

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

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August 17, 2021

Patrick Prescott
Community Development Director
City of Burbank
150 N. Third St.
Burbank, CA 91502

Dear Patrick Prescott:

RE: Review of the City of Burbank's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Burbank's (City) draft housing element received for review on June 18, 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. Our review was facilitated by a telephone conversation on August 10, 2021 with Assistant Community Development Director Federico Ramirez, Deputy City Planner Scott Plambaeck, Senior Planner Lisa Frank, and the City's consultant Karen Warner and team. In addition, HCD considered comments from Abundant Housing LA and Josh Albrektson pursuant to Government Code section 65585, subdivision (c).

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 revisions needed to comply with State Housing Element Law.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

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.

Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. 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 for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

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 and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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 meets housing element requirements for these and other funding sources.

HCD appreciates the cooperation and dedication the City planning staff, and Karen Warner provided during the course of our review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Divya Ram, of our staff, at Divya.Ram@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" and last name "West" clearly distinguishable.

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF BURBANK

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).)

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 (AFFH) 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))*

Integration and Segregation: The element includes limited local and regional data on integration and segregation of race, and no local and regional data on disability, familial status, and income. For example, while the element includes data on race, it does not include data and analysis on disability, familial status, and income. The element needs to include complete local and regional data on integration and segregation for the City and analyze it for both local and regional trends and patterns.

Racial/Ethnic Concentrated Areas of Poverty (R/ECAP): The element includes some data on R/ECAP but no data or analysis areas of affluence. The element needs to be revised to include local and regional data on areas of affluence and analyze this data for trends and patterns. The element should also provide an updated map and analysis on racial and ethnic distribution and poverty (page B-9).

Access to Opportunity: The element includes limited local data on access to opportunity of education, economic, transportation, and environment, and no regional

data on access to any of these opportunity areas. However, a complete analysis should include an analysis of disparities in relation to education, economic opportunity, transportation, and environmental factors at the regional level.

Disproportionate Housing Needs including Displacement Risks: The element includes some local and regional data on cost-burdened households, overcrowding, and substandard housing, homelessness, and limited discussion on displacement issues but does not include regional analysis on substandard housing and homelessness. The element should include a complete regional data for substandard housing and homelessness and analyze the data for trends and patterns. The element should also contain a more complete discussion and analysis of displacement risks. Please refer to page 40 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidancev>) for specific factors that should be considered when analyzing disproportionate housing needs and displacement risks.

Sites: The element includes a map of the site inventory and states that the proposed sites to meet lower-income regional housing needs allocation (RHNA) are geographically distributed which results in these sites AFFH (page C-2). However, the accompanying analysis shall also be reflective of housing development at all income-levels and evaluate the sites relative to socio-economic patterns. The site inventory analysis should address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group and should be supported by local data and knowledge.

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Actions must also:

- Address significant disparities in housing needs and in access to opportunity.
- Replace segregated living patterns with truly integrated and balanced living patterns.
- Transform racially and ethnically concentrated areas of poverty into areas of opportunity; and
- Foster and maintain compliance with civil rights and fair housing laws.

Currently, the element identifies several programs to address fair housing issues. However, to facilitate meaningful change and address AFFH requirements, the element will need to add or revise/expand programs to demonstrate how it addresses fair housing issues.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

While the element quantifies existing and projected extremely low-income (ELI) households, it must also analyze their housing needs. The analysis of ELI housing needs could consider tenure and rates of overcrowding and overpayment. To assist the analysis, see the enclosed data and sample analysis at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

3. *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).)*

The element identifies the age of the housing stock (page 1-28). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. 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 non-profit housing developers or organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

4. *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 RHNA of 8,772 housing units, of which 3,971 are for lower-income households. To address this need, the element relies on pending and entitled residential projects, specific plans, and accessory dwelling units (ADUs). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: The element indicates (page 1-68) that 116 units affordable to very low-income households and 27 units affordable to low-income household have been built or are under construction or approved, but the element provides no information documenting how affordability of the units was determined. As you know, the City's RHNA may be reduced by the number of new units built since June 30, 2021; however, the element must describe the City's methodology for assigning these units to the various income groups based on actual sales price or rent level of the units and demonstrate their availability in the planning period. (Gov. Code, § 65583.1, subd. (d).) For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/projected-housing-needs.shtml>.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, 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. The element also needs to analyze the likelihood that the identified units will be developed as noted in the

inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#zoning>.

Small Sites: The site inventory identifies small sites to accommodate the City's lower-income RHNA. Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. The element should provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation, such as common ownership. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

Suitability of Nonvacant Sites and Candidate Sites for Rezoning: The element identifies a large portion of its RHNA at all income levels on nonvacant sites including sites that will be rezoned to address the 6th cycle shortfall (page 1-66). The analysis mentioned a list of factors that were considered to determine development potential including age of structures and degree of underutilization. However, the element must include a complete analysis demonstrating the potential for redevelopment of nonvacant sites including the extent to which existing uses may constitute an impediment to additional residential development. The element could include the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

In addition, the element should clearly identify the degree of reliance on nonvacant sites to accommodate the housing need for lower-income households. Please be aware that relying on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households triggers requirements to make findings based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period.

Specific Plans: The housing element relies upon specific plan areas, including the Golden State Specific Plan (GSSP) to accommodate 6,153 units of the City's RHNA including for lower-income households (pages 1-46 and 1-66). While the housing element indicates the GSSP's residential capacity and estimates the number of units by income group, the element should also describe factors that will lead to residential development of these specific plan areas. For example the element should describe required development standards, whether 100-percent residential

development is allowed, necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.), and development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period.

Accessory Dwelling Units (ADUs): The element assumes an ADU buildout of 200 ADUs per year for a potential buildout of 1,600 units within the planning period. Given that the City has permitted 54 ADUs in 2018, 110 in 2019, 97 in 2020, and 179 in the first 6 months of 2021 (for an average of 98 units per year), it is not clear if a production level of 200 ADUs per year will be achievable over the planning period. As a result, the element should be updated to include a realistic estimate of potential ADU production. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Infrastructure: While the element identifies sufficient existing or planned water and sewer, it does not include availability and access to dry utilities. The element must add availability and access to dry utilities to accommodate the City's regional housing needs for the planning period. (Gov. Code, § 65583.2, subd. (b).) For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

5. *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).)*

Local Ordinances: The City's Growth Management Ordinance includes information on its purpose and analysis on constraints (page 1-49). However, the analysis should include the current number of units vs. units built out considering the RHNA.

Furthermore, the element notes “the maximum allowed number of residential units beyond the approved maximum build out in the 1988 Land Use Element without voter approval” and that City Council extended Measure 1 to January 1, 2030. The Housing Crisis Act of 2019 (SB 330, 2019) was signed by Governor Newsom on October 9, 2019 and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, § 66300) generally prohibits a locality from enacting a development policy, standard or condition that reduces intensity, imposes moratoriums, enforces subjective design standards, or implements any provision that limits approvals or caps population. These provisions remain in effect until January 1, 2025. Specifically, Government Code section 66300, subdivision (b)(1)(D), with limited exception not applicable here, does not allow affected jurisdictions to adopt new or enforce existing limits on the number of land-use approvals or permits. The City should evaluate consistency with these requirements and if necessary, immediately void or suspend the annual growth cap.

Fees and Exaction: The element must describe all required fees for single family and multifamily housing development, including impact, water, sewer hookup fees, school, and other regional fees, and then, the element must analyze their impacts as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing. For additional information and a sample analysis and tables, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml>.

Local Processing and Permit Procedures: The element states that a community meeting is required for multifamily projects (page 1-58). The element should describe and analyze how this meeting relates to the approval of the project, if the community meeting is required for both discretionary and non-discretionary projects, and any impacts to the project in terms of cost and approval certainty. In addition, the element should describe the City’s SB 35 (Chapter 366, Statutes of 2017) streamline ministerial approval process and application.

Zoning, Development Standards and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards and fees for each parcel on the jurisdiction’s website.

Low Barrier Navigation Centers and Permanent Supportive Housing: Low barrier navigation centers and permanent supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code sections 65651 and 65662. The element must demonstrate compliance with this requirement and include programs as appropriate.

Constraints on Housing for Persons with Disabilities: The element states the City utilizes an adopted reasonable accommodation (RA) policy (page 1-54). The analysis must include a list of the required approval findings for RA requests. Additionally, the element states that community care facilitates serving seven or more persons is subject to a conditional use permit (page 1-50). The element should evaluate approval requirements for impacts on objectivity and approval certainty. For example, excluding this housing from residential zones, excluding community care facilitates from the

definition of family (page 1-55), or imposing standards such as compatibility with surrounding uses without clarity would be considered a constraint. The element must include programs as appropriate to address identified constraints based on the outcomes of this analysis.

6. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element states Media Village/Silverwinds has affordability in perpetuity (Page 1-37, Table 25); however, according to our resources at Community Housing Partnership (CHP), it is set to expire in 2029. The element must update or confirm this information. If units are identified as at-risk within a 10-year period, the analysis of at-risk units must include the following (Gov. Code, § 65583, subd. (a)(9).):

- Earliest date of change from low-income use; and
- Estimated total cost for producing, replacing, and preserving the units at risk.
- Identification of public and private non-profit corporations known to the City/County to have the legal and managerial capacity to acquire and manage at-risk units.
- Identification and consideration of use of federal, state, local financing and subsidy programs.
- Specific and proactive program actions to preserve the at-risk units.

C. Housing Programs

1. *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 the Finding B4, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning has not been established. Based on the results of a complete sites inventory and analysis, programs may need to be added, or revised, to address a shortfall of sites and zoning for a variety of housing types.

Sites Identified in Multiple Planning Periods: The element must include a program for vacant sites identified in two of more consecutive planning periods' housing elements, or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be

implemented within the first three years of the planning period and commit to zone for the following:

- Sites must meet the density requirements for housing for lower-income households.
- Site must allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households (Gov. Code, § 65583.2, subd. (c).).

Nonvacant Sites Reliance to Accommodate RHNA: As the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, it should include a program(s) to promote residential development of those sites. The program could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites. Examples of incentives include identifying and targeting specific financial resources and reducing appropriate development standards. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/identify-adequate-sites.shtml>.

Lot Consolidation/Small Sites: As the element relies on consolidated small sites to accommodate the RHNA for lower-income households, it should include a program(s) to facilitate lot consolidation and development of housing on small sites. For example, the program could commit to (1) granting density bonuses above state density bonus law (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; and, (5) modifying development standards. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/address-remove-mitigate-constraints.shtml>.

2. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable extremely low-income (ELI) households. The City should also review and incorporate public comments as appropriate. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy (SRO) units, to address the identified housing needs for ELI households. The element states there is need for rentals for large households (page 1-19). The element should add a program to address this identified need. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

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 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.

4. *Promote AFFH 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 analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. For example, Program 3: Preserve and Protect Existing Tenants and Housing, states that implementation will address tenant protection. However, the program should be expanded to describe why and how this program will address inequities through listing specific deliverables, objectives, and metrics. All programs need to be reviewed to incorporate meaningful actions.

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)(8).)

While the element includes a general summary of the public participation process (page 1-5 and Appendix F), it must also describe how public comments were considered and incorporated into the element.