

# EAST BAY FOR EVERYONE

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Town of Danville

500 La Gonda Way

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Mrs. Friedmann:

East Bay for Everyone is a network of people fighting for the future of housing, transit, tenant rights, and long-term planning in the East Bay. We are glad the second Draft Housing Element addresses some issues in our letter and HCD's determination letter. We are concerned that many other points go unaddressed and that this draft will also be rejected by HCD.

## Summary

- Danville's development standards are very stringent and preclude the development of multifamily housing.
- Danville includes multiple deficient sites in its Sites Inventory.
- Danville's RHNA sums do not add up.
- Zero single family parcels are rezoned for additional density, which does not Further Fair Housing

## Constraints

### Development Standards

The proposed development standards of 0.8 FAR, 35 DUA, three stories maximum, and 2 parking spaces per 2 bedroom apartment are prohibitive, and will make it difficult to add multifamily housing. This low density standard will lead to a less attractive town that is dominated by surface parking lots. A Danville-based developer, Blake Griggs, expressed in letter to Planning Commission<sup>1</sup> that these standards would preclude the development of the Village Shopping Center which is included in the Sites Inventory.

Goal 7.1.c specifically says a goal is to provide larger units for families, and page 396 says Danville has taken actions to support the development of larger units. However, 0.8 FAR (34k sq ft per acre) and 35 DUA means the maximum size of each apartment is 995 square feet, and that assumes underground parking and zero space for stairs, hallways, elevators etc (a more likely figure is 845

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<sup>1</sup> See email from us to HCD, "Danville Planning Commission public comments December 13th."

square feet each). It is very challenging to put three bedrooms in a space that small, which means Danville's standards preclude the development of larger apartments.

Danville may believe that developers will choose to use the state density bonus to waive height, parking or FAR rules. However, not all developers will choose to use state programs. Low-income housing developers may depend on town or county funds, or have use-it-or-lose-it deadlines that make it impossible for them to use state laws and risk the town's ire. These developers may end up building more parking spaces (and less housing) than they preferred to do otherwise.

Lafayette's downtown is zoned for 35 DUA, has less restrictive FAR rules, and smaller parking minimums. They are rezoning their downtown to 58 DUA partly at the request of HCD in recognition that 35 DUA does not pencil right now.

60 DUA, six stories, and unlimited FAR on a smaller number of more feasible sites would be preferable to 35 DUA on a wider range of less feasible sites.

### **Setbacks**

Danville's setback requirements significantly limit the amount of developable land, reducing the financial viability of programs. A minimum front yard setback of 25 feet, side yard setback of 20 feet, rear yard setback of 20 feet, when combined with a maximum Floor Area Ratio (FAR) of 80% and a maximum height limit of 37 feet, significantly constrains the maximum developable area of most, if not all, of the parcels identified as opportunity sites by Danville. 20% of all sites are on less than half an acre—this makes multifamily development incredibly challenging. While the Draft Housing Element suggests that these limits make Danville similar to its neighbors, the fact that none of Danville's peer cities have come close to meeting their RHNA goals in the past, means that this is likely to be a constraint for all of them.

Not only are setbacks a constraint on development, excessive setbacks can be harmful in of themselves by reducing the amount of shade available, requiring seniors and children to walk longer distances from the street to their home, and make communities feel less intimate and human scale. One of this letter's authors spent his formative years in Danville, and his parents still live there—he can assure you that a long walk from the sidewalk to the house on a hot day isn't always ideal.

### **Parking Minimums**

Off-street parking minimums drive up the cost of new development, make it more difficult to include ground floor retail, reduce the demand for pedestrian and bike improvements, and increase the demand for parking at destinations elsewhere in the Town. Two spaces for each two bedroom apartment will attract residents who prefer to have two cars (or induce those who have one to buy a second) instead of residents who prefer to bike their kids to school or to get groceries.

Danville's development standards of 0.8 FAR and three stories maximum may require developers to dig underground, which dramatically increases cost. Condo buyers must also purchase two parking spaces which adds six figures to the purchase price.

The draft Housing Element claims parking minimums are not a constraint on development because recent projects have chosen to build exactly the minimum required by the zoning code. At best this is an extremely unlikely coincidence.

Lower parking minimums to 1 space per apartment with no guest parking; developers can always choose to build it anyway if they think demand is there.

### **Additional Studies Required but Not Analyzed**

We are concerned about the number of studies that are required for downtown multifamily development, and that these present a constraint on development that has not been analyzed by Danville. These include some that may already be standard - stormwater control plans - but also novel-seeming ones like environmental noise studies, biological assessment studies, GHG and pollutant studies, which may be redundant in infill areas and stack up costs gratuitously.

In particular, the study area of traffic/parking demand is influenced by policies that Danville has control over, including mandatory parking minimums, the presence or absence of protected bike lanes and pedestrian facilities, residential bike storage, and subsidies for e-bikes, which are accelerating. Requiring a study projecting parking demand out to 2040, and building toward that study, will act as a self-fulfilling prophecy of increasing car dependence and VMT. The suggested mitigations are also extremely expensive: signaling intersections is reported to cost up to \$350,000 in Bay Area cities.

HCD's letter says "*The analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing.*" The draft element does not analyze these added studies as constraints.

## **Sites Inventory**

While some progress has been made on the Sites Inventory, a number of deficient sites are still included.<sup>2</sup>

The note in Table A justifying inclusion of 17 Hilfred Way says only, "REMOVE"; we're less concerned that 1 home may not be developed here, as that the Sites Inventory table was not fully vetted before the release of the draft.

### **Danville's RHNA math does not add up**

Page H-21, Table 7, breaks out the Sites Inventory by affordability level.

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<sup>2</sup>Further, St. Isidore's School is spelled incorrectly throughout the draft document.

## Sites Inventory

Based on the methodology and approach outlined above, the Sites Inventory includes a range of sites located Town-wide that could be developed with up to ~~2,7983,401~~ new housing units. Table 7 provides a high-level summary of the ~~sites listed on the~~ Sites Inventory broken down by income. Figure 1 shows a map of where each site is located within the Town and the housing opportunity areas.

TABLE 74: SITES INVENTORY AFFORDABILITY BREAKDOWN

Housing Opportunity Areas	Very Low	Low	Moderate	Above Moderate	Total Units
RHNA	652	376	338	875	2,241
Buffer (15%)	+98	+56	+51	+131	+336
RHNA with Buffer	750	432	389	1,006	2,577
Housing Sites Inventory	686	361	253	505	1,805
ADUs	72	72	72	24	240
Prior Inventory Availability	0	0	97	656	753
TOTAL	638	370	469	1,321	2798
Remaining	8	1	33	179	221

Table Source: Housing Resources Sites Inventory

- Table 7 claims 686 Very Low Income homes are in the Sites Inventory. Manually adding the VLI values for each row of Sites Inventory Table A and B, we can only find 543 Very Low Income homes, which (adding 72 ADU's) puts Danville below its RHNA allocation of 652 homes.
- Table 7 claims 361 Low Income homes are in the Sites Inventory. Manually adding the LI values for each row in Sites Inventory Table A and B, we can find only 285 Low Income homes, which (adding 72 ADU's) puts Danville below its RHNA allocation of 376 Low Income homes.
- The numbers for the Bevmio parcel, 155 Diablo, are 0, 0, 4, and 9 in the income categories, but the total capacity claimed is 30, which means 17 units are missing. We don't know what to make of this.

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We cannot make sense of this, and don't know which are the real numbers Danville is claiming. We emailed Danville planning staff on the evening of December 15th and left a voicemail for planning staff at 9am on December 16th (the submission deadline).

To help remedy these issues, Danville could

- **Publish the Sites Inventory in a spreadsheet form**, which would make these issues *much* easier to verify, and to avoid.
- Publish a summary row at the bottom of Table A and Table B summing numbers claimed in each category for each site.
- While the "track changes" mode is very helpful a second published version of the Draft containing only the current text would be very helpful.

We also note that issues with shortfalls of Very Low Income and Low Income housing are in part caused by Danville's reduction of planned development intensity from 40 to 35 DUA. Increasing development intensity to 60 DUA would be a straightforward way to reverse these patterns and ensure Danville can meet its obligations.

### **ADU's**

Either 144 out of 240 (Table 7), or 96 out of 320 (Table 8), ADU's are assumed to be rented at Very Low or Low incomes. It is not appropriate for Danville to use ABAG's default estimates for ADU affordability, because Danville is so much wealthier than the average ABAG community. HCD's recent letter to Atherton also expressed skepticism about similar low income ADU calculations: <https://atherton.primegov.com/Portal/viewer?id=247&type=2>

Danville should, for example, cite current rental rates for ADU's in town to justify its assumptions about ADU affordability.

### **Quantified Objectives**

Danville claims only 1400 units can realistically be built in Town. We have trouble understanding this. Many, many, many people want to live in Danville as evidenced by its \$2.4 million median home price. Danville could easily attract development to exceed its RHNA goals by amending its development standards to permit 60 DUA downtown and missing middle throughout its single family zones.

### **Individual Sites**

A number of sites that presented issues in [our first comment](#) are still present in the second draft.

**Village Shopping Center** is owned by a Danville developer, Blake Griggs, who submitted comment indicating that Danville's development standards make it impossible to build. We share their concerns.

**Fountainhead Montessori** is still enrolling children in daycare for next spring (confirmed via phone). There is no evidence presented that the use will discontinue during the period; the only evidence provided by Danville is the existence of multifamily development across the street. Two public comments noted the difficulty of developing this site due to the steep slope, and also the scarcity of daycares in the area.

**315/319 Diablo** is still included in the Sites Inventory even though we have a letter from the property owner that they have no plans to discontinue the current use (office space).

**699 Old Orchard:** We have a letter from the property owner (SRVUSD) which we will supply, indicating they have no plans at the moment to redevelop this parcel into housing (or a feasible other parcel that could house the district headquarters).

**Parcel 216120015** - This parcel has a large number of existing apartments on it. Tenants in these apartments would need to be compensated for relocation and return, per SB 330, which would increase the cost of redevelopment. This parcel had its density *reduced* from the first draft which would make it even less feasible than before.

**Wood Ranch's** owner submitted a letter expressing their desire to develop housing at a lower intensity than Danville is planning in the Sites Inventory.

### **Fair Housing**

We are disappointed to see that the only sites Danville was planning to rezone from single family to multifamily housing have disappeared from this version of the draft. This means that Danville's single family zones, which are the primary use of Town land by acreage, will continue to be off limits to people who can't afford a \$500,000 down payment and a \$8,000 per month mortgage.<sup>3</sup>

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<sup>3</sup> Per Zillow, the average Danville home was worth \$2,460,000 in October 2022.  
<https://www.zillow.com/home-values/38134/danville-ca/>



*640 El Pintado: 11,152 square feet, legal if only one very wealthy family can live in it, illegal if 4 less wealthy families want to share the same building envelope.*

Consider permitting fourplexes within the same building envelope that Danville currently permits single family homes; i.e., if current standards allow a 6,000 square-foot mansion, four 1500 square foot homes should also be legal. We would welcome this zoning within one mile of each of Danville's commercial centers. Danville can achieve this without an EIR thanks to Senate Bill 10.

We would be open to counting a single family rezoning program toward the RHNA using an expected yield calculation of Danville's choosing.

### **Zoning/Land Use Subjectivity**

The draft rezone opportunity sites, outside the DBD, continue to be to assigned P-1 (PUD) zoning alongside a new multifamily land use designation in the general plan (MF-HD). While the latest draft does add some density and envelope standards to MF-HD, the town code on P-1 continues to suggest the Town can impose virtually any objective standards it deems appropriate. The element itself emphasizes this power: "P-1 zoning districts are unique as they allow for customized development standards."

HCD's letter stated that "*the Planned Development process should be evaluated as a potential constraint, including whether the process is required, presence or lack of fixed development standards*" and we do not find evidence this evaluation occurred in the second draft.<sup>4</sup>

It is possible developers will be able to use the Housing Accountability Act to limit the Town's authority to reject or shrink proposals compliant with MF-HD and not P-1, but the hazy language of P-1 - not to mention the housing-averseness it advertises - would still deter many developers.

The proposed new DBD-13 zoning designation for opportunity sites within downtown also introduce a range of new requirements, some not analyzed for possible constraint (*minimum* amounts of ground floor commercial space that could be as much as 20% of floor area; complex height variations), some fully subjective ("compatibility," "harmony," ""integrate with surrounding development", etc.)

### **Conclusion**

We welcome the opportunity to provide additional feedback as Danville submits a draft that is closer to achieving HCD certification.

The 2,500 members of East Bay for Everyone

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<sup>4</sup> We read the entire Constraints section, scanned the rest of the document, and searched for both "planned development" and "planned unit development" in the draft.