

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

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October 18, 2021

Pete Carmichael, Director
Community Development Department
City of Irvine
1 Civic Center Plaza
Irvine, CA 92606

Dear Pete Carmichael:

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

Thank you for submitting the City of Irvine's (City) draft housing element received for review on August 19, 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 September 27, 2021, with you and your staff, Marika Poynter, Melissa Chao, Justin Equina, Tim Gehrich, Lisa Varon, Kerwin Lau, and consultants Hitta Mosesman and Jordan Perez. In addition, HCD considered comments from YIMBY Law and the Kennedy Commission 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.

The City's statutory deadline to adopt a housing element is October 15, 2021. 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 this statutory deadline, 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).

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.

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. Specifically, 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 how the City solicited, considered, and addressed public comments in the element.

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: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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 of Irvine in addressing all statutory requirements of housing element law and appreciates the efforts of your team in the preparation of your draft element. If you have any questions or need additional technical assistance, please contact Chelsea Lee at Chelsea.Lee@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF IRVINE

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).)

The review requirement is one of the most important features of the element update. The review of past programs should analyze the City's accomplishments over the previous planning period. This information provides the basis for developing a more effective housing program.

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of the evaluation of programs in the past cycle (Table 3-1), the element should provide additional information that expands upon the effectiveness of program activities for Programs 1 (Housing Rehabilitation), 2 (Preservation of At-Risk Units), and 8 (Universal Design).

B. Housing Needs, Resources, and Constraints

1. *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: Although the element indicates the total number of lower-income households who are cost burdened, it must quantify and analyze these households by tenure (renter and owner).

Extremely Low-Income Households (ELI): The element indicates the total number of existing ELI households, but it must also quantify and analyze these households by tenure (renter and owner).

Housing Conditions: The element identifies the age of the housing stock on page 2-15. However, it must also include analysis of the condition of the existing housing stock and

estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.

For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

Housing Costs: The element identifies median home sales prices for existing homes on pages 2-17 to 2-18, but it should also include analysis on rental prices in the City.

2. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

The element includes information in Appendix B on affirmatively furthering fair housing (AFFH). However, additional information is required as follows:

Public Outreach: The element provides a discussion of community outreach conducted on page B-2 but generally does not address AFFH requirements. While AFFH outreach can be conducted with the other portions of the housing element, it must also be specific to AFFH. For example, the outreach could specifically target fair housing organizations or neighborhoods with relatively concentrated poverty for input related to housing and community development needs and access to opportunities such as education and transportation.

Fair Housing Enforcement and Outreach: The element notes the City currently contracts with the Fair Housing Foundation (FHF) for fair housing education and direct client services and provides data on reported housing discrimination cases. However, the element does not clearly describe whether this information is local or regional data for the County of Orange. The analysis should be revised to include most recent local data and analyze the data for any patterns or trends by community area or census tract and include additional local knowledge, relevant factors, and a conclusion of summary of issues. Additionally, the element must also describe compliance with existing fair housing laws and regulations.

Local Data and Knowledge and Other Relevant Factors: The element contains some analysis that addresses this requirement; however, additional information is needed. The City's analysis for each of these areas must also be informed by regional and local data and knowledge from stakeholders within the City. In several areas, either local or regional knowledge for the following areas is missing or insufficient: Fair Housing Enforcement and Capacity, Segregation and Integration, Racially/Ethnicity Concentrated Areas of Poverty (R/ECAPs), Access to Opportunity, and Disproportionate Housing Needs and Displacement Risk. The analysis could incorporate local and regional knowledge through surveys, interviews, etc. from local non-profit organizations, advocacy groups and even the City. In addition, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element

can analyze historical governmental and nongovernmental land use, zoning and investment practices (e.g., infrastructure) or other information and demographic trends.

Sites Inventory: The element includes some general discussion and conclusions on pages B-22 to B-24 that indicates sites for lower-income households are concentrated in areas of the City with moderate to high resource opportunity and that no concentration of sites for lower-income households exist. However, the analysis must also include discussion of all regional housing need allocation (RHNA) categories, including above moderate-income households in relation to areas with a higher proportion of white residents and higher median incomes. In addition, the element should include analysis to support these conclusions, including the number of units per site by income group for each of the AFFH categories relative to the impacts on patterns of disproportionate housing needs (e.g., overpayment, overcrowding, displacement).

Contributing Factors: The element identifies several contributing factors to fair housing issues in the City but should also prioritize them (e.g., low, medium, high).

Goals, Priorities, Metrics, and Milestones: The element addresses some of these requirements but 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 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.

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).)*

The City has a (RHNA) of 23,610 housing units, of which 10,631 are for lower-income households. To address this need, the element relies on vacant residential sites, mixed-use sites, and ADUs. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

RHNA Progress: The element identifies one pending high-density residential project in Planning Area 40 with 175 permitted units indicating they are affordable to lower-income households, but it must also demonstrate how the units are affordable. The element must include an analysis to demonstrate the affordability of these units based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period. (Gov. Code, § 65583.1, subd. (d).)

University Housing: The element credits 4,406 of existing faculty and graduate school housing on the University of California, Irvine campus. Please be aware, pursuant to Government Code 65583.1, subdivision (d), the element can only credit units constructed since the beginning of the projection period (June 30, 2021). HCD researched the issue related to how other university housing was counted in previous planning cycles and reviewed housing elements (4th cycle and 5th cycle housing elements) for the cities and counties of Santa Cruz and Santa Barbara referenced on page 7-14. These elements did not include crediting existing units from the University of California, Santa Cruz and University of California, Santa Barbara. In addition, HCD consulted with the California Department of Finance (DOF). DOF creates the population projections used in the RHNA, which includes both households and group quarters and verified that these units would have been accounted for in the number of existing occupied units used in the development of the RHNA for the Southern California Association of Governments (SCAG).

However, the City can credit family and faculty housing that is proposed to be developed within the planning period. Sites controlled by exempt entities can be credited towards the RHNA when documentation is provided that demonstrates the likelihood that the planned housing will be developed within the current RHNA/housing element cycle. Sites located on land controlled by exempt entities are analyzed differently because the jurisdiction may not have control over the planning, permitting, and decision-making processes of land owned by another public entity. While adequate documentation can vary due to differences in planning processes on land controlled by exempt entities, the following examples of documentation demonstrate the likelihood of housing being developed on sites outside the control of a local government:

- Agreement with the entity controlling the land that grants the jurisdiction authority regarding approving, permitting, certifying occupancy, and/or reporting new units to DOF.
- Documentation from the entity controlling the land that demonstrates planned housing has been approved to be built within the current RHNA cycle.
- Data pertaining to the timing of the project construction and unit affordability by household income category.

Please note, while none of the projects identified in the element appear to be exclusively college and university student housing, this type of housing may be considered noninstitutional group quarters and not a housing unit for purposes of meeting the RHNA. Residents typically enter “by the bed” leases (i.e., single-liability leases). Another distinguishing factor is that the unit is not available for rent to non-students. For further information on whether university housing meets the definition of a housing unit, please contact DOF at (916) 323-4086.

Adequate Site Alternative: Table 7-2 indicates the City is crediting the preservation of 823 units affordable to lower income households towards its RHNA. To credit the preservation of these units toward the City’s housing need, the element must demonstrate compliance with all the statutory requirements. (Gov. Code, § 65583.1.) For example, the element must demonstrate the units were determined that the affordability will be maintained for at least 55 years, are located within an assisted housing

development, and will be affordable to very low and low-income households at the time the units were identified for preservation, among other things

For additional information and an Alternative Adequate Sites Checklist, see the Building Blocks at https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/adequate-sites-alternatives/docs/adequate_site_alt_checklist.pdf.

City-Owned Sites: The sites inventory lists certain sites as owned by the City. The housing element must include a description of whether there are any plans and schedule to sell or lease the property during the planning period and how the jurisdiction will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

Suitability of Nonvacant Sites: The element must also analyze the extent to which existing uses may impede additional residential development and include 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. (Gov. Code, § 65583.2, subd. (g)(1).) Specifically, the site inventory contains several sites described as apartments in Tables A and B of Appendix C. Sites with existing uses should include additional analysis on the factors that led to selecting these sites for inclusion in the inventory. Trends related to experience with converting existing uses to higher density residential development or the current market demand should relate to the sites listed in the inventory.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, 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).) 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.

Realistic Capacity: The element indicates on page 7-8 that realistic capacity assumptions were determined to be 70% for vacant and nonvacant sites. However, it must demonstrate how the likelihood of nonresidential development (e.g., commercial) was considered for mixed use and nonresidential zones in the City was factored into realistic capacity assumptions. The estimate must also account for land use controls such as allowing 100 percent nonresidential uses. To demonstrate the likelihood for residential development in nonresidential zones, the element could describe any performance standards mandating a specified portion of residential and any factors increasing the potential for residential development such as incentives for residential use, and residential development trends in the same nonresidential zoning districts.

Large Sites: The element identifies six publicly owned sites that are large parcels greater than ten acres that will be used to accommodate the City's housing need for lower-income households (p. 7-15). Sites larger than 10 acres 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. (Gov. Code, § 65583.2, subd. (c)(2)(A).) For example, a site with a proposed and approved housing development that contains units affordable to lower income households would be an appropriate site to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(C).)

Suitability and Availability of Infrastructure: The element provides a general overview of water and sewer infrastructure on pages 7-20 to 7-21, but it must also clarify sufficient dry utilities capacity to meet the RHNA.

Environmental Constraints: While the element generally describes several environmental conditions within the City (pp. 5-4 to 5-7), it must also describe any known environmental constraints or other conditions on identified sites that could impact housing development in the planning period. For example, the element should specifically address potential development constraints related to marshland on the Irvine Ranch Water District sites. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/communitydevelopment/building-blocks/site-inventory-analysis/analysis-of-sites-andzoning.shtml#environmental>.

Accessory Dwelling Units (ADUs): The element projects 80 ADUs over the planning period or approximately 10 ADUs per year over the eight-year planning period. According to HCD records, one unit was permitted in 2018, 0 were permitted in 2019, and 0 were permitted in 2020. These trends do not support an assumption of 10 ADUs per year. To support assumptions for ADUs in the planning period, the element should reconcile trends with HCD records, adjust assumptions as appropriate and include additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate, including monitoring and addressing the production and affordability of ADUs.

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. HCD recommends including a cover memo describing the City's housing element, including the City's housing needs and regional housing need. 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>.

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

Employee Housing: The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6 or add or modify programs as appropriate. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. For additional information and sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/farmworkers.shtml>.

Emergency Shelters: The element provides information on zoning for emergency shelters but must be revised to ensure parking standards are consistent with AB 139, which only allows parking for staff. The element notes on page 5-43 that current parking requirements for emergency shelters in the City are one space per four beds, plus one space per employee which is inconsistent with state law.

Transitional and Supportive Housing: The element provides some information on pages 5-44 and 5-45 regarding transitional and supportive housing but must demonstrate these housing types are permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone in compliance with Government Code section 65583, subdivision (c)(3).

Accessory Dwelling Units (ADUs): Table 5-11 indicates ADUs are prohibited in the IBC Residential and Multi-Use Zones. However, ADUs must be ministerially approved in all residential and mixed-use zones. In addition, page 5-18 indicates that ADUs with one or more bedrooms requires an additional parking space. These constraints must be addressed, and a program(s) must be included to update the City's Zoning Ordinance to comply with State ADU Law. In addition, per conversations with staff, it is HCD's understanding that the City is defaulting to permit and processing procedures for approval of ADU's. The element must explicitly state how ADU's are currently allowed, including applicable development standards.

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 element indicates on page 5-17 that Districts 5.0 (IBC Mixed Use), 5.1 (IBC Multi-Use), and 5.3 (IBC Residential) are subject to height limits, as determined by the Federal Aviation Administration (FAA). The analysis should address the ability to achieve maximum

densities given these restrictions and include programs as necessary to address identified constraints.

Fees and Exactions: The element must describe all required fees for single family and multifamily housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability. In particular, the City should include additional comparative analysis from similar cities on the cost of its Environmental Impact Report (EIR) fee to examine whether the EIR poses a potential constraint to housing development.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program as necessary to address these requirements.

Processing and Permit Procedures: The element must describe and analyze the design review, guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply, affordability, timing and approval certainty. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

In addition, the element indicates multifamily development in zones intended for permitting multifamily development (Multi-Use, Medium-Density Residential, and Medium-High Density Residential on page 5-42) are subject to a conditional use permit (CUP). The element must analyze the CUP process as a potential constraint on housing supply and affordability. The analysis should identify findings of approval for the CUP and their potential impact on development approval certainty, timing, and cost. 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 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 includes some analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. However, more information is required. Specifically, the element notes the City has established reasonable accommodation procedures in the Building Code (pp. 5-38 to 5-39) but it does not provide a description of the procedure or analysis on whether such procedures present constraints for persons with disabilities. In addition, the element currently details that residential care facilities serving six or fewer persons are permitted in all residential zones. However, residential care facilities serving seven or more persons are conditionally permitted in the Estate Density, Low Density, Medium-High Density, High Density, and Multi-Use zones. The element should analyze the process as a potential

constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

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

The element includes some analysis on pages 5-2 to 5-3 of nongovernmental constraints, including the availability of financing and the length of time between project approval and request for a building permit. However, the element must also address requests to develop housing at densities below those anticipated in the sites inventory. Depending on the outcomes of that analysis, a program(s) must be added that identify local efforts to address nongovernmental constraints that create a gap in the jurisdiction's ability to meet its RHNA by income category.

6. *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).)*

The element indicates on page 2-45 that there are 158 farmworkers employed in the agricultural industry within the City. However, the analysis does not specify whether regional contexts were taken into consideration. Farmworkers from the broader area and those employed seasonally may have housing needs that are not currently reflected in the analysis. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., USDA county-level farmworker data) and include programs as appropriate.

7. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583, subd. (a)(9)(D).)*

The element currently provides a general overview of assisted housing projects at-risk of converting to non-low income uses (Table 4-1). However, the element should include an assessment of risk (e.g., low, moderate, high) for each of the housing developments and identify any at-risk units as a result of termination of local funding or regulatory agreements (e.g., inclusionary agreements, redevelopment funds, or density bonus).

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 have a beneficial impact in the planning period and address the goals of the housing element, the following programs must be modified to include specific and clear commitments (ex. beyond “exploring,” “reviewing,” or “initiating”): Programs C.4 (Plan to Encourage and Incentivize ADUs), D.2 (Continue the Conservation and Monitoring of Existing and Future Affordable Units), G.3 (Zoning Changes), J.1 (Cooperating with Community-Based Organizations), J.2 (Displacement Prevention), L.1 (Update and Implement the City’s General Plan – Land Use Element/Amend Zoning Ordinance), L.2 (Implement the One Irvine Program to Support Placemaking Through its Neighborhood Revitalization Efforts), M.2 (Cooperation with Community Based Organizations) and M.3 (Density Bonus Eligibility).

In addition, the following programs must be revised with discrete timelines: Programs A.3 (Residential Overlays in Nonresidential Areas), B.1 (Assist with Development of Lower-Income Housing), B.3 (Review the City’s Development Standards), B.4 (Provide a Menu of Incentives/Concessions to Developers), C.4 (Plan to Encourage and Incentivize ADUs), D.2 (Continue the Conservation and Monitoring of Existing and Future Affordable Units), G.2 (Adopt Ordinances and Policies that Encourage a Diverse Housing Stock), G.3 (Zoning Changes), G.6 (Irvine Housing Authority), G.7 (Terms of Affordability) J.3 (Legal Assistance for Renters), K.1 (Homeownership Education), K.2 (Residential Rehabilitation Program), L.1 (Update and Implement the City’s General Plan – Land Use Element/ Amend Zoning Ordinance), and L.2 (Implement the One Irvine Program to Support Placemaking Through its Neighborhood Revitalization Efforts).

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 B3, 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:

Replacement Housing Requirements: The sites inventory identifies sites with existing residential uses. Absent a replacement housing program (Gov. Code, § 65583.2, subd. (g)(3)), these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section 65915, subdivision (c)(3). The element must be revised to include a program(s) as necessary.

Adequate Sites Alternate Program: As the element appears to rely on the preservation of housing projects to accommodate a portion of the RHNA for lower-income households pursuant to Government Code section 65583.1, subdivision (c). The element must include a program that commits the City to provide committed assistance through a legally enforceable agreement by the end of the third year of the housing-element planning period. The dollar amount or related in-kind services of the committed assistance must be substantial enough to make the targeted units available for occupancy within two years of the execution date of the agreement. In addition, the program must commit to report the status of the committed assistance program in the annual progress report no later than the fourth year of the planning period. If the City does not enter into an enforceable agreement of committed assistance for all the units initially identified by the end of the third year of the planning period, the local government must adopt an amendment to its housing element, no later than the end of the fourth year of the planning period, identifying additional adequate sites sufficient to accommodate the number of units for which committed assistance was not provided.

Rezone Program for Adequate Sites: The City appears to be relying on sites that require rezoning to accommodate a portion of its housing need for lower-income households. While the element includes Program PP-A.3 (Residential Overlays in Nonresidential Areas), it must specifically commit to rezoning pursuant to all the provisions outlined in Government Code section 65583.2, subdivisions (h) and (i).

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).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable ELI households. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy (SRO) units, to address the identified housing needs for 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>.

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 B4 and B5, 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 to address and remove or mitigate any identified 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 B2 the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. For additional guidance on program requirements to AFFH, please see HCD's guidance at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

6. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

The element identifies 913 units at-risk of converting to market-rate uses in the planning period (page 4-1). The element includes Program D.2 (Continue the Conservation and Monitoring of Existing and Future Affordable Units) to preserve the at-risk units but provides vague program language and commitments. The Program must be revised with clear and specific commitment. For example, the Program should support applications by non-profits for funding to purchase at-risk units, strengthen relationships with the listed non-profits and develop a plan or strategy for quickly moving forward in the case units are noticed to convert to market-rate uses in the planning period, and consider pursuing funding on at least an annual basis. The program should also commit to contacting non-profits immediately to develop a preservation strategy by a date certain and be ready to quickly act when notice of conversion is received and monitoring the units to ensure tenants receive proper notifications, education and support. For additional information and a sample program, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml>.