

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

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October 19, 2023

Larry Appel, Planning Director
Building and Planning Department
City of Guadalupe
908 Obispo Street
Guadalupe, CA 93434

Dear Larry Appel:

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

Thank you for submitting the City of Guadalupe's (City) draft housing element update received for review on July 21, 2023. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. HCD considered comments from Cassidy Welsh and David Kellogg pursuant to Government Code section 65585, subdivision (c).

The draft housing element addresses many statutory requirements; however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). 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 February 15, 2023. 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.

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

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 (February 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication your team provided during the preparation of the City's housing element. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Claire Sullivan, of our staff, at Claire.Sullivan@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF GUADALUPE

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

A. Housing Needs, Resources, and Constraints

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

Local Data and Knowledge, and Other Relevant Factors: The element noted that data was not available to examine patterns of socio-economic characteristics within the City; mainly due to the availability of data or how census tracts relate to City boundaries and neighborhood boundaries. Therefore, the element should rely on local data, knowledge, and other relevant factors to better describe and analyze fair housing conditions (e.g., segregation and integration, access to opportunity and disproportionate housing needs). This could include knowledge from City staff, school officials, transportation planners and other local and regional planning documents, past applications for funding (e.g., disaster recovery), historical investment by areas (e.g., capital improvement program), location of amenities and services, previous community surveys, information on disasters, or other indications of access to opportunity and quality of life.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). 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 promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies).

Contributing Factors to Fair Housing Issues: Based on a complete analysis, the element should re-assess and prioritize contributing factors to fair housing issues.

2. *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).)*

Parcel Listing: The anticipated affordability level of the units must be disaggregated for each site identified in the sites inventory. In addition, the listing must include descriptions of existing uses that provide sufficient detail to facilitate an analysis of the potential for additional development on nonvacant sites. For example, the inventory could describe the uses as offices, structures older than 50 years in poor condition, or vacancies present. Alternatively, the inventory could utilize various data layers with similar information. For more information, see HCD's Housing Element Sites Inventory Guidebook at: https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory and includes some general discussion on its methodology (pp. 38 and 107), 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.

In addition, the element must also analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses (e.g., General Commercial). This analysis should consider the likelihood of 100 percent nonresidential development, performance standards, and development trends supporting residential development.

Sites Identified in Prior Planning Periods: It is unclear to HCD whether sites identified in prior planning periods are being utilized to accommodate the City's housing need for lower-income households. For your information, sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period. For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf.

Suitability of Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households (p. 163), it provides no methodology or description of their potential for redevelopment. The element must

describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).)

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the Regional Housing Needs Allocation (RHNA) for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2)). This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period (Gov. Code, § 65583.2, subd. (g)(2)).

Lastly, it is unclear to HCD whether the element includes sites with existing residential uses. Absent a replacement housing policy, these sites are not adequate sites to accommodate lower-income households. The replacement housing policy has the same requirements as set forth in Government Code section 65915, subdivision (c) (3).

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. While the element included a few examples about developments with lot consolidation (p. 39), it should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

Accessory Dwelling Units (ADUs): ADUs may be counted toward the RHNA based on past permitted units and other factors. The element projects 28 ADUs to be constructed over the planning period, a reasonable assumption. However, the element should include analysis that specifies the projection was based on past ADU annual permit figures. For your information, Annual Progress Reports submitted by the City showed building permit figures of 0, 6, and 12 ADUs for 2019, 2020, and 2021, respectively. In addition, the element must demonstrate the anticipated affordability of ADUs based on actual or anticipated rents or other mechanisms ensuring affordability (e.g., deed restrictions). For example, the element may utilize a rent survey or could utilize information from the Santa Barbara County which examines rents and ADU affordability in the northern county.

Finally, a cursory review of the City's ordinance by HCD discovered areas which appear to be inconsistent with State ADU Law. As a result, the element should add or modify programs to update the City's ADU ordinance in order to comply with state law. HCD's ADU team will provide a complete listing of issues under a separate cover.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element included a general discussion of zoning for emergency shelters but must also identify and analyze any development standards (e.g., spacing, parking, concentration requirements) and other requirements imposed on emergency shelters. In addition, the element must explicitly describe compliance with Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement. For your information, pursuant to Government Code section 65583, subdivision (a)(4)(A), parking requirements should be limited to allowing sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone. Lastly, please be aware, Chapter 654, Statutes of 2022 (AB 2339), adds additional specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.
- *Supportive and Transitional Housing*: The element states that the City permits supportive and transitional housing in all residential zones. Additionally, the element included Table 4-4 listing allowable uses per zoning district (p. 50). However, this table did not reflect whether transitional and supportive housing are allowed in zones that allow for residential uses (e.g., downtown commercial, community commercial, etc.). The element should reconcile this information and specifically clarify whether the City permits these types of housing as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone pursuant to Government Code section 65583 (a)(5).
- *By-right Permanent Supportive Housing*: Permanent supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with these requirements and modify programs as appropriate.
- *Low-Barrier Navigation Centers*: Low-Barrier Navigation Centers shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65660. The element must demonstrate compliance with this requirement and include programs as appropriate.

- *Housing for Agricultural Employees:* The element indicates that the City complies with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. However, it presents contradicting information that suggests employee housing could be included within the definition of dormitories (pg. 52). For your information, 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 demonstrate compliance with these requirements or include programs as appropriate.
 - *Manufactured Housing:* The element indicates that manufactured housing is subject to a Conditional Use Permit (CUP) in the R-3 zone (p. 54). However, manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling would be subject to. The element must add or modify programs to remove this constraint.
3. *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: While the element includes some discussion of land use controls (pp. 47-50 and 54), it must identify and analyze all relevant land use controls, specifically lot coverage and open space requirements for impacts as potential constraints on a variety of housing types. The element should analyze land use controls independently and cumulatively with other land use controls. For example, the analysis should address minimum unit size requirements, heights of 35 feet in the R-2 and R-3 zones, and parking requirements for single-family and multifamily (e.g., guest and covered parking, two spaces for each single-family and multifamily dwelling) as potential constraints on housing. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty, and ability to achieve maximum densities and include programs to address identified constraints.

Local Processing and Permit Procedures: The element should address public comments and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

SB 330: The element should demonstrate how the City complies with SB 330 and add or modify programs if necessary. For example, the element should address actions that

result in lesser intensification pursuant to Government Code section 66300 as well as provisions related to the Housing Accountability and Permit Streamlining Acts.

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

Building Codes: The element provides an overview of the City's building codes but must also describe any local amendments to the building code and analyze their impacts on the cost and supply of housing.

Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures (p. 53). However, the element should specifically describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities. In addition, the element appears to subject group homes for six or fewer persons in the R-2 and R-3 zones to a CUP, unlike other similar uses (p. 50). The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities. Lastly, the element must include an analysis for group homes serving seven or more persons. Depending upon the results of the analysis, the City may need to add or modify programs to remove or mitigate any identified constraints. For more information, please consult HCD's Group Home Technical Advisory Memo at: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

Local Ordinances: The element mentions Ordinance No. 2021-497, the City's short-term rental ordinance. The element must analyze any locally adopted ordinances that directly impacts the cost and supply or residential development (e.g., inclusionary requirements, short term rentals, growth controls).

Zoning, Development Standards, and Fees Transparency: The element must clarify compliance with new transparency requirements for the posting of all zoning, development standards, and fees on the City's website and add a program to address these requirements if necessary.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... 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).)*

Approval Times and Requests for Lesser Densities: The element must include an analysis of requests to develop housing at densities below those identified and the length of time between receiving approval for a housing development and submittal of an application for

building permits. The element should address any hinderances on the development of housing and include programs as appropriate.

5. *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))*

The element identifies the Point Sal Dunes development, with 18 units at-risk, of converting to market-rate uses in the planning period. As such, the element must include an analysis of cost estimates for replacing versus preserving the units and identify qualified entities to assist with maintaining its affordability.

B. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. The element must provide quantified objectives where appropriate and all programs should be evaluated to ensure provision of discrete timing (e.g., month and year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period. For example, Program 3.2 commits the City to strengthening existing housing incentive programs but should specify the suite of actions being implemented or considered for implementation. As another example, Program 4.2 commits the City to adopting a reasonable accommodation procedure but identifies the timeline as “ongoing.”

In addition, the element includes Program 3.1 (Coordination with Specified Entities) and specifies actions to monitor at-risk units. However, the program should be modified to include noticing requirements within three years and six months of the affordability expiration dates, in addition to coordinating with qualified entities such as non-profit organizations and establish specific time parameters around such actions.

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 A2, 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.

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 Findings A3 and A4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

Goals, Priorities, Metrics, and Milestones: As noted in Finding A1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Additionally, actions must have specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in relatively higher opportunity areas, place-based strategies for community revitalization and displacement protection. Currently, the element identifies programs to encourage and promote affordable housing; however, most of these programs are limited to conducting outreach and do not appear to facilitate any meaningful change nor address affirmatively furthering fair housing requirements. Given that most of the City is predominantly lower income and considered a lower resource community, the element could focus on programs that center on place-based strategies for economic and community revitalization and protecting residents from displacement. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

C. 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 quantified objectives, it currently targets no objectives for rehabilitation and conservation or preservation and should be revised accordingly. Conservation objectives may include a variety of strategies employed by the City to promote tenant stability, financial assistance offered to homeowners for repair and maintenance, and the preservation of units at-risk of conversion to market rate uses. As an example, quantified objectives could incorporate numerical targets or anticipated outcomes from Programs 1.5 (Coordination with Specified Entities), 1.6 (Code Enforcement), and 3.2 (Additional Incentives for At-Risk Units).

D. 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 City made an effort to include the public through workshops and surveys; moving forward, the City should employ additional methods for public outreach efforts; particularly including lower-income and special needs households; organizations that represent their interest; and neighborhoods with higher concentrations of lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income and special needs households in future public outreach efforts. In addition, the element should summarize public comments received and describe how they were considered and incorporated into the element.

E. Consistency with General Plan

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

While the element includes a discussion of how consistency with the General Plan was achieved (pp. 4-5), it should also clarify how it will be maintained during the planning period. For example, the element could include a program to conduct an internal consistency review of the General Plan as part of the annual General Plan implementation report required by Government Code section 65400. The annual report can also assist future updates of the housing element. For additional information and a sample program, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/analysis-consistency-general-plan-and-coastal-zone-requirements>.