

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

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August 20, 2021

Craig Hensley, Director
Community Development Department
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

Dear Craig Hensley:

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

Thank you for submitting the City of Duarte's (City) draft housing element received for review on June 21, 2021, along with revisions received on August 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 July 27, 2021 with you, Associate Planner Maia McCurley, and the City's consultants Karen Warner and Lori Parrington.

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.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least 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.

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 and considering and incorporating comments where appropriate.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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

HCD appreciates the hard work, responsiveness, and dedication you, Associate Planner Maia McCurley, and the City's consultants Karen Warner and Lori Parrington provided during our 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 Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" written in a larger, more prominent script than the last name "West".

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF DUARTE

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. Housing Needs, Resources, and Constraints

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

Access to Opportunity and Disproportionate Housing Need: While the element provides data related to overcrowding, it should also address the local patterns and trends within the City. In addition, the element includes a general overview of access to transportation in Duarte and the region but should also provide supporting information and analysis such as job proximity and access to transit within the City.

Goals, Priorities, Metrics, and Milestones: While the element provides additional analysis and identifies contributing factors to fair housing issues in Duarte, 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 timelines. 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. *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).)*

Realistic Capacity: The element must include an analysis to support the number of units estimated on each site in the inventory and the likelihood of residential development in zones allowing nonresidential uses (e.g., Commercial/CGH and Industrial/M-1 zones). Currently, the element assumes full build-out of sites listed for very low and low-income households but must also adequately support or correct this assumption based on factors such as land-use controls, overlay zone

requirements, and other standards and typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction.

In addition, the element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses. While the element mentions the overlay and incentives for residential development, it must still account for the likelihood of nonresidential uses. The element should include analysis based on factors such as development trends, performance standards or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#zoning>.

Suitability of Sites: While the element provides information regarding recent trends and factors utilized to demonstrate the potential for redevelopment on nonvacant sites, it should link the recent trends to the factors utilized for identifying sites. For example, the element provides an improvement-to-land value (ILV) ratio for the sites listed in the inventory but must provide analysis of trends to support assumptions that sites with a high ILV have potential for redevelopment. Further, 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 a few examples about developments with lot consolidation (most of which contained City-owned sites), it must also provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation then link those characteristics to identified sites. In addition:

- *Site 4*: Include additional discussion of the potential for consolidation and potential for redevelopment given a high ILV on one property.
- *Site 6*: This site is over 30 acres. While the inventory discusses interest in affordable senior and other housing, it should include additional discussion on how this site and zoning are appropriate for lower-income households given what appears to be lower densities.
- *Site 8*: The inventory indicates this site has interest in development but then states the site has been marketed but no development has happened. The inventory should reconcile this information. Without interest in development, the inventory should include additional discussion given the high ILVs and number of parcels requiring assemblage.
- *Site 9*: Given the higher ILV, the inventory should include other indicators of redevelopment potential such as existing versus allowable floor area ratio.
- *Site 11*: Include additional discussion to demonstrate the potential for consolidation.
- *Site 12*: This site is occupied by units where affordability terms have recently been extended. The inventory indicates the intention is to add units to the site and not redevelop the existing structure but should include additional discussion to demonstrate the viability of this approach. For example, the

element could describe interest, seek the input of affordable developers, demonstrate under-utilized space and potential site planning.

As noted in the element, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, so 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.

Suitability and Availability of Infrastructure: The element provides an overview of the availability of infrastructure and public services. While this information is useful, the element should clarify sufficient (existing and planned) water and sewer capacity to accommodate the regional housing need.

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

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. 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).)*

Land-Use Controls: The element must identify and analyze all relevant land-use controls impacts as potential constraints on a variety of housing types. The analysis should address parking requirements for multifamily development, particularly studios and one-bedroom units, for impacts on cost, supply, housing choice and affordability and include programs to address identified constraints.

Local Processing and Permit Procedures: The element describes the Site Plan and Design Review process for most development including intent related to

compatibility and findings of approval for impacts on surrounding property. However, the element should analyze these standards for impacts on timing, cost, supply and approval certainty and include programs to address identified constraints.

Codes and Enforcement: The element provides an overview of the building code implementation in Duarte but should also identify any local amendments to the building code and analyze impacts on the cost and supply of housing.

Constraints on Housing for Persons with Disabilities: The element acknowledges that group homes for seven or more persons are subject to a conditional use permit (CUP) requirement and apparently excluded from lower density residential zones. However, the element should analyze this procedure and the exclusion of housing for persons with disabilities as a constraint and include programs as appropriate. Particularly, the element should address approval findings and impacts on certainty and objectivity. Moreover, the element should commit to amend zoning and permit group homes for seven or more persons in the R-1 and R-2 zones. Finally, the element identifies approval findings for granting a reasonable accommodation including a finding related to impacts on surrounding uses – essentially a CUP finding. However, reasonable accommodation should be a unique exception process from a CUP, especially given its importance in addressing barriers to housing for persons with disabilities. The element should include a program to amend the reasonable accommodation ordinance and remove constraints, namely the “potential impact on surrounding uses” approval finding.

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

The element essentially explains (p. 2-12) the housing needs of farmworkers are negligible because Duarte does not have land dedicated for agricultural uses. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and add or modify programs as appropriate.

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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an*

identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines, including for Program 5 (Preserve and Protect Existing Tenants and Housing), Program 11 (Housing Opportunities for Persons Living with Disabilities), Program 12 (Homeless Services Strategy), Program 14 (Homeownership Assistance), Program 18 (Town Center Specific Plan), and Program 21 (Promote Accessory Dwelling Units (ADU)).

In addition, Program 13 (Affordable Housing Development Assistance) should be revised with specific commitment to annually reach out and explore opportunities with developers of affordable housing.

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. In addition:

- *City-owned Sites:* Given some identified sites toward the regional housing need are City-owned, the element should commit to facilitate development on these sites, including actions such as zoning, financing, technical assistance, requests for proposals and other steps and timing related to development.
 - *ADUs:* In addition to annually monitoring production, Program 21 (ADUs) should commit to monitor affordability, and if necessary to address under-production, additional actions should be taken in a timely manner (e.g., within 6 months). Finally, additional incentives or actions should be considered to encourage ADUs.
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, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, as noted in the element, the element does not have a written procedure to comply with streamlining requirements pursuant to Government Code section 65913.4 (SB 35, 2017) and as a result, the element should include a program to establish a procedure early in the planning period.

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

As noted in Finding A1, the element must complete its analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs.

5. *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).)*

As noted in the element, Duarte has assisted housing developments at risk of converting to non-low income uses. As such, the element should include a program to mitigate the potential loss of “at-risk” units. Actions to be considered include ensuring compliance with notification requirements, outreach and coordination with property owners and qualified entities to preserve at-risk units, assistance with funding and commitment to support funding applications and education, outreach and assistance for tenants. For additional information, please see the *Building Blocks* at <https://www.hcd.ca.gov/community-development/building-blocks/program-requirements/preserve-units-at-risk-conversion-market-rate.shtml>.

C. Public Participation

Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort. (Gov. Code, § 65583, subd. (c)(9).)

While the City made considerable effort to include the public through workshops and a survey, moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For

example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

In addition, 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 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.