

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

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January 21, 2022

Travis Randell, Director
Community Development Department
City of San Jacinto
595 S. San Jacinto Ave
San Jacinto, CA 92583

Dear Travis Randell:

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

Thank you for submitting the City of San Jacinto's (City) draft housing element received for review on November 24, 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 January 19, 2022 with yourself, Kevin White, Planning Manager, and consultant Amanda Tropiano.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

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

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

income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets 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: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul McDougall', with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SAN JACINTO

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).)

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of this analysis, the element should describe the actual results of the prior element's programs, compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation. Specifically, the analysis should quantify of results for programs in the last element. For example, this could include the number of households assisted by a program in the last cycle, or the amount of funding distributed by a program.

Additionally, as part of the review of programs in the past cycle, the element must provide an evaluation 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). This should include an analysis of the cumulative impact of the previous housing element's programs to address the housing needs of special needs populations.

B. Housing Needs, Resources, and Constraints

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

While the element includes an Assessment of Fair Housing (AFH), additional information is necessary to address the requisite affirmatively furthering fair housing (AFFH) analysis requirement, including local contributing factors to the fair housing

issues and develop strong programs and strategies to address the identified fair housing issues.as follows:

Enforcement and Outreach: The element provides a brief discussion of community outreach conducted as part of the general plan update in 2019, 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. The element must also describe capacity to provide enforcement and outreach throughout the planning period which can consist of actions such as the ability to investigate complaints, obtain remedies, or engage in fair housing testing. Lastly, the element should address whether there have been any findings, lawsuits, enforcement actions, settlements, or judgments related to housing or Civil Rights in the City.

Local Data and Knowledge: The element should incorporate local data and knowledge of the jurisdiction into the AFFH section. To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Integration and Segregation: The element must provide data on integration and segregation across racial groups, income, disabilities, and familial status. The element must also discuss and analyze this data for trends over time and patterns across census tracts. While the element uses the term “diversity”, it does not describe the racial composition of the City. The analysis of segregation and integration based on income should discuss the concentration of areas where more than 75 percent of households are lower income. The analysis should also discuss the concentration of persons with disabilities west of Highway 79 and whether that is due to access of services. The element should include an analysis of families with children and analyze the concentration of seniors. Additionally, it must evaluate patterns at a regional basis, comparing the City to other jurisdictions in the region.

Disparities in Access to Opportunity: The element provides some qualitative information on the access to opportunity but must include quantitative evidence to support such statements. A complete analysis should include the locally and regional disparities of the educational, environmental, transportation, and economic scores through local, federal, and/or state data. Please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to San Jacinto.

Disproportionate Housing Needs including Displacement Risks: The element includes some local and county data on cost burdened households (overpayment) and overcrowding. However, the element must evaluate trends and patterns within the City for overcrowding and housing condition. In addition, the element must include an analysis on homelessness. Lastly, the element mentions displacement but must still provide data, analysis and conclusions related to investment, disinvestment, and disaster driven displacement.

Sites Inventory: The element must identify sites throughout the community to foster inclusive communities. While the element identifies and show sites and zoning throughout the community, it also notes the plan to accommodate most of the regional housing need for lower income households in areas that are already predominantly lower-income. The element should discuss whether this strategy potentially isolates a significant number of the housing need for lower income households and include actions as appropriate, such as additional zoning for a variety of housing choices. The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g. anti-displacement strategies).

Contributing Factors: While the element identifies contributing factors to fair housing issues, it must prioritize them to better formulate policies and programs and AFFH.

Goals, Priorities, Metrics, and Milestones: While the element provides analysis and identifies contributing factors to fair housing issues in San Jacinto, it does not include sufficient action to overcome patterns of segregation and foster inclusive communities. As a result, programs must be added as appropriate to sufficiently respond to contributing factors to fair housing issues. In addition, all actions related to AFFH must contain metrics and milestones for evaluating progress on programs, actions, and fair housing results. 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).)*

The element identifies the age of the housing stock (p. BR-32). However, it must 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 nonprofit housing developers or organizations.

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 regional housing needs allocation (RHNA) of 3,392 housing units, of which 1,265 are for lower-income households. To address this need, the element relies on vacant sites, including sites within the Mixed-Use areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Map of Sites: The element must include a general map of identified sites.

Sites with Pending General Plan and Zoning Designations: Many sites are listed with *pending* general plan and zoning designations. If sites with the pending designations are necessary to demonstrate sufficient adequate sites, the element must demonstrate the general plan and zoning designations will be amended early in the planning period and comply with the requirements of Government Code section 65583, subdivision (c)(1) and Government Code, section 65583.2, subdivision (h) and (i) for sites to accommodate the lower-income RHNA. Alternatively, the element could demonstrate existing general plan and zoning designations allow residential and mixed-use development at densities sufficient to accommodate the RHNA for each income category.

Previously Identified Nonvacant and Vacant Sites: If nonvacant sites identified in a prior adopted housing element or vacant sites identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless:

1. The site's current zoning is appropriate for the development of housing affordable to lower-income households by either including analysis or meeting the appropriate density and
2. The site is subject to a housing element program that requires rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households.

Realistic Capacity: Appendix A includes both estimates for "total capacity" and "current capacity"; however, the element should clarify the distinction between these two categories and how these calculations relate to the capacity assumptions in the analysis. In addition, while the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element also should

analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development. The element should provide examples of recent developments to support the buildout assumptions at each income level. In addition, the element should describe the affordability assumptions for mixed-use zones.

Availability of Infrastructure: While the element identifies water and sewer infrastructure capacity to accommodate the City regional housing need, it must also demonstrate sufficient existing or planned other dry utilities supply capacity, including the availability and access to distribution facilities, to accommodate the regional housing need. In addition, the element must clarify that the capacity is sufficient to accommodate the RHNA and that there is sewer capacity in all areas of the City.

Environmental Constraints: While the element generally describes a few environmental conditions within the City (p. BR-92), it must describe any known environmental or other constraints within the City that could impact housing development in the planning period.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While housing element law does allow a jurisdiction to limit the number of beds or persons permitted to be served nightly by a facility, standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. The element must analyze the 20-bed limit as a potential constraint for the development of emergency shelters and must amend its emergency shelter parking requirements to be in line with AB 139/Government Code section 65583, subdivision (a)(4)(A)). In addition, the element must list out the standards and requirements for emergency shelters and also describe the characteristics and suitability of the Light Industrial (LI) zone for emergency shelters.
- *Transitional and Supportive Housing:* Transitional housing and supportive housing must be 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. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate compliance with Section 65583(a)(5) or add or revise programs which comply with the statutory requirements.
- *Housing for Farmworkers:* The element does not mention whether the City has any agriculturally zoned land or zones allowing agricultural uses. The element must comply with the Employee Housing Act (Health and Safety Code § 17000 et seq.), specifically, sections 17021.5 and 17021.6. 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. The element must either demonstrate consistency with these requirements or include programs to amend zoning as appropriate.

- *Accessory Dwelling Units (ADU)*: After a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. HCD will provide a complete listing of ADU noncompliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance in order to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.
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 (e.g., multifamily rental housing, mobilehomes, transitional housing). The analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing. The analysis should also describe past or current efforts to remove identified governmental constraints, and the element should include programs to address or remove the identified constraints. The element should analyze the impervious surface and structure coverage requirements as well as the lot size requirements for the RL, RM, RMH, RH, and RVH zones to ensure they are not constraints on housing development in the City. Additionally, the analysis should address parking requirements for impacts on cost, supply, housing choice and affordability and include programs to address identified constraints. In particular, the element should address the enclosed space requirement for multifamily. The element should also address parking requirements for congregate care, community care, and transitional and supportive housing. The element must also address the conditional use permit (CUP) requirement to reduce parking for persons with disabilities as a constraint.

Fees and Exaction: 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. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing. In addition, Table 4-9 (Development Project Processing Fees) lists an application fee and initial deposit for most fees. The element should include a cost estimate for the fees in the table, list both single family and

multifamily costs, and include a total development cost for a typical single family and multifamily projects.

Local Processing and Permit Procedures: While the element provides a general description (pp. BR-70 and 71) of the Conditional Use Permit (CUP), Minor Use Permit (MUP) and site plan review required for housing developments, it must describe and analyze each process, and list typical findings and approval procedures by zone and housing type. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single family and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures. While the element included approval times for single family and multifamily projects, they should be analyzed as a constraint due to the significant difference in approval type for each housing type. The processing times in Table 4-8 (Typical Permit Processing Times and Reviewing Body) were blank and should be included. The element should also clarify who has authority to request public hearings when it states they are required only if requested.

In addition, while the element is heavily reliant on Mixed-Use projects/projects in mixed-use zones to satisfy the City's lower income RHNA, it appears that Mixed-Use projects are only allowed with a use permit. The element should analyze this as a constraint and add programs as necessary to ensure the production of lower-income units to satisfy RHNA requirements.

Design and Site Plan Review: The element must describe and analyze the design review and site plan guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. 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.

On/Off-Site Improvements: The element must identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability.

Building Codes and Enforcement: The element must clarify whether any building code amendments have been adopted by the City.

Housing for Persons with Disabilities: The City's zoning code appears to isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors. Examples include residential care facilities, group homes and sober living homes for six or fewer persons or seven or more persons. First, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. Second, these housing types are excluded

from some residential zones, most notably low-density zones, which can constrain the availability of housing choices for persons with disabilities. Finally, these housing types in many cases are subject to a special use or conditional use permit, potentially subjecting housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses. The element should include specific analysis of these and any other constraints, including their enforcement and considering public comments, for impacts on housing for persons with disabilities and add or modify programs as appropriate. In addition, the element must include the City's definition of family and analyze it as a constraint.

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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Availability of Financing: The element must describe whether private and government assisted financing is generally available in the City.

Approval Time and Requests Lesser Densities: While the element describes requests to develop housing at densities below those identified, it must also analyze the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need and include programs as appropriate.

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).)*

Persons with Developmental Disabilities: While the element provides information regarding the needs of persons with developmental disabilities (p. BR-42), it must also provide the number of persons with developmental disabilities by age group.

Farmworkers: While the element provides some information on the needs of farmworkers within the City (p. BR-47), it should use Agricultural Census data to provide the number of permanent and seasonal agricultural workers.

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(a)(9)(D).).

The element must include locally assisted housing developments in the analysis of units identified at-risk within a ten-year period. During the call, the City identified that San Jacinto Village Apartments has an expiration of use restrictions in 2029. The analysis of “at-risk” units must include the following (Gov. Code, § 65583, subd. (a)(9).):

- Listing of each development by project name and address
- Type of governmental assistance received
- Earliest date of change from low-income use; and
- Total number of elderly and nonelderly units.
- Estimated total cost for producing, replacing and preserving the units at-risk.
- Identification of public and private nonprofit corporations known to the City to have the legal and managerial capacity to acquire and manage at-risk units. Identification and consideration of use of federal, state and local financing and subsidy programs

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subd. (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City’s specific role in implementation; (2) definitive implementation timelines (i.e. month and year); (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

Program 6 (Housing Sites): This Program should be revised to provide a specific date of implementation.

Program 7 (Residential Development Monitoring (No Net Loss)): This Program should be revised to state more clearly how, “annual monitoring” will be conducted. Additionally, it should describe how sites in the inventory are tracked and maintained, and who is assigned to track and maintain the inventory.

Program 10 (Incentives and Assistance to Affordable Housing Developments): This Program should be revised to provide a timeline of when actions will be implemented and include proactive outreach to developers.

Program 11 (Infill Housing Program): This Program should clarify whether infill sites it identified were included in the sites inventory. Additionally, it should state what City properties are available, if the City complies with state law in advertising these sites, and if there will there be proactive outreach to developers.

Program 12 (Pursue State and Federal Funding): This Program should be revised to state whether proactive outreach will be conducted as well as how often the City will apply for funding.

Program 15 (Development Code Amendments- Housing Constraints): This Program should be revised to ensure that the City's development code is also consistent with requirements for by-right permanent supportive housing under AB 2162.

Program 16 (Monitor Changes in Federal and State Housing, Planning, and Zoning Laws): This Program should be revised to include potential zoning updates as needed in order to comply with federal and state law. It must also include more specific timelines for implementation.

Program 17 (Density Bonus Ordinance): This Program should be revised to update the City's density bonus ordinance within one year.

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.

Program 5 (General Plan and Development Code Update): Currently the element identifies a shortfall of adequate sites to accommodate the RHNA within the planning period and include Program 5 to complete General Plan and zoning amendments that

are necessary to provide sites at the densities described in the sites inventory. Program 5 should be revised to provide a clear plan of implementation regarding the development code, and when it is expected to be adopted in relationship to the adoption of the new general plan. As it appears, the element relies on new general plan and zoning to accommodate the housing need for lower-income households, the program should specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i). Specifically the program must commit to:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower income households. By-right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.
 - accommodate a minimum of 16 units per site;
 - require a minimum density of 20 units per acre; and
 - at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
 - allow 100 percent residential use, and
 - require residential use occupy 50 percent of the total floor area of a mixed-use project.
3. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

Program 20 (Housing For Extremely Low Income Persons): The program should be modified to ensure that the City do more than “explore” expedited processing procedures, and lay out a more specific timeline of when actions are expected to be completed. The program should also include proactive outreach to ensure that it is well publicized. In addition, the element must include a program(s) to address the housing needs of special needs populations. For example, programs could include specific programs to address senior housing needs or the needs of persons with disabilities.

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 and 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).)*

Program 18 (Fair Housing Services): This program should be revised to clarify what type of fair housing information will be distributed annually and include more information on the type of outreach that will be conducted as a part of the program.

Program 19 (Affirmatively Furthering Fair Housing Outreach and Coordination Program): This program should be revised to address the following:

- The City should refer complaints to the Department of Fair Employment and Housing (DFEH) not HCD.
 - Include information on how often access to opportunity actions occur.
 - Include specific metrics and milestones for each action to ensure programs are being implemented successfully or can be modified to ensure success in the future.
 - Tie all actions to programs of AFFH priorities housing mobility, place based solution, access to opportunities, and displacement risk.
 - Include a more specific timeline for program actions.
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).)*

Program 2 (Preservation of At-Risk Units) should be revised to provide a clearer plan of implementation regarding how participation will be sought from potentially interested partners and how will City provide education and outreach to tenants. The program should also incorporate outreach to owners or at-risk properties a few years before affordability levels expire in order to comply with state noticing requirements.

7. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

Program 9 (Accessory Dwelling Units (ADU)) should be revised to include a description of how results of outreach will be implemented to encourage ADU production. It should also include how often state law will be monitored and updated, as well as list out incentives that will be offered by the City to encourage ADU production.

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).)

While the element includes these objectives by income group for very low-, low-, moderate- income, the element must also include objectives for above moderate-income households.

E. Public Participation

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

While the element includes a general summary of the public participation process (Appendix B), 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 could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. The element should also describe whether translation services were available. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

HCD understands the City made the element available to the public concurrent with its 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, 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 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.