarding the discontinuation of use and the owner(s) desire to build housing

Response: The owner of 5034 Parkway Calabasas has been in frequent contact with Community Development Department staff about redeveloping the property after the City annexes the territory, and the owner's intention has been to construct primarily housing, with some commercial – consistent with the Commercial Mixed Use pre-zoning. The existing improvements on this property hold little value (only 50% of the total assessed value per County Assessor records), and do not pose a substantial burden to redevelopment. Also, the topographic conditions present are not at all insurmountable; in fact, a similarly sloped

property located only 500 feet to the west, within the same annexation territory, was successfully developed for multi-family housing within the last three years. Lastly, this site does not provide a secondary (“service”) entrance to the adjacent Hidden Hills West neighborhood.

- APN 2049-022-040 has significant grading and access issues, being significantly hilly and in some places totally inaccessible

Response: The APN 2049-022-040 property is not so severely constrained that development for multi-family housing is not feasible. Utilities are readily available, as is freeway proximity and access. Furthermore, the existing site is vacant with no improvements, and city planning staff periodically receive development inquiries about the property.

- 5124 Douglas Fir Road has significant grading and stormwater drainage issues and is at least two separate businesses
 - The city provides no evidence regarding the discontinuation of use and the owner(s) desire to build housing

Response: The 5124 Douglas Fir property likewise is not so severely constrained that development of the property is infeasible. Utilities are readily available, as is freeway proximity and access. Furthermore, the existing site improvements are functionally obsolete and fail to realize even ten percent of the allowable FAR for the property.

- The city assumes a 100% realistic capacity and likelihood of development, contrary to the Site Inventory Guidebook's guidance

Response: This is an incorrect statement. For sites designated with the Affordable Housing Overlay, sites are assumed to develop at the base Overlay density of 40 units/acre, with property owners utilizing the Overlay automatically eligible for an 35% density increase to 54 units/acre under State density bonus law. Just one of the 8 sites designated with the Affordable Housing Overlay (AHO) is assumed to develop at the base Overlay density of 50 unit/acre permitted for 100% affordable senior housing, with property owners utilizing the senior housing AHO automatically eligible for an 80% state density bonus. For reference, the 100% affordable Canyon Creek senior apartments developed at a density of 75 units/acre, supporting the 50 unit/acre density assumption. Affordable housing projects typically build out to the top end of the permitted density range, and can be expected to take advantage of additional incentives and reduced parking standards available under State density bonus law. Development trends in nearby San Fernando Valley communities over the past several years indicate that developers are building multi-family projects at densities in excess of 40 units per acre. The San Fernando Valley Multi-family Projects Table in Appendix C provides a summary of multi-family projects built in the last several years in nearby communities. These projects have an average density of 95 units per acre. This analysis supports the assumption that development at higher densities is both feasible and preferable for residential developers.

For sites not designated with the AHO, Site 1 is assumed at the density of the entitled project on the site; Site 2 is assumed at 8.8 du/acre (up to 12 du/ac permitted); Site 8 is assumed at 22 du/ac (up to 24 du/ac permitted); and Site 12 is assumed at 20 du/ac (up to 24 du/ac permitted).

- Regional trends

- On the unnumbered page before Appendix D's title page, the city lists recent multifamily developments in neighboring cities but provides no analysis of those cities' development standards and how the difference between it and those cities' development standards will impact the density and feasibility of potential multifamily developments in Calabasas

Response: As indicated on page V-14, the intent of showing development trends in nearby San Fernando Valley communities is to document the market for multi-family projects at densities in excess of 40 units per acre, as will be permitted by the new Affordable Housing Overlay. Additionally, the development standards under the AHO have been tested to ensure the ability to achieve the maximum 40 du/ac densities, as reflected in the series of site schematics included in Appendix C.

- ADUs

- According to APR data, the city permitted 3 ADUs in 2018, 5 in 2019, and 7 in 2020, which averages to 5 per year. The city is estimating it will permit 12 ADUs per year, for a total of 96 ADUs. That's a 140% increase
 - Without this overestimation in ADU permitting, the city fails to meet its moderate income RHNA target and exactly matches its combined ELI/VLI/LI RHNA target
 - This fails to meet Site Inventory Guidebook guidance regarding the No Net Loss buffer

Response: The Planning Division currently processes more than 15 ADUs per year, but there is a lag time between Planning approval and Building Permit issuance. For example, there are currently 20 approved ADUs that have not yet been issued a building permit. As demonstrated in the table below, approvals of ADUs have been increasing each year since the implementation of recent ADU updates. Furthermore, Programs 2, 10a and 10b of the Housing Element expand the City's commitment to new programs and financial assistance to further encourage development of ADUs.

Year	No of New Planning Permit Applications Submitted	No of Planning Permits Approved	No of Building Permits Issued
2017	5	6 *	4
2018	4	3	4
2019	11	9	5
2020	17	11	8
2021	16	15	8

* NOTE: One approved ADU in 2017 was from a 2016 application.

- Affirmatively Furthering Fair Housing
 - The city's AFFH analysis is woefully inadequate, providing only a handful of maps but no comprehensive analysis of what the data in those maps reveal
 - The HCD data viewer map says Calabasas has several census tracts that are ≥80% white and that have median incomes greater than \$125k per year, but the analysis in the housing element evaluates RCAAs for the city as a whole instead of by census tract and so doesn't act on this information
 - There is no analysis about the distribution of sites as it relates to income, racial demographics, or access to opportunity

Response: The City's Affirmatively Furthering Fair Housing analysis provides a comprehensive analysis of contributing factors to fair housing issues in the community. Based on this analysis, it concludes that the biggest fair housing issues facing Calabasas are: fair housing outreach to lower income and disabled Calabasas residents; affordable housing throughout Calabasas to promote housing mobility; and protecting existing residents from displacement. Table B-6 presents a number of meaningful actions the City has committed to undertake to address these issues.

- Programs
 - The programs are extremely weak, not tethered to the QOs, and don't commit the city to do really anything except annex some land and count how many ADUs they permitted in the first four years of the planning period—but not take any specific actions related to a shortfall in ADU permitting

Response: This statement is highly inaccurate. Table V-5 provides a summary of the 22 programs under the City's Housing Element, including goals, objectives, funding, responsible department, and time frames for implementation. Examples of specific program commitments to further housing and residential development opportunities include:

Program 2. Home Repair/ADU Assistance – Provide funding assistance to modest income homeowners to add an ADU to their property

Program 3. Rental Assistance Program – Provide ongoing, City-funded rental assistance to over 50 lower-income, senior and disabled households each year at-risk of displacement due to rising rents.

Program 9. Affordable Housing Overlay – to be Adopted in conjunction with Housing Element, providing increased densities, increased height, increased FAR and reduced open space to facilitate affordable development

Program 14. Affordable Housing Development Assistance - Allocate \$1 million in Affordable Housing Funds towards construction of affordable senior housing, and issue an RFP for development on one of the AHO sites.

- Constraints

- The element provides no analysis whatsoever on the city's compliance with the Permit Streamlining Act, CEQA deadlines, ADU deadlines, or HAA deadlines

Response: The Background Report includes a discussion of the City's permitting process (pages G-48 to G-51) and compliance with CEQA, the Permit Streamlining Act, and other applicable state planning and zoning laws. Furthermore, the Background Report discusses the use of new technology to process permits efficiently, including the City's recent implementation of SmartGov, a web-based planning, permits, and entitlements software package that includes automatic tracking of applicable deadlines, helping ensure the City meets all required planning project deadlines.

- There is no analysis of the cost of a permit to build a single-family home, a permit to build multifamily homes, or a comparison between the cost of those two permits

Response: The Background Report includes a cost breakdown of permits for multi-family and single-family homes, as well as a sample cost of permit fees and development impact fees for a sample multi-family development project (pages G-46 to G-47).

- There is no analysis of the cost of either of these permits with regional costs in neighboring jurisdictions

Response: There is no statutory requirement to provide an analysis of regional costs.

- There is no analysis on the cost or feasibility of development standards, such as parking minimums, setbacks, minimum lot sizes, height restrictions, FAR, private and public open space requirements, etc.

Response: The analysis of the City's land use controls begins on page G-28 of the Background Report. As indicated, as a means of establishing appropriate development standards for the new 20 unit/acre zoning established under the 2030 General Plan, the City's urban design consultant produced a site plan for a multi-family residential prototype utilizing the City's RM16 development standards, including height, setbacks, lot coverage, open space and parking. The outcome of this analysis demonstrated that the City's RM16 development standards could yield 20 units/acre. Therefore, with the exception of density (lot area per unit), the City's new RM20 development standards were modeled after the current RM16 standards.

Furthermore, the development standards under the new AHO have been tested to ensure the ability to achieve the maximum 40 and 50 du/ac densities, as reflected in the series of site schematics included in Appendix C.

- There is no analysis on the effect of the city's growth management initiative and how it influences (re)development

Response: The City does not have a growth management initiative.