

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

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September 7, 2021

Colby Cataldi, Community Development Director
Community Development Department
City of South El Monte
1415 Santa Anita Avenue
South El Monte, CA 91733

Dear Colby Cataldi:

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

Thank you for submitting the City of South El Monte's (City) draft housing element received for review on July 9, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on August 31, 2021 with consultants Elizabeth Dickson and Erika Van Sickel.

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.

Government Code section 65588, subdivision (e)(4), requires a jurisdiction that failed to adopt its housing element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. South El Monte did not meet the requirements of Government Code section 65588, subdivision (e)(4), in the 5th cycle (2013 -2021); therefore, it is subject to the four-year revision requirement until the City has adopted at least two consecutive updated revisions by the applicable due dates. Provided the City adopts its housing element on or before October 15, 2021, it will meet the first four-year requirement.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical

Advisories issued by the Governor's Office of Planning and Research at:
http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and
http://opr.ca.gov/docs/Final_6.26.15.pdf.

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

Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. 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.

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 South El Monte in addressing all statutory requirements of Housing Element Law. If you have any questions or need additional technical assistance, please contact Fidel Herrera at fidel.herrera@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" written in a larger, more prominent script than the last name "West".

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF SOUTH EL MONTE

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 (Appendix A: 5th Cycle Review), 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 (AFFH) 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).)*

While the element includes analysis to address patterns and trends at a regional level. The element must also analyze patterns at a regional level and compare conditions at the local level to the rest of the region. This analysis should compare the locality at a county level or even broader regional level such as a Council of Government, where appropriate, for the purposes of promoting more inclusive communities. The sites analysis needs to analyze whether the sites inventory exasperates or improves conditions. In addition, the public participation section of Appendix D is incomplete. This section needs to be revised as appropriate. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>. Additional information is necessary to address the requisite AFFH analysis requirement as follows:

Fair Housing Enforcement and Outreach: The element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. The element, per page 28 of the AFFH Guidance Memo, is missing a statement of compliance with existing fair housing laws. The

element must analyze the data for any patterns or trend by community area or census tract and include additional local knowledge, relevant factors, and a conclusion of summary of issues.

Integration and Segregation: The element includes some data on integration and segregation at the local level; however, the comparison of segregation levels at the local level needs a regional analysis/comparison to the region, such as comparison to surrounding municipalities in Los Angeles County. In addition, the element must include a stronger analysis of segregation and integration patterns over time.

Disparities in Access to Opportunity: The housing element must identify and analyze significant disparities in access to opportunity. While the analysis can consider indices of various access to opportunity variables, it must also independently address access to opportunity variables. For example, the analysis should include disparities in access to opportunity based on income status (e.g., high, moderate, low), and must also individually address access to opportunity transportation. The element must also compare patterns and trends to the surrounding region. In addition, an analysis of disparities in access to opportunity must specifically address the housing and community development needs of persons with disabilities. According to the U.S. Census Bureau, over four million Californians have a disability. Health and safety are directly linked to housing, and yet, many people with disabilities face enormous barriers in finding suitable housing to accommodate their needs.

Disproportionate Housing Needs and Displacement Risk: The element does include some data on disproportionate housing needs; however, the element must address both cost burden and severe cost burden. Per page 39 of the AFFH Memo, the City only gives information on the percentage of the population that is cost burdened. The element must also provide an analysis that addresses the overcrowding on both owners and renters. Page 39 of the AFFH Memo only provides a general overview of the overcrowding in the City. In addition, the element must provide a better analysis on substandard housing that incorporates local data and knowledge, such as housing conditions surveys or code enforcement activities. Finally, the element must include an analysis on the disproportionate housing needs of persons experiencing homelessness.

Identification and Prioritization of Contributing Factors: The element must list and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. While the element includes some information on contributing factors, the City should include examples such as community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

The housing element must include an identification and prioritization of significant contributing factors to segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs.

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).)*

While the element quantifies the existing housing needs of extremely low-income (ELI) households, it must still quantify projected ELI 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 very low-income households qualify as ELI households.

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).)*

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.

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).)*

Sites Inventory: The element must list sites by general plan designation. In addition, the element should clarify how many units are currently in the pipeline. Table 2 on page 5 says 22 units; however, Table 3 on page 6 says 34 units.

Nonvacant Sites: While the element describes the methodology for identifying and prioritizing underutilized sites was based on building age, undervalued and site size to accommodate the regional housing need for lower-income households, it provides no description of the potential for redevelopment. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).). The inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. Please be aware that relying on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households triggers requirements to make findings based on

substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period.

Small Sites: The element identifies several sites smaller than a half-acre. 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 were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing. As a result, if utilizing these sites toward the housing need for lower-income households, the element must include analysis and programs as appropriate.

Infrastructure: While the element describes water and sewer infrastructure, it must also demonstrate sufficient existing or planned 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).).

Water and Sewer Priority: For your information, 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.

Mobilehome and Manufactured Housing: The element must demonstrate the City's zoning code allows and permits manufactured housing in the same manner and in the same zone(s) as conventional or stick-built structures are permitted (Gov. Code, § 65852.3). Table 3 on page 5 states single family residences are allowed in the C-R (Mixed-use) zone, but manufactured housing is not. Specifically, manufactured homes should only be subject to the same development standards that a conventional single-family residential dwelling on the same lot would be subject to with the exception of architectural requirements for roof overhang, roofing material, and siding material (Gov. Code § 65852.3, subd. (a)). However, any architectural requirements for roofing and siding material shall not exceed those which would be required of conventional single-family dwellings constructed on the same lot (Gov. Code § 65852.3, subd. (a)).

5. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: The analysis must evaluate the cumulative impacts of land-use controls on the cost and supply of housing, including the ability to achieve maximum

densities. In particular, the element Table 2 page 3 state that the R-3 zones requires 400 square feet of open space in which 50 percent must be for formal outdoor recreational facilities and the design must be approved by the Planning Commission. The element must identify and analyze this impact as potential constraints on the cost, supply, timing, and certainty of housing and should include programs to address or remove the identified constraints.

Parking Requirements: The element must analyze the multifamily parking requirement of two standard spaces per dwelling unit with a garage for its impact as a potential constraint on housing. Program 3 states the City will evaluate residential parking standards; however, this program must be modified to state the City will remove or mitigate the parking constraint.

Processing and Permit Procedures: The element describes approval for multifamily projects; however, it must also analyze the typical timeframe for approval of a multifamily development. In addition, the element on page 15 states multifamily is permitted ministerially, but then on pages 3 and 12, it states that the recreational plan must be approved by the Planning Commission and projects adjacent to single family have to go through a design review. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

Housing for Persons with Disabilities: The element should identify and analyze any definition of family. The element must demonstrate this process is not a constraint, or it must include a program to address and remove the definition. In addition, while the element identifies how community care facilities serving six or fewer persons are permitted, it must describe and analyze how community care facilities serving seven or more persons approved including any approval findings. The element should analyze the process for 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.

Conditional Use Permit (CUP) for Senior Housing: The element indicates all zones require a CUP for the development of senior housing. The element must analyze the CUP process as a potential constraint on housing supply and affordability. The element must demonstrate this process is not a constraint, or it must include a program to address and remove or mitigate the CUP requirement.

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.

Locally Adopted Ordinance: The element must now specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for

housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters (Gov. Code, § 65583, subd. (a)(5).).

6. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. (Gov. Code, § 65583, subd. (a)(6).)*

Identified Densities: The element did not address this requirement. The element must address requests to develop housing at densities below those anticipated in the sites inventory. The analysis must also include an analysis regarding local efforts to address nongovernmental constraints.

7. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Special Housing Needs: While the element quantifies the City's special needs populations, it must also analyze their special housing needs. The element does not include analysis of available resources nor draw any conclusions on housing need that would lead towards programs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (e.g., availability senior housing units, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

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 B4, 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. In addition, the element should be revised as follows:

Lot Consolidation/Small Sites: As the element relies on consolidated small sites to accommodate the Regional Housing Needs Allocation (RHNA) for lower-income households, it should include a program(s) to facilitate lot consolidation and development of housing on small sites. For example, Program 8 of the element could commit to (1) granting density bonuses above state density bonus law (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; and (5) modifying development standards.

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 a program(s) with specific actions and timelines to assist in the development of housing for extremely low-, very low-, low-, and moderate-income households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to lower and moderate-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.

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 B5, 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 AFFH opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. In addition, the element should be revised as follows:

Program to Affirmatively Further Fair Housing: While the element includes Program 14, which describes how the City will promote and ensure compliance with housing discrimination laws, it must also include actions that promote and AFFH opportunities. The element must include strategies and actions to enhance mobility and encourage development of affordable housing in areas of opportunity. For example, the element could include a program committing to implement Government Code section 8899.50, subdivision (b), which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH.

For your information pursuant to Government Code section 8899.50, “Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, AFFH means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all public agency’s activities and programs relating to housing and community development.

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 an eight-year time period. This requirement could be addressed by utilizing a matrix like the one illustrated below:

Income	New Construction	Rehabilitation	Conservation/ Preservation
Extremely Low-			
Very Low-			
Low-			
Moderate-			
Above Moderate-			
TOTAL			

E. 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 includes a general summary of the public participation process (Appendix F), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, solicitation efforts for survey responses, and participation in community workshops, and if translation services were provided. The element should summarize the public comments and describe how they were considered and incorporated into the element.

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. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.