

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

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October 18, 2021

Omar Dadabhoy, Community Development Director
Planning Services
City of Aliso Viejo
12 Journey, Suite 100
Aliso Viejo, CA 92656

Dear Omar Dadabhoy:

RE: City of Aliso Viejo's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Aliso Viejo's (City) draft housing element received for review on August 19, 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 October 7, 2021 with Rose Rivera, Senior Planner, and yourself. In addition, HCD considered comments from the Welcoming Neighbors Home Initiative 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 the revisions needed to comply with State Housing Element Law.

The City's statutory deadline to adopt a housing element was October 15, 2021. 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 this statutory deadline, 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).

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.

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.

HCD appreciates the professionalism and dedication you and senior planner, Rose Rivera provided during 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 Marisa Prasse, of our staff, at Marisa.Prasse@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF ALISO VIEJO

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 review requirement is one of the most important features of the element update. The review of past programs should analyze the City's accomplishments over the previous planning period. This information provides the basis for developing a more effective housing program.

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of this analysis, 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. This information and analysis provides the basis for developing a more effective housing program. Examples of programs that need information and evaluation include, but are not limited, to the following:

Program 2 (Affordable Housing In-Lieu Funds) – Describe and evaluate the recommendations of the in-lieu fund study that were adopted and their appropriateness moving forward.

Program 3 (Homeownership Assistance Programs) – Evaluate how the interest list of potential buyers for 58 affordable, owner-occupied units is created, maintained, and how the list has changed over the planning period.

Program 5 (OCHA Special Needs Groups Rental Assistance Program) – Describe how many referrals were made during the planning period and if the City was able to expand this program during the planning period.

Program 6 (City Grants for Special Needs Groups) – Analyze what percent of the Human & Social Services community assistance budget was allocated to special needs groups in the other years during the planning period besides 2020.

Program 7 (Code Enforcement) – Address if the City was successful in identifying and funneling resources into home rehabilitation.

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). For more information, See HCD's Building Blocks at <https://www.hcd.ca.gov/community-development/building-blocks/getting-started/review-revise.shtml>.

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).)*

General: The element has some basic information and maps on segregation and access to opportunity map scores. However, the element generally does not address most components of this requirement. The element, among other things, must include outreach relevant to affirmatively furthering fair housing (AFFH), a full assessment of fair housing, identification, and prioritization of contributing factors to fair housing issues and goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity, as detailed below. For more information, please visit <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Enforcement and Outreach Capacity: 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 element currently states that the City works with the Fair Housing Foundation to provide fair housing services. The analysis should describe what type of housing services are provided, as well as describe compliance with existing fair housing laws and regulations, analyze any patterns in fair housing complaints (using data such as HUD's FHEO Inquiries by City found on HCD's AFFH Data Viewer) and include a conclusion of summary of issues.

Integration and Segregation: The element includes data on non-white population at the local level; however, it should also evaluate segregation by race/ethnicity, providing detail for each race/ethnicity. In addition, the element should analyze patterns and trends of segregation and integration, include a comparison of the City to the region, and consider other data options. In addition, this section must address trends and patterns locally and regionally within the City for disability, familial status,

and income (local to regional comparison). Finally, the element should include a summary of integration and segregation fair housing issues.

Racially/Ethnically Concentrated Areas of Poverty (R/ECAP): The element states that there aren't any R/ECAPs in the City. In addition, the City should analyze the racial concentrations as it relates to areas of affluence. The combination in the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. 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.

Access to Opportunity: The element includes some general data from the overall indicator of access to opportunity from the TCAC/HCD maps, but it should analyze this data for differences across geographies, trends, other relevant factors and incorporate local data and knowledge. In addition, a complete analysis should include the local and regional disparities of the educational, environmental, and economic scores individually through local, federal, and/or state data.

Disproportionate Housing Needs, Including Displacement: The element does include some information on overcrowded households, substandard housing conditions, homelessness, and cost-burdened households, but it must also analyze the data including evaluating spatial trends, patterns, and other local knowledge, and conclude with a summary of issues. In addition, the element must include an analysis of displacement risk and must still provide data, analysis, and conclusions. One resource for the displacement analysis is the Urban Displacement Project's Gentrification and Displacement maps: <https://www.urbandisplacement.org/los-angeles/los-angeles-gentrification-and-displacement>.

Local Data and Knowledge and Other Relevant Factors: The element does not address this requirement. The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. The element should analyze historical land use and investment practices or other information and demographic trends.

Contributing Factors: The element must list and prioritize contributing factors to fair housing issues. The element is missing this requirement. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Site Inventory: The element does not address the requirement for sites to AFFH. The analysis must address the components of the assessment of fair housing (e.g., segregation & integration, access to opportunity, R/ECAPs, disproportionate housing needs including displacement). In addition, the analysis should address the number of anticipated units by income group and how the sites identified 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: Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions. 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 metrics and milestones as appropriate and should address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. Given the history and nature of development patterns in the City, the element could focus on programs that enhance housing mobility and encourage development of more housing choices and affordable housing throughout the community. Given that most of the City is considered a high and highest resource community, the element should focus on programs that enhance housing mobility and encourage new opportunities throughout the community. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtm>.

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).)*

Extremely Low-income Households (ELI): The element must quantify existing and projected ELI households and analyze their housing needs. The analysis should consider tenure, cost burden, overcrowding and other household characteristics then examine trends and the availability of resources to determine the magnitude of gaps in housing needs. The housing need for projected ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of very low-income households qualify as ELI households. 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. *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: The element identifies the age of the housing stock. However, it must 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/property managers, 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>.

Overpayment by Tenure: While the element identifies the total number of overpaying households, it must quantify and analyze the number of overpaying households by tenure (i.e., renter and owner) and the lower-income households paying more than 30 percent of their income on housing by tenure. For additional information and sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Vacancy Rates and Housing Prices: The element should include a description and analysis of current housing stock characteristics. This information can be used to assist jurisdictions in identifying specific housing needs and tailoring housing programs to fit those needs. The element should identify and analyze the vacancy rates by tenure. In addition, the element must identify and analyze typical housing prices for rental and for-sale units.

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).)*

Parcel Listing: The element must list sites, including candidate sites for rezoning, by parcel number or unique reference, parcel size, zoning, general plan designation, describing existing uses for any nonvacant sites and include a calculation of the realistic capacity of each site. The element should detail the capacity of each site (a range is unacceptable) and identify the affordability of units for each site. A description of existing uses should be sufficiently detailed to facilitate an analysis of the potential for additional development. For additional information and sample sites inventory, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

In addition, Table CP-25 lists the Towers Planning Area, including 7 deed restricted units for very low-income households. The element should clearly describe whether this area is a project or site. If a site, the element should include all the information described above. If a project, the element must demonstrate affordability for the units anticipated to be affordable to low- and moderate-income households.

Map of Sites: The element must include a general map of identified sites. The map and the identified sites should be clearly legible. For additional information, see the sites inventory analysis section of the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

Aggregated Sites: Many sites listed in the sites inventory appear to be comprised of multiple parcels. While the element may aggregate parcels, it must also list each parcel-by-parcel number or unique reference, parcel size, zoning, general plan designation, describe any existing uses for any nonvacant sites, and include a calculation of the realistic capacity of each parcel. For additional information and sample sites inventory, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

Realistic Capacity: The element must include an estimate of the number of units that can be accommodated on each site in the inventory. The estimate may rely on established minimum density standards or include analysis demonstrating how the number of units for each site was determined. (Gov. Code, § 65583.2, subd. (c).) 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 should describe the methodology used for calculating realistic capacity and should provide support for those assumptions. 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>.

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. The estimate may rely on established minimum density standards or include analysis demonstrating how the number of units for each site was determined. (Gov. Code, § 65583.2, subd. (c).) The estimate must also account for land-use controls such as allowing 100 percent nonresidential uses. 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. 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>.

Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, the description provided regarding potential for redevelopment is inadequate. The element must further describe the methodology used to determine the additional development potential within the planning period. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the City's or County'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. (Gov. Code, § 65583.2, subd. (g).)

For additional information and sample analysis, see the Building Blocks at: <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#analysis>.

In addition, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the Regional Housing Needs Allocation (RHNA) for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Large Sites: Sites larger than ten acres 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. One of the sites to accommodate the City's housing need for lower-income household is a large parcel (The Commons at 21 acres). Since most developments utilizing state or federal financial resources include 50 to 150 units, the element must include analysis describing the feasibility of large parcel development of housing affordable to lower-income households. For example, the analysis could describe opportunities for specific-plan development and further subdivision or other methods to facilitate the development of housing affordable to lower-income households on large sites. 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#realistic>.

Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and other dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the City's regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).) The element should describe whether each site already has infrastructure and utility access. 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>.

Environmental Constraints: While the element generally describes a few environmental conditions within the City, it must describe any known environmental constraints or other known conditions within the City that could impact housing development in the planning period. (Gov. Code, § 65583.2, subd. (b).) For example, the element should analyze very high fire hazard severity zone risks and if any sites identified in the site inventory are subject to these environmental constraints. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

Accessory Dwelling Units (ADU): The element estimates an ADU potential for the planning period of 40 units without providing any justification for these estimates. Specifically, in addition to other methods, HCD accepts the use of trends in ADU construction since January 2018 to estimate new production. The City should provide data on the number of ADUs permitted each year in recent years to justify these 40 anticipated ADUs during the planning period. 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.

Electronic Sites Inventory Form: 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> 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.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element should clarify whether shelter are permitted without discretionary action and describe the development standards of the zones that allow emergency shelters by-right, the capacity of these zones to accommodate the identified housing need for emergency shelters, the applicability of any spacing requirements, typical parcel sizes, whether the sites are nonvacant, and the potential capacity for adaptive reuse. In addition, the analysis should provide an analysis of proximity to transportation and services for these sites, hazardous conditions, and any conditions inappropriate for human habitability. Lastly, the element states that the City requires 0.3 parking spaces per bed, however this is not consistent with new emergency shelter parking requirements under AB 139 (Chapter 335, Statutes of 2019). The element must include a program to adjust emergency shelter parking requirements to comply with this requirement.
- *Employee Housing:* The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.) or include programs as appropriate. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36

beds to be permitted in the same manner as other agricultural uses in the same zone.

- *Accessory Dwelling Units (ADUs)*: The element indicates the City modifies its zoning code to ease barriers to the development of ADU's. In addition, after a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. This includes, but is not limited to, lot coverage requirements, bedroom restrictions, deed restrictions, permitting requirements, Junior Accessory Dwelling Unit (JADU) requirements, and owner-occupancy requirements. In addition, ADUs need to be allowed in any residential zone, yet under the current code, they are not allowed in RH & RVH zones. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU and zoning ordinances to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state ADU requirements.

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... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land-use controls impacts as potential constraints on a variety of housing types (e.g., multifamily rental housing, mobilehomes, transitional housing). 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 analysis could also describe past or current efforts to remove identified governmental constraints. Examples include, but are not limited to, whether 100 percent residential developments are allowed in mixed-use areas, CBO overlay requirements, open area and landscaping requirements, and parking standards for studio and one-bedroom apartments (number of spaces and garage requirement). The element should include programs to address or remove the identified constraints. In particular, the element should include a program to revise parking standards to be more in line with standards found on HCD's website:

<https://www.hcd.ca.gov/community-development/building-blocks/constraints/land-use-controls.shtml>.

Fees and Exaction: The element must describe all required fees for single-family and multifamily housing development, including planning fees (e.g., conditional use permits (CUP), rezones, and variances) and analyze their impact as potential constraints on housing supply and affordability. 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>.

Processing and Permit Procedures: While the element describes the permit procedure at a general level, it must describe and analyze the City's permit processing times and approval procedures by zone and housing type (e.g., multifamily rental housing, mobilehomes, housing for agricultural employees, supportive housing). In addition, the element should analyze the approval findings for a Site Development Permit and the criteria for the Director to forward the application to the City Council. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single- and multi-family developments, including type of permit, level of review, approval findings and any discretionary approval procedures. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/processing-permitting-procedures.shtml>.

Inclusionary Requirements: 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. The City could engage the development community to facilitate this analysis. For additional information and sample analysis, see the Building Blocks on HCD's website and HCD's letter regarding inclusionary housing ordinances at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/ab_1505_final.pdf.

Codes and Enforcement: The element must describe the City's building and zoning code enforcement processes and procedures, including any local amendments to the building code, and analyze their impact as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

Streamlined Ministerial Approval Permit Procedures: The element should describe the City's SB 35 (Chapter 366, Statutes of 2017) streamlined ministerial approval procedure and application and include programs if appropriate.

Zoning, Development Standards, and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards, and fees on the City's website and include programs if appropriate.

Constraints on Housing for Persons with Disabilities: The element must include a description and analysis of potential constraints on housing for persons with disabilities, as follows:

- *Reasonable Accommodations:* The element must demonstrate the City has a reasonable accommodation procedure for providing exception in zoning and land use and should describe and evaluate the typical findings for a reasonable accommodation request.

- *Definition of Family*: The element should describe any zoning code definition of a family and analyze as a potential constraint on housing for persons with disabilities.
 - *Residential Care Facilities for Seven or More Persons*: The element is unclear on how and where residential care facilities for seven or more persons are permitted. The element should analyze requirements for these types of housing, and if they do require a CUP or are excluded from residential zones, specifically analyze these constraints for impacts on housing choices, approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.
 - *Residential Care Facilities with Six or Fewer Persons*: The element should provide an analysis of potential constraints associated with the City's definitions of residential care facilities. On page CP-38, the element contains different definitions for 'residential care facilities', 'health facilities', and 'alcohol or drug abuse recovery or treatment facilities that are licensed by the State for up to six persons. However, the state does not license all community care facilities or group homes serving six or fewer persons. The element should describe where these definitions are found in municipal code, provide clarification on these definitions and include a program to address any constraints on housing for persons with disabilities. In addition, residential care facilities should be allowed in any zone where similar types are also allowed, yet Table CP-29 shows that these types of facilities are not permitted in the RH and RVH zones. The element should include a program to revise these standards that relate to residential care and other similar facilities.
6. *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).)*

Land Prices and Cost of Construction: The element must be revised to include analysis of the price of land and cost of construction.

Developed Densities and Permit Times: The element must analyze requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis must address any hinderances on the construction of a locality's share of the regional housing need.

7. *Analyze any special housing needs such as elderly; persons with disabilities,*

including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)

The element includes some general quantification; however, the element should include analysis of households with special housing needs. The analysis should include, but is not limited to, factors such as trends, household income, tenure, housing types, zoning, and available resources. In addition:

- *Persons with Disabilities:* While the element provided information on residents with different types of disabilities, the element must quantify the total number of persons with disabilities and analyze their special housing needs.
- *Farmworkers:* The element indicates there are no farmworkers employed in fulltime farming occupations in Aliso Viejo. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and include programs 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 address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised with specific commitment and definitive implementation timelines include but are not limited to 1 (Adequate Sites for New Housing), 2 (Facilitate the Provision of Affordable Housing), 3 (Homeownership Assistance Programs), and 7 (Code Enforcement).

In addition, programs to be revised with specific commitment and quantifiable outcomes include, but are not limited to, the following:

- *Program 2 (Facilitate the Provision of Affordable Housing) – Provide quantifiable outcome of how many units will be assisted in the 6th cycle.*

- *Program 3 (Homeownership Assistance Programs)* – Commit to how the City will make homeownership programs available.
- *Program 4 (Section 8 Housing Choice Vouchers)* – Provide quantifiable outcomes regarding how much the program will expand voucher usage in the City.
- *Program 5 (OCHA Special Needs Groups Rental Assistance Program)* – Provide quantifiable outcomes regarding how many more households with special needs will be included in the expansion of the program.
- *Program 7 (Code Enforcement)* – Provide quantifiable outcomes, describe how funds typically become available to assist with home rehabilitation and how the City will proactively pursue those funds.
- *Program 9 (Streamlined Residential Permit Processing)* – Provide quantifiable outcomes describing how much the program will reduce permit processing time and how many affordable housing development projects will be assisted.
- *Program 12 (Encourage Energy Conservation)* – Provide quantifiable outcomes describing how many projects will be assisted by this program.

Lastly, as noted in Finding A, the element does not include a complete Review and Revision analysis. Based on the results of a complete Review & Revisions analysis, many of the programs carried over from the 5th Cycle element should be updated with further actions to ensure appropriateness and efficacy of the programs moving forward. Potential programs for revision include but are not limited to Programs 3 (Homeownership Assistance Programs), 4 (Section 8 Housing Choice Vouchers), 5 (OCHA Special Needs Groups Rental Assistance Program), 6 (City Grants for Special Needs Groups), and 7 (Code Enforcement).

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 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.

If the element does not identify adequate sites to accommodate the regional housing need for lower-income households, it must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. (Gov. Code, § 65583.2, subd. (h) and (i).)

The program must commit to:

- 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 CUP, planned unit development permit, or other discretionary review or approval;
- 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.

For additional information, see the Building Blocks' at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/identify-adequate-sites.shtml>.

Accessory Dwelling Units (ADUs): The element assumes 40 ADU and or JADU over the planning period. The element must add a program to monitor ADU production throughout the course of the planning period and commit to 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.

3. *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).)*

ELI and Special Needs Households and Individuals: While the element includes Program 2 (Facilitate the Provision of Affordable Housing), the element must include a program(s) to assist in the development of housing affordable to ELI households. Programs must be revised or added to the element to assist in the development of housing for ELI households. In addition, the element should include specific actions to address the housing needs of special needs households. Program actions could include prioritizing some funding for housing developments affordable to ELI households or households with special needs 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. 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>.

4. *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 Findings B5 and B6, the element requires a complete analysis of potential governmental and nongovernmental 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.

5. *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 to have specific commitment, milestones, and metrics to overcome fair housing issues and to enhance housing mobility strategies, encourage development of new affordable housing in high resource areas, improve place-based strategies, and protect residents from displacement.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element is required to include a program that incentivizes or promotes ADU development for very low-, low-, and moderate-income households. Examples of actions include flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. Other strategies could include targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department. In addition, as described in Finding B4, a program should be added to update the City’s ADU ordinance to comply with state law.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes quantified objectives for construction and conservation, it must also include quantified objectives for rehabilitation by income group.

E. 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, it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts to engage in conversations with low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. While the City made effort to include the public through City Council meetings, moving forward, the City should employ additional methods for public outreach efforts, particularly including lower-income and special needs households, language accessibility at meetings, and providing alternative formats and venues for public input besides City Council meetings. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income and special needs households in future public outreach efforts. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

In addition, based on a follow-up email in response to a question asked during our review call with City staff, HCD understands the City made the element available to the public only one week before its submittal to HCD. By not providing adequate time 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 at least two weeks 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.

F. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

While the element discusses how internal consistency within the general plan was achieved as part of the update of the housing element, it must also describe how consistency with the general plan is maintained. In addition, The City should consider an internal consistency review as part of its annual general plan implementation report required under Government Code section 65400.

G. Housing in the Coastal Zone

Coastal localities shall document the number of low- and moderate-income units converted or demolished, and the number of replacement units provided. (Gov. Code, § 65588, subd. (d).)

If necessary, to determine whether the City's affordable housing stock in the coastal zone is being protected and provided as required by Government Code section 65588, the element must be revised to include the following:

1. The number of new housing units approved for construction within the coastal zone since January 1982;
2. The number of housing units for persons and families of low- and moderate-income required to be provided in new housing developments either within the coastal zone or within three miles;
3. The number of existing residential dwelling units occupied by low- and moderate-income households either within the coastal zone or three miles of the coastal zone that have been authorized to be demolished or converted since January 1982 and
4. The number of residential dwelling units for low- and moderate-income households that have been required for replacement.