

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

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



May 11, 2021

Kathleen Flannery, Acting Director  
Planning and Development Services Department  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123

Dear Ms. Kathleen Flannery:

**RE: Review of the County of San Diego 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the County of San Diego draft housing element received for review on March 12, 2021 along with revisions received on April 27 and May 6, 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 April 20, 2021 with Veronica Tam, Camila Easland, Dan Wery, Aaron Barrall, and Tara Lieberman. Pursuant to Government Code section 65585, subdivision (c), HCD must consider third party comments in the preparation of its findings. HCD received comments from the Building Industry Association (BIA) on May 10, 2021. However due to receiving these comments at the end of the review period, HCD was unable to fully examine the information and consider the comments as part of this review. Consequently, HCD will retain the comments for full consideration in the next review of the housing element.

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 revisions needed to comply with State Housing Element Law.

As a reminder, the County's 6<sup>th</sup> cycle housing element was due April 15, 2021. As of today, the County has not completed the housing element process for the 6<sup>th</sup> cycle. The County's 5<sup>th</sup> cycle housing element no longer satisfies statutory requirements. HCD encourages the County to make revisions to the element as described below, adopt, and submit to HCD to regain housing element compliance.

As the County has successfully adopted two consecutive housing elements during the 5th cycle by the applicable due date pursuant to Government Code Section 65588 subdivision (e)(4), the County's 6th cycle housing element is no longer subject to the four-year revision requirement. Please note to continue remain on an eight-year planning cycle the County must adopts its housing element within the 120 calendar

days from the statutory due of April 15, 2021 for San Diego Association of Governments (SANDAG) jurisdictions. If adopted after this date, it will be required to review the element every four years until adopting two consecutive revisions by the statutory deadline.

For more information on housing element adoption requirements, please visit HCD's website at: [http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375\\_final100413.pdf](http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf)

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the County 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 County meets housing element requirements for these and other funding sources.

HCD appreciates the hard work and diligence San Diego County staff, Camila Easland and Tara Lieberman and consultants Veronica Tam, Aaron Barrall, and Dan Wery provided during the course of our review. We are committed to assisting the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Sohab Mehmood, of our staff, at (916) 820-1257.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" and last name "West" clearly distinguishable.

Shannan West  
Land Use & Planning Unit Chief

Enclosure

## APPENDIX COUNTY OF SAN DIEGO

The following changes are necessary to bring the County'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. 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))*

The element includes several different data points and some analysis that are valuable in assessing fair housing issues. However, the element must include a conclusion with a summary of issues from the assessment of fair housing, identify local contributing factors to the fair housing issues and develop strong programs and strategies to address the identified fair housing issues. Specifically, the element must include:

Enforcement and Outreach: While the element includes a summary and trends on fair housing complaints (pg.I-4), it needs to analyze the data for any patterns by community area or census tract and include additional local knowledge, relevant factors, and a conclusion of summary of issues. The analysis also needs to address how the County complies with existing fair housing laws and regulations and fair housing outreach capacity.

Integration and Segregation: The element does include data on integration and segregation trends among different races, disability, familial status, and income. However, it does not analyze the data for patterns throughout different census tracts, complement the data with other relevant factors or local knowledge, and conclude with a summary of issues.

Access to Opportunity: The element includes data on access to opportunities on a variety of areas including education, transportation, and jobs, but it needs to analyze that data for trends, patterns, and local knowledge, and conclude with a summary of issues.

Disproportionate Housing Needs and Displacement Risk: The element does include data on overcrowded households, substandard housing conditions, and cost burdened households, but it must also analyze the data including looking at trends, patterns, and other local knowledge, and conclude with a summary of issues.

Sites Inventory: The element identifies and includes some analysis of the number of units, location, and assumed affordability on identified sites relative to all components of the assessment of fair housing. The analysis also notes that there are several sites and lower income units in low opportunity census tracts. However, the element needs to analyze and conclude whether the identified sites improve or exacerbate each of the fair housing issue areas.

Contributing Factors: The element must list and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The element makes a reference to contributing factors that were identified as part of the Regional Analysis of Impediments; however, contributing factors should be unique to the unincorporated areas of San Diego County based on a complete analysis.

Goals, Actions, Metrics, and Milestone: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies several programs to address affirmatively furthering fair housing. However, most of these programs do not appear to facilitate any meaningful change. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

For example, the element identifies Program 3.6.4.A as strategies to enhance mobility; however, this program lacks specificity on actions, such as how the County will conduct outreach. Program 3.1.1.D was added to allow for new housing choices and affordability in high opportunity areas; however, this program does not include any specific commitments or strategies other than to “continue to explore.” Program 3.1.2.A attempts to develop place-based strategies by establishing planning principles for transit node but does not include any steps or information about potential planning principles and how that constitutes as conserving and revitalizing lower opportunity areas. Several other programs were noted as strategies to address displacement risk and disproportionate housing needs such as, but not limited to, Programs 3.2.5.A, 3.3.1.A, and 3.1.1.I. Many of these programs and more are status quo and lack specific actions. Programs need to be based on identified contributing factors, be significant and meaningful. The element must add and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues.

For further guidance, please visit HCD’s Affirmatively Furthering Fair Housing in California webpage at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

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2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Housing Stock Conditions: The element (Pg. A-49 to Pg. A-50) includes descriptions of the housing stock such as age and the number of units lacking plumbing. However, this analysis must also quantify the number of units that are 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.

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 County has a regional housing need allocation (RHNA) of 6,700 housing units, of which 2,826 units are for lower-income households. To address this need, the element relies on vacant and non-vacant sites, issued building permits from the start of the projection period, ADUs, specific plan areas, and mixed-used zones. To demonstrate the adequacy of these sites and strategies to accommodate the County's RHNA, the element must include complete analyses:

Zoning for Lower-Income Households: The element must identify zoning appropriate to accommodate housing for lower-income households. The element may use zones meeting default densities (i.e., 30 units per acre in San Diego) without analysis or include analysis when utilizing zones that do not meet default densities. The County is using a range of densities to accommodate their lower-income housing needs, specifically 20 and 24 units per acre. While the analysis provided in the element on pages C-10 to C-23 is sufficient to demonstrate that densities at 24 units per acre can accommodate the lower-income housing need, it does not provide sufficient evidence that densities of 20 units per acres provide the financial feasibility needed to support housing affordable to lower-income households. The element notes that a range is needed to make these sites feasible. In addition, pursuant to Government Code section 65585, subdivision (c), HCD consulted with local developers who indicated that densities of 24 to 30 are ideal for development of housing affordable to lower-income households. Therefore, the element should not identify sites where the maximum allowable density is 20 units per acres as appropriate for the lower-income housing need. The element could reassign this capacity to the moderate-income housing need, or the County could expand the density range to 24 units per acre on these sites to continue utilizing those sites to accommodate lower-income housing need.

Suitability of Non-Vacant Sites: The element must include an analysis to demonstrate the potential for redevelopment. The analysis shall consider factors, including but not limited to the extent existing uses constitute an impediment past experience; development trends and market conditions.

While the element includes some recent developments (pg. C-25 to pg. C-30) to demonstrate past experience, it does not explain how those developments relate to zoning, existing uses, densities, and the listed sites in the inventory. To analyze the extent of whether the existing uses constitute as an impediment, the element should include information on whether existing uses are operating, have been operating or are or are not anticipated to continue operating. For example, the sites inventory (Appendix H) contains several sites where the existing use is “light industrial;” however, this gives no indication on whether the existing use is currently operating and whether it will continue operating during the planning period.

Small Sites: Sites larger than ten acres in size or 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 some information, such as six examples about developments with lot consolidation, four of those examples appear to be for market rate development and two include affordable developments (pg. C-20 and pg. C-25). The element must provide specific examples with the densities and affordability and relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the County’s lower-income housing need. Additionally, if the County is committed to facilitating development on smaller sites, the element should include programs, policies or incentives offered or proposed to encourage the use of those sites such as lot consolidation.

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. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Design Review: The element stated that most higher density (above 10.5 du/ac) multi-family developments will be subject to design review, also referred to as the site plan review, among other processes (pg. B-27) and that the County uses design review guidelines. While the design review process was included on page. B-31, the element

must specifically describe and analyze the typical design review findings and design guidelines to determine whether they are objective and clear, 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.

### **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, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the County's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials.

Program 3.1.1.D: Diversity of Land Use Designations and Building Type: Programs must include definitive implementation timelines, where appropriate, to have a beneficial impact in the planning period and specific action steps. Program 3.1.1.D lacks specificity and a discrete timeline. This program should be revised to either include specific actions and commitments with a timeline or be removed from the housing element.

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 findings under A3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the County 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:

**Program 3.1.4.B Accessory Dwelling Unit Construction:** The element notes that the County is counting the construction of ADUs to accommodate a portion of the County's RHNA. This program needs to explicitly commit to modifying ADU assumptions and utilizing other strategies if ADU productions is not keeping pace with the noted assumptions on page C-2.

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

**Local Processing and Permit Procedures:** The element included a list of the different types of permit processes, step-by-step procedures for a proposed development, and any applicable design review requirements (Pg. B-24 to Pg. B-36). It was noted that some applications subject to the California Environmental Quality Act (CEQA) can range from 6-18 months (pg. B-27) and that major site plans, which may be required for most multifamily developments on the identified RHNA sites, could take 1-2 years to receive approvals (pg. B-28). Based on conversations with developers that work in the unincorporated areas of the County and the analysis that was provided, it appears that the County's permit process and procedures is a constraint to development. The element must include a program to remove or mitigate this constraint. This program should include consultation with key stakeholders, including the development community, and could include consideration of revisions to the existing process or implementing new strategies to facilitate more efficient development of housing.

**Program 3.3.2.B: Group Homes for Seven or More:** The element states group homes for seven or more is subject to a major use permit in several residential zones and zones that allow for residential. This constitutes as a barrier to housing for persons with disabilities. This program must explicitly commit to amending the zoning ordinance to remove the major use permit requirement.

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 A1, the element must include a complete analysis of affirmatively furthering fair housing. Based on the outcome of that analysis, the element must add or modify programs. Additionally, programs and actions need to be significant, meaningful, and sufficient to overcome identified patterns of segregation and affirmatively further fair housing.

For your information, some General Plan element updates are triggered by housing element adoption. For example, a jurisdiction must address environmental justice in its General Plan by the adoption of an environmental justice element, or by the integration of environmental justice goals, policies, and objectives into other General Plan elements upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. (Gov. Code, § 65302, subd. (h).) In addition, the safety and conservation elements of the General Plan must include analysis and policies regarding fire and flood hazard management and be revised upon each housing element revision. (Gov. Code, § 65302, subd. (g).) Also, the land-use element must identify and analyze disadvantaged communities (unincorporated island or fringe communities within spheres of influence areas or isolated long-established legacy communities) on, or before, the housing element's adoption due date. (Gov. Code, § 65302.10, subd. (b).) HCD reminds the County to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: [http://opr.ca.gov/docs/OPR\\_Appendix\\_C\\_final.pdf](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).