

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



October 26, 2022

CORRECTED COPY

Carmela Campbell, Director
Economic and Community Development
City of Union City
34009 Alvarado-Niles Road
Union City, CA 94587

Dear Carmela Campbell:

RE: City of Union City's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Union City's (City) draft housing element update received for review on July 28, 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 September 19 and 26, 2022 with you; Francisco Gomez, Housing and Community Development Manager; Coleman Frick, Senior Planner; and your consultants, Chelsey Payne and Heidi Gen Kuong. In addition, HCD considered comments from YIMBY Law, 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.

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 (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation, 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). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c) (1) (A) and Government Code section 65583.2, subdivision (c) are completed.

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 must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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.

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>.

HCD appreciates the hard work and dedication you; Francisco Gomez, Housing and Community Development Manager; Coleman Frick, Senior Planner; and your consultants, Chelsey Payne and Heidi Gen Kuong, provided in preparation of the City's housing element and looks forward to receiving the City's adopted housing element. 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 UNION CITY

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 <https://www.hcd.ca.gov/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/building-blocks> 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).)*

Disproportionate Housing Needs: The element provides some discussion on cost burdened households, overcrowding, substandard housing, and persons experiencing homelessness. However, the element must evaluate trends and patterns within the City, with regards to persons experiencing homelessness. Based on the outcomes of this analysis, the element should add or modify programs as appropriate.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): While the element provides some analysis of the identified sites and socio-economic concentrations, the element must analyze the concentration of lower-income regional housing need allocation (RHNA) in the northeast portion of the City. In addition, the element should analyze the lack of units in higher opportunity or income areas, including, but not limited to, the Civic Center and Westview neighborhoods. Furthermore, the census tracts in the southwest portion of the City, also known as 'the 511 area', labeled high opportunity areas by the Tax Credit and Allocation Committee (Figure 4-19), have only one site included, Turk Island, where an approved project of 33 market rate single-family homes, and the Lowry neighborhood appears to have no identified sites or opportunity sites. A complete analysis should fully assess how the site inventory is expected to improve and/or exacerbate fair housing conditions, including any isolation of the RHNA. This analysis should address the location, number of units by income group, magnitude of the impact, and could consider topics such housing choice (not limited to the RHNA) in other areas of the City, existing or proposed anti-displacement policies, place-based investments, and how such strategies will improve fair housing conditions when paired with the identified sites. Based on the outcomes of this analysis, the element should add or modify programs as appropriate.

Goals, Priorities, Metrics, Actions & Milestones: While the element provides some metrics and identifies contributing factors to fair housing issues, it does not include

sufficient action to overcome patterns of segregation, foster inclusive communities, and methods for increasing housing opportunity in higher opportunity areas. As a result, programs must be revised as appropriate to sufficiently respond to contributing factors to fair housing issues. The element may, for example, commit to a firm date by which it will establish development standards for smaller housing types, including bungalow courts. In addition, all actions related to must contain specific commitment, timing, geographic targeting and metrics or numerical targets.

The element may, for example, as discussed on the September 19, 2022 call, revise programs to make a specific commitment for establishing development standards for missing middle housing types that are feasible in higher opportunity or income areas. To improve housing opportunities for persons experiencing homelessness or lower-income households employed in the City, the City may, for example, establish an overlay allowing for higher density development on vacant sites in the Decoto neighborhood and the Historic Alvarado District or target investments such as Project Homekey and provide a date by which sites will be identified and by which the City will apply for funding. The City may also, for example, revise Program HE-6.D to make specific commitments to improve pedestrian safety and active mobility as a way to increase disparities in access to opportunity. Additionally, the element should commit to assessing and revising programs through a mid-cycle review. Please see HCD's AFFH memo for more information: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf#page=23.

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).)*

Housing Cost: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge).

Overpayment: The element must quantify and analyze the number of lower-income households overpaying by tenure (i.e., renter and owner).

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).)*

Progress in Meeting the RHNA: The City credits a total of 1,571 units in approved residential projects (Table 3-2), including 202 lower-income units with various approval dates and statuses, ranging from 2017 to summer 2022. For example, the Horner Street Mixed Use site was approved in 2019 and is not expected to start construction until 2024. However, only units that were approved (entitled or permitted) or built between the beginning of the projection period (June 30, 2021) and the due date of the housing element (January 31, 2023) can be credited towards RHNA. Therefore, the City should

clarify the availability or likelihood these projects will be completed in the planning period, including necessary and anticipated steps for completion, phasing, build out horizons, any barriers to development and other factors and adjust projections as needed.

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing (Gov. Code, § 65583.2, subd. (c)(2)(A).). The element identifies several site groupings with potential for consolidation. However, the element must also evaluate whether those sites are suitable to accommodate housing for lower-income households and add or modify programs as appropriate. For example, the element could list past consolidations by the number of parcels, number of owners, zone, number of units, affordability and circumstances leading to consolidation and then relate those trends to the identified sites or could explain the potential for consolidation on a site-by-site basis. Based on the outcomes of the analysis, the element should modify Program HE-1.E, including a specific commitment on what incentives are available to facilitate lot consolidation.

Large Sites: The inventory includes several sites over 10 acres, including one 14.8-acre site with an operating grocery store (Safeway Marketplace Site). While the element clarifies there is interest from the property owner, it should analyze the suitability of these sites to accommodate housing for lower-income households or rescale assumptions. For example, the element should discuss any recent developments of similar size and affordability, opportunities for parceling, phasing or site planning and generally address how housing affordable to lower-income households will occur given typical state funded developments are approximately 50 to 150 units then rescale assumptions if necessary and add or modify programs as appropriate.

Realistic Capacity: The City uses a range of realistic density assumptions, including 85 percent of the maximum allowed density outside the Station District and 40-80 percent of the maximum allowed density outside the Station District Specific Plan. However, the element also references projects approved at 63 percent of maximum allowable density in the Station District, as well as projects at 44 percent of maximum density within the Station District Specific Plan. Therefore, the element should clarify which minimum densities apply to which parcels in the inventory and support residential capacity assumption if necessary. While some examples of recent housing development on underutilized sites are provided (Table 3-5), the element should also analyze the example sites' zoning, sizes, built densities and maximum allowable densities to support residential capacity assumptions. If necessary, the element should adjust residential capacity assumptions.

Suitability of Nonvacant Sites: The element must include analysis demonstrating the potential for additional development on nonvacant sites. While the element mentions underutilized sites were identified based on interest in development, structure/site conditions and development on adjacent sites with similar characteristics, it must

support the validity of these factors in demonstrating the potential for redevelopment. For example, the element currently lists prior uses in recent development activity but could also discuss how the recent trends support the various factors. In addition, the element could consider additional factors such as existing versus allowable floor area and reflect those values in the sites inventory. Finally, the element should account for the extent existing uses impede additional residential development including market demand for the existing use and existing leases or contracts that would perpetuate the existing use or prevent additional residential development.

The housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. As a result, 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)). For your information, absent findings in the resolution as part of adoption 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.

Environmental Constraints: While the element broadly and generally describes environmental constraints were considered (p. C-14), it must also describe any other known environmental or other conditions (e.g., shape, easements, contamination) that could impact housing development on identified sites (e.g., Whipple / Cemex site group) in the planning period.

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/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types:

- *Single Room Occupancy (SRO) Units:* The City describes how SROs “can provide affordable private housing for lower-income individuals” and also “serve as an entry point into the housing market for formerly homeless people” (p. 6-18). However, the City allows SROs in only one zone, RM-1500, and requires a Conditional Use Permit (CUP). The element should demonstrate zoning, development standards, including parking, and permit procedures encourage and facilitate SROs or add or modify programs as appropriate.
- *Accessory Dwelling Units (ADU):* HCD records indicate permitted ADUs of 8 in 2018, 12 in 2019, 7 in 2020, and 23 in 2021, figures that are inconsistent with those in the element submitted. The element should reconcile these numbers, resubmit Annual Progress Reports (APRs) and adjust assumptions as appropriate.

In addition, after a cursory review of the City's ordinance, adopted September 27, 2022, HCD discovered some areas which are inconsistent with State ADU Law. 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 ordinance to comply with state law.

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 parking for small units including SROs; heights in Specific Plan areas; minimum site sizes; public and private open space requirements; lot coverage and limits on allowable densities. The analysis should address any impacts on cost, supply, feasibility, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Processing and Permit Procedures: While the element provides a broad description of the types of permits required for housing developments (p. 6-22 and 6-23), it must describe the City's design review process and analyze the permits' processes, identify what is reviewed, typical findings and approval procedures by zone and housing type.. The analysis must evaluate impacts on housing supply (number of units), costs, timing, feasibility, and approval certainty. In addition, the element should clarify the status of adopting objective design standards, set to be completed in Summer / Fall 2022.

Persons with Disabilities: The element describes the City's reasonable accommodation process and lists its approval findings (pp. 6-19 and 6-20). However, the element should evaluate findings as potential constraints and add or modify programs as appropriate, including findings such as potential impact on surrounding uses.

In addition, the element should analyze how non-licensed group homes are permitted, including subjecting group homes for seven or more persons to a CUP (p. 6-5) in all but one zone where they are allowed, unlike other similar uses. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and add or modify programs as appropriate.

B. 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... (Gov. Code, § 65583, subd. (c).)*

Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. Several programs and actions have timelines that could be moved earlier in the planning period to ensure a beneficial impact. Examples include Programs HE-1.C (Restoration Site), HE-1.D (Marketplace Mixed Use), HE-2.F (Religious Facility Housing Overlay), and HE-2.G (Site in Decoto).

Additionally, programs must have specific commitment to clear outcomes or deliverables. Several programs include actions with no description of how those actions will be implemented (e.g., “support”, “study”, “explore”, “evaluate”, etc.). Programs should be amended, to include specific commitment to a housing related outcome. Examples include Programs HE-1.C (Restoration Site), HE-1.D (Marketplace Mixed Use), HE-1.E (Site Consolidation), HE-1.F (Objective Design Standards), HE-2.B (Affordable Housing Development), HE-2.C (Monitor Publicly-Owned Land), HE-2.F (Religious Facility Housing Overlay), HE-2.G (Site in Decoto) HE-4.B (Housing Choice Voucher Program), HE-5.B (Code Enforcement), HE-6.D (Increase opportunities in Decoto and Historic Alvarado), HE-7.B (Homeless Needs Partnership), and HE-7.E (Safe Parking Program).

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 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, programs targeting development of publicly owned land (Programs HE-1.C, HE-2.C and HE-2.G) should include a schedule of actions for development in the planning period consistent with the assumptions in the sites inventory, including coordination with developers, requests for proposal, facilitating entitlements, incentives, issuing building permits and compliance with the Surplus Land Act.

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 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.

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

As noted in Finding A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. The program to AFFH should go beyond status quo actions, include quantifiable outcomes and concrete actions, and should, as appropriate, address housing mobility, encourage new housing development in higher resource or income areas, improve place-based strategies toward community revitalization, and protect existing residents from displacement.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program HE-3.A (Monitor and Preserve Affordable Units) should commit to comply with all noticing requirements, including at 12 and 6 months, coordinate with qualified entities and assist with funding or support funding applications.

C. Public Participation

Local governments shall make a diligent effort to achieve public participation oof all segments of the community in the development of the Housing Element and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

While the City made efforts to include the public through workshops and surveys, 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. In addition, the City should adjust its "Top Suggested Strategies to Prioritize" to include the top housing issues outlined in the summary, including, but not limited to, lowering housing rental and sales prices. The City could also, for example, conduct targeted stakeholder interviews or establish a committee representative of lower-income households and commuters who work inside the City in future public outreach efforts. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.