

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

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December 8, 2021

Michael Allen, Director
Development Services Department
City of El Segundo
350 Main Street
El Segundo, CA 90245

Dear Michael Allen:

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

Thank you for submitting the City of El Segundo's (City) draft housing element received for review on October 11, 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 conversation on December 6, 2021 with you; Paul Samoras, Principal Planner; your consultants Veronica Tam, Jamie Power and Gena Guisar. In addition, HCD considered comments from Josh Albrekston 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.

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

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

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

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

HCD appreciates the hard work and cooperation of the housing element update team during the review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Shawn Danino, of our staff, at shawn.danino@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF EL SEGUNDO

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. 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).)*

Outreach: Outreach specifically related to affirmatively furthering fair housing (AFFH) is foundational to a complete analysis and formulating appropriate goals and actions to overcome patterns of segregation and foster more inclusive communities. The element should summarize outreach efforts and relate this input to all components of the AFFH analysis and modify or add goals and actions as appropriate. Further, the element mentions a regional analysis of impediments to fair housing choice (AI) which includes outreach but could also tailor and summarize that outreach relative to El Segundo's fair housing issues and formulate appropriate programmatic response.

Enforcement: The element summarizes various laws and court rulings, but it should also discuss the City's compliance with existing fair housing laws as well as any past or current fair housing lawsuits, findings, settlements, judgements, or complaints.

Identified Sites and AFFH: The element provides information regarding the proportion of sites by income group according to various concentrations of socio-economic characteristics. In addition, the element should address the number of units by income group, magnitude of impact on local patterns, any isolation of the RHNA by income group and address the placement of the sites such as concentrations of sites in key areas and corridors.

Local Data and Knowledge: 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.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element should analyze historical land use, zoning, governmental and nongovernmental spending including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Contributing Factors: Some contributing factors do not appear connected to the analysis of fair housing issues. For example, the element identifies substandard housing as an issue and the cost of repairs as a contributing factor to fair housing issues, but it also states only a very small portion of the City's housing stock is in need of rehabilitation (p. 25). The element should re-assess and prioritize contributing factors upon completion of an analysis and make revisions as appropriate.

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

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 (ELI) Households: The element includes some basic information regarding ELI households such as the number of households (p. 15) and projected housing needs (p. 49). However, given the unique and disproportionate needs of ELI households, the element must include analysis to better formulate policies and programs. For example, the element should analyze tenure, cost burden, overcrowding and other household characteristics then examine the availability of resources to determine gaps in housing needs. 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. *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).)*

Sites Inventory: While the element lists sites by various factors (Table 5-4), it must also list sites by anticipated affordability level (i.e., lower, moderate, above moderate).

As noted in the element, several sites have a pending project that is under active consideration with anticipated affordability by the City. Instead of a site based on densities, the element should utilize this pending project toward the RHNA based on the proposed number of units and affordability based on actual or anticipated rents, sales prices or other mechanisms ensuring affordability (e.g., deed restrictions).

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. This is especially important for determining sites that have been utilized in multiple planning periods and are subject to by-right provisions. 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.

Realistic Capacity: The element must include a methodology to calculate the residential capacity on identified sites. If utilizing minimum densities, no analysis is required. The element states minimum densities were utilized (p. 51), however, some calculations appear incorrect, and the element should be revised as appropriate.

Suitability of Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it must further describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may constitute an impediment to additional residential development, 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.

To address this requirement, the element states sites were selected for proximity to opportunities (e.g., schools and parks), mixed-use potential, obsolete uses that have redevelopment potential and consolidation potential. The element also includes general descriptions of existing use, including age of structure. However, first, the element should also discuss market conditions, development trends and past experience with converting existing uses. This discussion should relate to the uses identified in the inventory and may utilize information from the surrounding area. Second, the element should include more discussion of the existing uses and whether the uses are an impediment. For example, in some cases, the element describes a site as older or with open parking. The element could also describe whether the use is operating, marginal, under lease, vacant, under-utilized. Finally, the element should discuss the proposed regulatory framework and planned incentives and how that can encourage additional development on nonvacant sites.

In addition, because the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, it 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.

Small Sites: Sites smaller than half an acre 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. While the element broadly mentions potential for consolidation, it must include analysis to demonstrate the potential for consolidation. For example, the analysis could describe the City's role or track record in facilitating past lot consolidation, common ownership, policies, or incentives offered or proposed to encourage and facilitate lot consolidation or other conditions rendering parcels suitable and ready-for-lot consolidation.

Environmental Constraints: While the element generally describes a few environmental conditions within the City, it must relate those conditions to identified sites and describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period.

Infrastructure: The element generally describes infrastructure but, it must also clarify whether there is sufficient total water capacity (existing and planned) to accommodate the regional housing need or add or modify programs, if necessary.

In addition, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element should discuss compliance with these requirements and if necessary, add or modify programs to establish a written procedure by a date early in the planning period. For additional information and sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Accessory Dwelling Units (ADUs): The element projects 80 ADUs over the planning period based on ADUs permitted since January 2018: 13 in 2018, 13 in 2019 and 8 (as of November) in 2020. However, these figures differ from HCD records: 4 in 2018, 15 in 2019 and none reported in 2020. The City should reconcile these figures and adjust ADU assumptions if necessary.

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 on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to heights and multifamily parking. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Processing and Permit Procedures: While the element includes information about processing times, it should also describe the procedures for a typical single-family and multifamily development. The analysis should address the approval body, the number of public hearings if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate.

Fees and Exaction: While the element lists various planning fees, it must specifically analyze the fees for a conditional use permit and include programs to address identified constraints as appropriate.

Zoning, Development Standards and Fees: The element mentions zoning and development standards are available on the City's website but should also address whether fees are posted on the City's website and add a program to address this requirement, if necessary.

Housing for Persons with Disabilities: The element briefly mentions a reasonable accommodation procedure for providing exception in zoning and land use for persons with disabilities. However, the element should describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities.

B. 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 A3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results

of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

- *Program 5 (Provision of Adequate Sites)*: The Program should be amended to ensure compliance with all of the by-right requirements provided in Government Code section 65583.2, subdivisions (h) & (i), including clarifying by-right to permit multifamily development without discretionary action and residential only or residential performance standard requirements. In addition, the Program should consider a date earlier in the planning period for developing objective design standards to align with rezoning by October 2022.
- *Program 7 (Lot Consolidation)*: The Program currently discusses the potential for an incentive package and commits to develop a strategy by 2024. However, the Program should clearly commit to establish an incentive package, implement a strategy, and implement alternative actions if the Program is not successful by a date certain early in the planning period. The Program should also commit to implement the strategy earlier in the planning period than October 2024 (e.g., within one year).
- *Program 3 (Accessory Dwelling Units)*: The Program should commit to pursue available funding more frequently (e.g., annually) and to specify a time to complete adjustments (e.g., within 6 months) if production and affordability is not occurring as assumed in the element.
- *Sites Identified in Prior Planning Periods*: The element must include a program for vacant sites identified in two or 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 zoning that will meet the density requirements for housing for lower-income households and 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).)
- *Replacement Housing Requirements*: The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

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).)*

Program 4 (Inclusionary Housing and Affordable Housing Strategy): The Program should commit to support applications for funding and proactively and annually reach out to developers of housing affordable to lower income, including ELI and special needs households, as part of facilitating affordable housing development through incentives and technical assistance.

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 A4, the element requires a complete analysis of potential governmental and non-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.

In addition, the element includes Program 7 (Municipal Code Amendments) to amend zoning for group homes for seven or more persons. This Program should specifically commit to allowing these uses in all residential zones and procedures that will promote objectivity and approval certainty (e.g., not a conditional use permit). Also, Program 7 should consider zoning amendments for emergency shelters, supportive housing, and low barrier navigation centers earlier in the planning period (e.g., within one year).

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 A1, the element does not contain programs that satisfy the AFFH requirements for specific and meaningful actions to overcome fair housing issues. Based on a complete analysis, the element must add or revise programs.

C. 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 that can be constructed, rehabilitated, and conserved over the planning period. While the element includes objectives for construction and conservation, the element must also include rehabilitation objectives.

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 City made an effort to include the public through meetings and a survey, moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. In addition, while the element has summarized comments, it must also 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>.