

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

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May 09, 2022

Carlene Saxton, Director
Community Development Department
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

Dear Carlene Saxton:

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

Thank you for submitting the City of Moorpark's (City) draft housing element received for review on February 8, 2022. 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 April 28, 2022, with you, Douglas Spondello, and the City's consultant Mark Hoffman and Jonathan Nettler from PlaceWorks.

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 these and other 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.

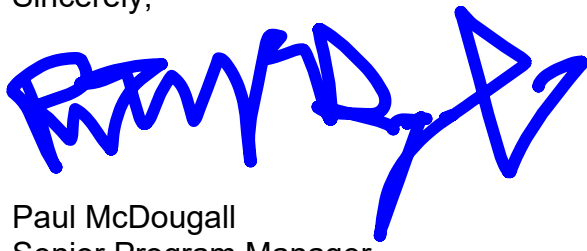
For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at:

<https://www.opr.ca.gov/planning/general-plan/guidelines.html>

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 is 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 Molivann Phlong, of our staff, at Molivann.Phlong@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF MOORPARK

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

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

A. Review and Revision

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

As part of the evaluation of programs in the past cycle, the element must provide a cumulative evaluation of the effectiveness of past 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).)*

Concentration of Fair Housing Issues: The assessment of fair housing (AFH) demonstrated that there is a concentration of several fair housing issues within the LA Avenue Corridor–Downtown and Virginia Colony neighborhood. For example, this area has the highest concentrations of lower-income households, lower economic scores, has predominately older housing stock, has the highest ethnic concentrations, and poverty and is considered a vulnerable community according to the Urban Displacement Project. As a result, the analysis should address trends, past and current policy efforts, and their effectiveness, neighborhood investment or disinvestment, local data and knowledge, and other relevant factors, particularly relative to equitable quality of life, resources, and strategies to address any inequities in quality of life.

Displacement Risk: While the element analyzed disproportionate housing needs, it must include a complete analysis of trends and patterns related to displacement risk.

Please refer to page 40 of the affirmatively furthering fair housing (AFFH) guidebook for specific factors that should be considered when analyzing disproportionate housing needs and displacement risks: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

Site Inventory: The element discusses that most sites to accommodate housing for lower-income households is identified in high resource areas, but it should also address the number of units and impact of those units on existing patterns for all income groups (e.g., lower, moderate, and above-moderate) to evaluate whether sites foster inclusive communities. In addition, this analysis should address the other components of the fair housing assessment (e.g., segregation and integration and disproportionate housing needs, including displacement risk).

Goals, Priorities, Metrics, and Milestones: While the element includes a table of actions, this is generally insufficient. First, several of the actions listed do not include any description or timelines on implementation. For example, the element listed implementing the Downtown Specific Plan as part of place-based strategies for revitalization. However, the element did not include any information on what specific actions will be implemented as part of the specific plan, commitments to those actions, and a timeline for implementation of each action. Second, several actions do not include firm commitments or deliverables. Third, programs and actions must include metrics for targeting meaningful AFFH outcomes. Lastly, goals and actions must be significant and meaningful enough to overcome identified patterns and trends.

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).)*

Projected Extremely Low-Income (ELI) Households: The element includes analysis regarding (ELI) households such as the number of households and overpayment but must also identify projected housing needs. The projected housing need for 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 the regional housing needs allocation (RHNA) for 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).)*

Overpayment: While the element identifies the total number of households overpaying for housing, it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner).

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

The City has a RHNA of 1,289 housing units, of which 610 are for lower-income households. To address this need, the element relies on pipeline projects and accessory dwelling units (ADU). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: The element relies entirely on pipeline projects and ADUs to meet its RHNA. Specifically, the element has identified 2,579 units that are either pending, approved, or under construction. First, to count these units as progress towards RHNA, the element should describe the status of each project. While the element did this for some projects, it did not include information on City Site, Vistas, Canyon Crest, and 4875 Spring Road. Second, the element must demonstrate these units are expected to be constructed during the planning period. To demonstrate the availability of units within the planning period, the element could analyze infrastructure schedules, City's past completion rates on pipeline projects, outreach with project developers, and should describe any expiration dates on entitlements, anticipated timelines for final approvals, and any remaining steps for projects to receive final entitlements. This is particularly important given that several of these projects were identified to accommodate the RHNA during the last planning period but have not yet been constructed. Lastly, given the element's reliance on pipeline projects, the element must include programs with actions that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals, rezoning or identification of additional sites should the applications not be approved).

Accessory Dwelling Units (ADU) Projections: The element projects 124 ADUs over the planning period or approximately 16 ADUs per year over the eight-year planning period. The element also notes permitting 5 ADUs in 2018, 6 in 2019, 19 in 2020, 15 in 2021. However, the City's Annual Progress Reports (APR) records indicate that the City permitted 3 ADUs in 2018, 4 in 2019, and 19 in 2020 equating to an average of eight ADUs per year. The City's past performance on permitting ADUs do not support a two-fold increase. The element should reconcile these figures and adjust assumptions based on a realistic estimate of the potential for ADUs and include strong policies and programs that commit to incentivizing ADUs. The element must also commit to monitor ADU production and affordability throughout the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. If necessary, additional actions should be taken in a timely manner (e.g., within six months). The degree of additional actions should be in stride with the degree of the gap in production and affordability.

Availability of 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).) 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>.

Water and Sewer Priority: 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 must demonstrate 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>.

Electronic Sites Inventory: 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. The electronic sites inventory should also include pipeline projects. 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.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element states emergency shelters are not allowed to be within 500 ft from each other; however, state law only allows a maximum of 300 foot separation. The element should describe compliance with these requirements or include programs as appropriate.
- *Accessory Dwelling Unit (ADU):* After a cursory review of the City's Municipal Code for ADUs, HCD discovered several areas which were not consistent with State ADU law. This includes, but is not limited to, allowing ADUs with multifamily dwellings, owner occupancy requirements for ADUs, setbacks, and allowing JADUs on single-family lots, among others. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. Although the City confirmed that ADUs were approved with standards set in State ADU Law, the element should modify the City's ADU program (Program 15: Accessory Dwelling Units) to update the City's ADU standards 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 requirements surrounding ADU development: https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf.

- *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.
5. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). (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, including but not limited to:

- *Parking* The analysis should address parking requirements for multifamily development, particularly requiring 1.75 parking spaces for smaller bedroom types (e.g., studios and one bedroom). While the element stated that applicants can receive parking waivers, it also acknowledged the process as highly discretionary, requiring a public hearing, written findings through a resolution, and that the process is rarely utilized. The analysis should address impacts on cost, supply, housing choice and affordability and include programs to address identified constraints.
- *Open Space Requirements* – The element must identify and analyze any open space requirements as potential constraints on 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 and describe past or current efforts to remove identified governmental constraints and the element should include programs to address or remove the identified constraints.

Fees and Exaction: The element indicated that the City imposes the same fee costs for both multifamily and single family housing and that fees are 17 percent of the total cost of unit. Fees that are more than 10-15 percent of the total cost of a unit and requiring multifamily housing to incur the same costs of fees as single family may be considered a constraint. The element should analyze this constraint for impacts on the cost and supply for housing and include programs that specifically address and mitigate this constraint. 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>.

Permit and Processing Procedures: The element provides a general description of various permits utilized when approving a variety of housing types including a site plan and architectural review, conditional use permit (CUP), and residential planned development (RPD) permit. The element must analyze these processes and address the approval body, the number of public hearing 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.

Additionally, the element indicated that multifamily housing developments with five or more units is only permitted with a discretionary residential planned development permit or development agreement in the high density (RPD) zone. Furthermore, the City has clarified that absent a development agreement, projects must go through various committees, hearings, and community input to finalize design and development standards. Lastly, the element has indicated that the City does not have clear development and design standards for multifamily project and this is determined through discretionary processes. The element must analyze these processes as a constraint on housing supply and affordability. The analysis should provide clarity and identify approval findings, requirements, and impact on housing development. The element must include a program to address and remove or mitigate the requirements.

Design Review: The element's analysis of the design review process indicated that design standards are determined by a project-by-project basis and approval findings are related to character of neighborhoods. Determining design standards with little to no guidance or clarity for multifamily projects and requiring findings related to character are generally considered a constraint. While the element committed to implementing Senate Bill 35 to develop objective design standards, this process is limited to specific projects. The element must include a program to address and remove or mitigate this constraint.

In addition, the Housing Crisis Act of 2019 (SB 330, 2019) was signed by Governor Newsom on October 9, 2019, and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, § 66300), under specified conditions, suspends the use of subjective design standards. The element should evaluate consistency with these requirements and include actions as appropriate. 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>.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1, subdivision (a)(1).

Constraints on Housing for Persons with Disabilities: The element states that the City does not permit licensed or unlicensed residential care facilities serving seven or more persons. The element must discuss how it allows this housing type and include

programs, as necessary, committing to allowing this use with objectivity and with approval certainty. This is particularly important given that the element acknowledged public comments citing a need for this type of housing to address fair housing issues.

For your information, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. These housing types should not be excluded from residential zones, most notably low-density zones, which can constrain the availability of housing choices for persons with disabilities. Requiring these housing types to obtain a special use or CUP could potentially subject housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses.

The element must also include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. Specifically, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/constraints-for-people-with-disabilities.shtml>.

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 should be revised as follows:

Ongoing Programs: Numerous programs lists implementation timelines as "ongoing". While this may be appropriate for some programs, programs with specific implementation actions must include completion or initiation dates resulting in beneficial impacts within the planning period. For example, Program 23 (Regulatory Assistance), commits to reviewing and revising the City's density bonus ordinance to comply with state law, yet lists the timeline as "ongoing." This and other programs should include a specific date for implementation (e.g., will review and revise ordinance

by December 2023). Another example includes Program 2 (Housing Rehabilitation) commits to applying and allocating funding for housing rehabilitation but should detail the frequency of allocating funding for this program (e.g., will allocate funding annually).

Measurable Outcomes: The element must include measurable outcomes for programs including but limited to Program 2-4, 6-11, 19-22, and 26. For example, Program 3 (Housing Code Compliance) commits to conducting inspections of substandard residencies. This program should specify a quantified outcome for this action (e.g., inspecting 50 residences during the planning period).

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

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

Pipeline Projects: The element relies almost entirely on pipeline projects to accommodate the RHNA. As such, the element should include a program with actions that commit to facilitating development of these projects. For example, actions can include but are not limited to commitments to completing and expediting any required actions to receive entitlements, annual outreach to developers of pipeline projects, support funding applications where needed.

Program 15: Accessory Dwelling Units: The City is relying on ADUs to accommodate a portion of its RHNA. While the program commits to amending the zoning code to allowing ADUs by-right, it must specifically commit to making zoning updates that also comply with state law, as identified in finding B4. Additionally, while the element states it will monitor ADU applications this program should commit to frequent monitoring (i.e., every two years) and take appropriate action such as adjusting assumptions or rezoning within a specified time period (e.g., six months).

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).)*

Program 7: Assist in the Development of Affordable Housing: The element does not include clear descriptions of actions to facilitate compliance with this requirement. For example, while the program states that it will formalize the City's affordable housing assistance program, the element should clarify what that program will entail. Second, the element states that it will develop a priority list to achieve goals of the housing element. The element should indicate what this priority list includes and how it will be implemented.

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, the element requires a complete analysis of potential governmental constraints and based on a complete analysis, the element should add or review programs to remove or mitigate constraints. In addition, the element acknowledges and identifies constraints related to parking requirements, fees, permit and processing procedures, design standards. The element should include specific actions that address and mitigate or remove these constraints.

5. *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 analysis of AFFH. The element must be revised to add 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.

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 that can be constructed, rehabilitated, and conserved over the planning period. While the element includes these objectives by income group for very low-, low-, moderate- and above-moderate income, the element must also include objectives for extremely low-income households.