

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

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June 7, 2021

Daniel Alcayaga, Planning Manager  
Community Development Department  
City of Apple Valley  
14955 Dale Evans Parkway  
Apple Valley, CA 92307

Dear Daniel Alcayaga:

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

Thank you for submitting the City of Apple Valley's (City) draft housing element received for review on April 8, 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. In addition, HCD considered comments from High Desert Intersections Collaborative 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.

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](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.

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 your hard work and diligent efforts 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, please contact Gerlinde Bernd at [Gerlinde.Bernd@hcd.ca.gov](mailto:Gerlinde.Bernd@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 the last name "West" clearly distinguishable.

Shannan West  
Land Use & Planning Unit Chief

Enclosure

## **APPENDIX CITY OF APPLE VALLEY**

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 (Page 4), 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)).*

The element has some basic information on racial dissimilarity, concentrated areas of poverty and fair housing services. However, the element generally does not address this requirement. The element, among other things, must include outreach, an 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. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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).)*

While the element includes some information on the age of the housing stock, it must also estimate the number of units in need of rehabilitation and replacement. For example, the analysis could use code enforcement activity to calculate a city-wide estimate. For additional information, see the *Building*

*Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>

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).)*

Parcel Listing: The element lists parcels by acreage, general plan and zoning but must also identify the affordability levels of the units on identified sites and should adjust capacity numbers, if necessary, based on a complete analysis of realistic capacity.

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 30 units per acre for Apple Valley), no analysis is 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 allowing up to 20 units per acre to accommodate the housing need of lower-income households. This density is far less than the 30 units per acre standard “deemed appropriate” in statute. For your information, generally, HCD has not accepted densities of 20 units per acre in areas comparable to Apple Valley. The element should adjust the densities deemed appropriate to accommodate the housing needs of lower-income households. 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#zoning>.

Realistic Capacity: The element mentions a density of 17 units per acre is assumed on multifamily sites based on constructed and approved projects but should list the actual projects to support this assumption. This is particularly important given a pending affordable development, as noted on page 65, appears to be at much lower densities (10 units per acre).

Large Sites: The element identifies two sites greater than 10 acres. Sites greater than 10 acres are not eligible absent a demonstration 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 other evidence is provided. If utilizing these sites toward the housing need for lower-income households, the element must include analysis and programs as appropriate.

Sites Identified in Prior Planning Periods: 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, requires rezoning within three years. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period. For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Availability of Infrastructure: The element must demonstrate sufficient existing or planned total water and sewer capacity to accommodate the regional housing need allocation. While the element includes information on water capacity, it must also address sewer capacity sufficient to accommodate the regional housing need allocation.

Affirmatively Furthering Fair Housing: The element must demonstrate the sites inventory affirmatively furthers fair housing. For more information, see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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.

Zoning for a Variety of Housing Types: The element must demonstrate zoning to encourage and facilitate a variety of housing types, as follows:

- *Emergency Shelters:* The element describes the Planned Industrial zone (I-P) permits emergency shelters outright but should still clarify whether shelters are permitted without discretionary action. In addition, the element must evaluate the available acreage for characteristics like parcel size or potential redevelopment or reuse opportunities, proximity to services and describe development standards. The analysis must also address the appropriateness of other uses in the I-P zone for human habitation and whether parking requirements are limited to staff working in the emergency shelters and do not require more parking than other residential or commercial uses in the zone.

The element must include programs as appropriate based on the outcomes of this analysis.

- *Transitional and Supportive Housing*: The element indicates that transitional and supportive housing are subject to a conditional use permit. Transitional 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. The element must demonstrate compliance with this requirement or add or modify a program to amend zoning.
- *Permanent Supportive Housing*: 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 section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.
- *Employee Housing*: The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.). Specifically, 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.

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

Land-Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints. The element mentions there are parking requirements for multifamily uses but should identify the actual standards and analyze them for impacts on the cost and supply of housing, including the ability to achieve maximum densities.

Processing and Permit Procedures: The element identifies approval findings for the Development Plan review; however, it should also analyze those findings for impacts on approval certainty and timing. Findings such as compatibility with surrounding uses, enhancing the visual environment may be a constraint and the element should include specific analysis and programs as appropriate. In addition, multifamily uses in multifamily zones are subject to a conditional use permit. The conditional use permit is an exception process that acts as a constraint on multifamily development. The procedure must be addressed and should be removed, replaced or modified to promote certainty for multifamily development.

Housing for Persons with Disabilities: The element notes group homes for seven or more persons are permitted in all residential zones subject to a conditional use

permit. The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty. Lastly, the element should identify and analyze any definition of family and include a program as appropriate.

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.

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. (Gov. Code, § 65583, subd. (a)(6).)*

Identified Densities and Approval Times: The element did not address these requirements. The element must address requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for housing development and submittal of application for building permits. The analysis must address any hinderances on housing development and programs should be added as appropriate.

### **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 Finding B3, the element does not contain a complete sites inventory and analysis. 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.

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).*

The element must include programs with proactive and specific efforts to assist in the development of housing for households with special needs, persons experiencing homelessness; farmworkers; persons with disabilities, including developmental; and elderly. Efforts should involve proactive and regular outreach to developers of affordable housing and should utilize incentives and financial and other resources.

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 B4, 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 to address and remove or mitigate any identified constraints.

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.

#### **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).)*

The element must include quantified objectives to establish an estimate of housing units by income category, including extremely low-income households, that can be constructed, rehabilitated, and conserved over the planning period.



## **E. General Plan Consistency**

*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)(8).)*

While the element discusses how internal consistency will be maintained throughout the planning period, it must also discuss how internal consistency will be achieved in the update process.

## **F. Public Participation**

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

While the element describes two workshops and direct notices to housing providers, the element should include additional efforts to include a broad spectrum of individuals and representative organizations and consider language access barrier. Also, the City and Department received comments from the High Desert Intersections Collaborative with many meaningful suggestions on how to better address housing needs in Apple Valley. However, many of these suggestions do not appear considered or incorporated. HCD encourages the City to consider these comments and make revisions where appropriate. In addition, HCD understands the City did not make the element available to the public prior to 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 to HCD, 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 the course of 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 making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents were circulated and 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.