

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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February 15, 2022

Kelly Lucia, Planning Manager  
Community Development Department  
City of Calimesa  
908 Park Avenue  
Calimesa, California 92320

Dear Kelly Lucia:

**RE: City of Calimesa's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the City of Calimesa's (City) draft housing element received for review on December 17, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that

represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: [http://opr.ca.gov/docs/OPR\\_Appendix\\_C\\_final.pdf](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jamillah Williams, of our staff, at [Jamillah.Williams@hcd.ca.gov](mailto:Jamillah.Williams@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall  
Senior Program Manager

Enclosure

## **APPENDIX CITY OF CALIMESA**

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

### **A. Review and Revision**

*Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)*

The element must include a program-by-program review including a comparison of prior objectives versus actual results. There are several programs that do not describe what has been achieved within the previous planning period. For example, Action H-4.1.2 commits the City to pursue state and federal funds for the construction of senior citizen housing. However, no outcome was included. The element should include if the City was successful in applying for funds and if any senior projects were constructed. Other programs that should include outcomes are Action H-1.2.1, H-1.4.1, H-1.4.2, H-2.2.4, H-3.2.3, H-3.4.3 and H-4.1.1. The element should describe the actual results of the prior element's programs, compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation.

In addition, as part of the evaluation of programs in the past cycle, the element must provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers, and persons experiencing homelessness).

### **B. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

While the element includes some general information on affirmatively furthering fair housing (AFFH); additional information is necessary to address the requisite AFFH analysis requirement as follows:

Enforcement and Outreach: The element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. The analysis must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity. Furthermore, the revisions should address the degree of outreach to all sectors of the community, ongoing outreach and public participation throughout the planning period and indicate any fair housing complaints, findings lawsuits or enforcement actions taken.

Integration and Segregation: While element includes some local data and analysis on race, familial status, and persons with disabilities (pp. 3-51 and 3-80-3-85), the element must also analyze segregation and integration of income locally and regionally complemented by data and concluding with a summary of issues. For all areas (race, familial status, disabilities, and income), the analysis must address areas of ongoing and concentrated segregation and integration and compare concentrations of protected characteristics and incomes at both a regional and local level.

Racial/Ethnic Concentrated Areas of Affluence (RCAA): While the element includes local information and analysis relative to RCAA, it should also include a regional analysis of trends and patterns of RCAAs and must also clarify if there are RCAAs in the City. The analysis should evaluate the patterns and changes over time and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Disparities in Access to Opportunity: The element provides qualitative information (pp. 3-63 to 3-79) on the access to opportunity but must include additional data and analysis to each component in this section. For example, the element provides comparative data to the state for the regional analysis but must include regional and/or County data in their regional analysis. A complete analysis should include the locally and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. The element should be revised as follows:

- The regional analysis for education should be expanded to describe any differences amongst schools within the City and whether access to more proficient schools has any patterns across protected characteristics (e.g., race and ethnicity, familial status, persons with disabilities); analyze the proximity of proficient and less proficient schools to areas of segregation and racial and ethnic concentrated areas of poverty; and evaluate the presence or lack of policies, practices, and investment to promote access to more proficient schools or that contribute to a disparity in access to opportunity. Finally, no category in this section addressed needs of persons with disabilities.
- For employment opportunities, the analysis should, describe any disparities in access to jobs by protected groups; address where protected groups live and how that affects their ability to obtain a job; and evaluate employment trends by protected groups. The

element should expand upon the fact that a large portion of the City has the furthest proximity from jobs based on Map Figure 3-14 (pp. 3-75).

- For transportation opportunities, the analysis should, compare concentrations of protected groups with access to transportation options; assess any disproportionate transportation needs for members of protected classes; and analyze combined housing and transportation cost impacts on protected groups.
- Additionally, the place indices data is outdated (pp. 3-66-3.67).

Please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Calimesa.

Disproportionate Housing Needs and Displacement Risk: While the element includes data and analysis on overcrowded households and cost burdened households, it must also include local and regional data and analysis for homelessness, substandard housing, and displacement risk. The element provided substantive data, but the analysis was minimal. Furthermore, the displacement section should include a discussion of local patterns of investment. The element must analyze the data including addressing trends, patterns, and other local knowledge, and conclude with a summary of issues.

Site Inventory: While the element includes some analysis demonstrating if sites identified to meet the RHNA are distributed throughout the community in a manner that affirmatively furthers fair housing, the analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g. anti-displacement strategies).

Contributing Factors: The element describes contributing factors; however the factors identified must prioritize contributing factors to fair housing issues based on the analysis. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies program(s) to encourage and promote affordable housing; however, most of these programs do not appear to facilitate any meaningful change nor address affirmatively furthering fair housing requirements. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. Given that most of the City is considered a high and highest resource community, the element could focus on programs that enhance housing mobility and encourage development of more housing choices and affordable housing. Programs also need to be based on identified contributing factors, be significant and meaningful. The element must add, and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues.

For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtm>

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Housing Conditions: While the element identifies the age of the housing stock and provides associated percentages (pp. 2-32 to 2-34), it must also estimate the number of units in need of rehabilitation and replacement and include an analysis of the condition of the existing housing stock. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including nonprofit housing developers or organizations.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a regional housing need allocation (RHNA) of 2,017 housing units, of which 770 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites in Specific Plan Areas and the Residential Infill Priority Area Overlay Zone. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Specific Plan Sites: The element on page B-11 states that the City is currently reviewing a new proposed Specific Plan "The Heights" which would accommodate 2,248 units including 113 towards lower income and also includes development potential within the Summer wind Ranch at Oak Valley Specific Plan, the Mesa Verde Specific Plan, the Heritage Oaks Specific Plan, and the JP Ranch Development Agreement While the housing element indicates the anticipated residential capacity of the specific plan area and estimates the number of units by income group, it does not provide any analysis demonstrating their suitability for development in the planning period. Additionally, the element needs to clarify which, if any, specific plans are being used as projects as progress towards RHNA or as sites in the inventory. To utilize residential capacity in specific plans, the element must:

- Describe the anticipate date of approval for "the Heights" Specific Plan.
- Indicate if projects are pending for the specific plan area, describe the status of the project(s), including any necessary approvals or steps prior to development, and the affordability of the units in the projects based on anticipated rents, sales prices or other mechanisms (e.g., financing, affordability restrictions) ensuring their affordability.

- If sites are available for development and do not have pending or approved projects, the element must among other requirements, list sites by parcel, size, general plan designation, zoning and include a calculation of the realistic capacity of each site. Please note, if zoning is not yet in place to accommodate sites anticipated to accommodate the RHNA for lower-income, then the element must include a program to provide the necessary zoning pursuant to Government Code sections (h) and (i).
- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.).
- Describe any development agreements and conditions or requirements, such as phasing or timing requirements, that impact development in the planning period.

Realistic Capacity: The sites inventory includes potential net units; however it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. For sites zoned for nonresidential uses, e.g. commercial and mixed use zones, the element must describe how the estimated number of residential units for each site was determined. In addition, the estimate must also account for land use controls such as allowing 100 percent nonresidential uses. The element must clarify if 100 percent residential and commercial is allowed in commercial and mixed-use zones as well as whether residential uses are allowed by-right. To demonstrate the likelihood for residential development in nonresidential zones, the element could describe any performance standards mandating a specified portion of residential and any factors increasing the potential for residential development such as incentives for residential use, and residential development trends in the same nonresidential zoning districts.

Small Sites: The element identifies sites smaller than half an acre for lower income. Sites smaller than half an acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower income housing (Gov. Code, § 65583.2, subd. (c)(2)(A).). The sites inventory shows a number of small sites, but does not describe any development history of similarly sized units in the same income category. For example, a site with a proposed and approved housing development that contains units affordable to lower income households would be an appropriate site to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(C).). If utilizing these sites toward the housing need for lower-income households, the element must include analysis and programs as appropriate.

Large Sites: The element identifies several sites larger than 10 acres in size. Sites larger than 10 acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully

developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower income housing (Gov. Code, § 65583.2, subd. (c)(2)(A).). If utilizing these sites toward the housing need for lower-income households, the element must include analysis and programs as appropriate.

Previously Identified Vacant Sites: While the sites inventory Table B-7 indicate if vacant and nonvacant sites were identified in the 5<sup>th</sup> cycle planning period, the element must also indicate which vacant sites were identified in the 4<sup>th</sup> cycle planning period. Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, rezones sites to permit housing development by right pursuant to statutory requirements. The element must clarify if vacant sites were used to accommodate the housing need for lower income households in the 4<sup>th</sup> cycle planning period and include or modify programs as appropriate.

Zoning for Lower-Income Households: The element must demonstrate zoning appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (allow at least 20 units per acre for Calimesa), no analysis is not required. Otherwise, the element must include an analysis based on, including but not limited to, factors such as market demand, financial feasibility and development experience within identified zones demonstrating how the adopted densities can accommodate housing for lower-income households. The element appears to rely on densities far less than the 20 units per acre standard “deemed appropriate” in statute. For example, Table B-7 of the sites inventory allocates sites for lower income in the RR zone with a maximum density of 2 du/acre and in the RLM zone with a maximum density of 7 du/acre. In addition, the Summerwind Ranch at Oak Valley only allows 3-15 du/acre, the Heritage Oak Equestrian Community 1.5 du/acre and the Mesa Verde Specific Plan 4-20 du/acre. The inclusion of these units to accommodate the regional housing need for lower-income households seems to be based upon the City’s inclusionary housing requirement. However, identifying potential results of an inclusionary zoning ordinance, by itself, is not sufficient or appropriate to demonstrate the adequacy of a zone to accommodate housing affordable to lower-income households. The element should adjust the densities deemed appropriate and include a complete analysis to demonstrate how the zoning encourages the development of units affordable for lower-income households.

Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it provides no description of how the potential for redevelopment. The element must describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites (Gov. Code, § 65583.2, subd. (g).). For sites with residential uses, the inventory could also



describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. In addition, the element describes APN 411150027 as mostly vacant with a field and “uninhabitable” structures but lists the sites as vacant in the inventory. The element should clarify if this site is vacant or nonvacant.

Replacement Housing Requirements: The sites inventory identifies sites with existing residential uses, so it must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Gov. Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD’s housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Environmental Constraints: The element describes environmental constraints in the Hillside and Earthquake Overlay zones. The element must clarify whether lower income sites are allocated within either of these zones.

4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Inclusionary Housing: The element must describe and analyze the inclusionary housing requirements and their impacts as potential constraints on the development of housing for all income levels, specifically on housing supply and affordability. The analysis must evaluate the inclusionary policy's implementation framework, including levels of mandated affordability and the types of options and incentives offered to encourage and facilitate compliance with the inclusionary requirements. For rental inclusionary housing provisions, the analysis should demonstrate consistency with requirements of Government Code section 65680 (g) which requires provision of alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

Housing for Persons with Disabilities: While the element identifies how community care facilities serving six or fewer persons are permitted, it must describe and analyze how community care facilities serving seven or more persons are approved including any approval findings. The element should analyze the process for potential constraints on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes for seven or more persons objectively with approval certainty.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Developed Densities and Permit Times: The element on page 3-8 states the City does not typically receive requests to develop housing at densities less than permitted in each of the specified zones. However, the element should indicate if the City received any request at densities less than those assumed in inventory in the 5th cycle. Additionally, the element must be revised to include analysis of the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis must address any hinderance on housing development and programs should be added as appropriate.

### **C. Housing Programs**

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning*

*period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period and meet the goals and objectives of the housing element, programs must have specific commitment and timelines toward tangible outcomes. Programs to be revised include the following:

- Action H-2.1 (*Affirmatively Furthering Fair Housing*) commits to “specific actions that contribute to the City of Calimesa’s ability to foster a more inclusive community to all racial, social, and economic groups” and “specific actions to enhance the construction of affordable housing in Calimesa.” The element should give detail to these actions and commit to removing identified barriers and restrictive policies. In addition, the program should go beyond exploring the establishment of additional or augmented assistance programs that directly assist in reducing cost burdens and commit to the action and should go beyond identifying funding and commit to apply for funding on a specific timeframe.
- Action H-2.3 (*Housing Rehabilitation Program*) should indicate how often the City will apply for funds.
- Action H-2.5 (*Proactive Code Enforcement*) describes proactive code enforcement but should include a quantification of how many units the City will assist.
- Action H-2.6 (*Relocation Assistance*) should quantify how many displaced persons the City will provide relocation assistance.
- Action H-3.5 (*Accessory Dwelling Units*) should include a timeframe of when the City expects to develop the plan that incentivizes and promotes ADUs and describe what kind of incentives the City will provide.
- Action H-3.8 (*Down Payment Assistance*) needs to go beyond considering establishing a down payment assistance program and commit to the action.
- Action H-4.5 (*Review of Permit Fees*) should go beyond considering a fee reduction program and commit to the action.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B4, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

While Action H-3.1 (*Rezone Program*) commits to rezoning, the program must commit to zone or rezone adequate sites to address the unaccommodated housing need within the first year of the new planning period. The element must identify the sites and acreage to be rezoned by the Residential Infill Opportunity Overlay Zone and must demonstrate compliance with Government Code section 65583.2, subdivisions (h) and (i).. The program must commit to rezone to the following standards:

- accommodate a minimum of 16 units per site;
  - require a minimum density of 20 units per acre; and
  - at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
    - allow 100 percent residential use, and
    - require residential use occupy 50 percent of the total floor area of a mixed-use project.
  - permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower income households. By-right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.
3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding(s) B5, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

Action H-1.4 (Reasonable Accommodation). The element states that the conditions of approval and process for requesting a reasonable accommodation procedure are considered a constraint to persons with disabilities; however the program only commits to review the conditions of approval and revise where appropriate. The action must specifically commit to revising the ordinance to remove subjective decision-making criteria and ensure the City's accommodation are in compliance with fair housing laws.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

#### **D. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

While the element includes a general summary of the public participation process, it should also summarize how comments were considered and incorporated into the element. In addition, HCD understands the City made the element available to the public concurrent with its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including revising the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.