

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

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August 16, 2021

Belinda Deines, Principal Planner  
Community Development Department  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629

Dear Belinda Deines:

**RE: Review of the City of Dana Point's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element Update**

Thank you for submitting the City of Dana Point's (City) draft housing element received for review on June 17, 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 August 2, 2021. In addition, HCD considered comments from Welcoming Neighbors Home Initiative – Tapestry A Unitarian Universalist Congregation, The Kennedy Commission, the Southwest Regional Council of Carpenters, and Josh Albrektson, pursuant to Government Code section 65585, subdivision (c).

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

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](http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf).

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](mailto: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](mailto:sitesinventory@hcd.ca.gov).

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](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).

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.

HCD appreciates the hard work, professionalism, and dedication you and your consultant Colin Drukker provided during the course of our review. 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 Marisa Prasse, of our staff, at [Marisa.Prasse@hcd.ca.gov](mailto:Marisa.Prasse@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" and last name "West" clearly distinguishable.

Shannan West  
Land Use & Planning Unit Chief

Enclosure

## APPENDIX CITY OF DANA POINT

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

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

### **A. Review and Revision**

*Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)*

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

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of 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. This information and analysis provide the basis for developing a more effective housing program. The element should be revised in general to provide more detail on the analysis of past success of programs and suitability of programs going forward. Examples of programs that need additional detail include, but are not limited to the following:

2.1 (Mortgage Credit Certificates), 2.2 (Mortgage Assistance Program), and 2.3 (CalHome First-Time Homebuyer Assistance) – Describe how many households were assisted by these programs.

3.1 (Parking Standards Study) – Describe why parking reductions for affordable and special needs housing projects are to be determined on a case-by-case basis after having gone through the Parking Standards Study process. Provide more information on the recommendations of the parking study as they relate to housing.

4.1 (Owner Rehabilitation) and 4.2 (Rental Rehabilitation) – Describe why these programs did not occur and provide more information on the suitability of these programs moving

forward, including any relevant information regarding the city's application and use of CDBG funds.

5.1 (Fair Housing Services) and 5.2 (Senior Home Assessments) – Provide more information on the number of people who were referred to each program during the planning period.

5.4 (Housing for Persons with Disabilities, including persons with Developmental Disabilities) – Provide more information on why this program failed to result in ten housing units.

6.3 (Section 8 Rental Assistance) – Describe how the City encourages property owners to participate in the Section 8 Housing Choice Vouchers program. Provide information on the number of extremely low and very low-income households that were referred to the Orange County Housing Authority during the planning period, and how the number of housing choice vouchers in Dana Point changed over the planning period (if data is available).

## **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))*

The element includes some data and information regarding affirmatively furthering fair housing but must still add data, local knowledge, analysis, and other relevant factors to address this statutory requirement, as follows:

Integration and Segregation: The element includes some data on integration and segregation at the regional and local level; however, the comparison of segregation levels at the regional and local level must explain the data shown, supplement with local knowledge and history, and draw conclusions about patterns and trends. In addition, the analysis should include patterns and trends by race and ethnicity, not just an index of diversity. The element must also conclude with a summary of issues.

Racial/Ethnic Concentrated Areas of Poverty (R/ECAP): The element includes information relative to R/ECAP, but the analysis should also analyze the racial concentrations as they relate to areas of affluence, locally and regionally, if the City does not have areas of concentrated poverty. The combination in the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. The analysis should evaluate the patterns and changes over time and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Access to Opportunity: The element provides quantitative data on access to opportunity, but a complete analysis should analyze spatial trends, particularly at the regional level, and conclude with a summary of issues. In addition, the element must

add an analysis of disparities in access to opportunity as they relate to environmental factors.

Disproportionate Housing Needs, Including Displacement: The element does include some data on overcrowded households, substandard housing conditions, displacement, and cost burdened households, but it must also analyze the data including looking at local and regional spatial trends, patterns, and other local knowledge. In addition, the element should include an analysis of homelessness spatial patterns and trends, locally and regionally, and conclude with a summary of issues.

Site Inventory: The element includes a map of the site inventory and states that the proposed sites to meet lower-income regional housing needs allocation (RHNA) are concentrated in the town center area and near amenities. However, the accompanying analysis shall also be reflective of housing development at all income-levels and evaluate the sites relative to socio-economic patterns. The site inventory analysis should address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group and should be supported by local data and knowledge.

Contributing Factors: The element must list and prioritize contributing factors to fair housing issues. While the element includes a list of prioritized contributing factors, they must be tailored to local conditions in Dana Point and address the most significant impediments to fair housing choice. 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 analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies programs to encourage and promote affordable housing; however, most of these programs do not appear to facilitate any meaningful change nor address affirmatively furthering fair housing requirements. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

Given that most of the City is considered a high-income community, the element could focus on programs that enhance housing mobility and encourage development of more housing choices and affordable housing in an inclusive manner. Programs also 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.

Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

While the element quantifies existing and projected extremely low-income (ELI) households, it must also analyze their housing needs. The analysis of ELI housing needs should consider tenure and rates of overcrowding and overpayment. To assist the analysis, see the enclosed data and sample analysis at

<http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

3. *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 identifies the age of the housing stock (p. 24). 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 non-profit housing developers or organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

Overpayment: While the element identifies the total number of overpaying households, it must quantify and analyze the number of overpaying households by tenure (i.e., renter and owner) and the lower-income households paying more than 30 percent of their income on housing. For additional information and sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

4. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a RHNA of 530 housing units, of which 231 are for lower-income households. To address this need, the element relies on vacant sites, accessory dwelling units (ADUs), and underutilized mixed-use rezone sites. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Site Inventory: The element must list sites by parcel number, parcel size, zoning, general plan designation, describing existing uses for any nonvacant sites and include a calculation of the realistic capacity of each site. For additional information and sample sites inventory, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

Aggregated Sites – Multiple Parcels Comprising Sites: Many sites listed in the sites inventory are comprised of multiple parcels. While the element may aggregate parcels, it must also list each parcel by parcel number or unique reference, parcel size, zoning, general plan designation, describe any existing uses for any nonvacant sites, and include a calculation of the realistic capacity of each parcel. The element must also demonstrate the potential for lot consolidation. For example, analysis describing the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for redevelopment, recent trends of lot consolidation, and information on the owners of each aggregated site. Please be aware sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing (Gov. Code, § 65583.2, subd. (c)(2)(A).). As a reminder, in order for these sites to be included in a rezone program, each site must have the capacity to accommodate 16 units. For additional information and sample sites inventory, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. The estimate may rely on established minimum density standards or include analysis demonstrating how the number of units for each site was determined. (Gov. Code, § 65583.2, subd. (c).) 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 needs to 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. 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>.



Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, its description of the potential for redevelopment is insufficient. 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 of similar shopping centers in Dana Point and the surrounding areas, describe whether the use is operating, ownership interest, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).). For additional information and sample analysis, see the *Building Blocks* at: <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#analysis>.

Please be aware if the City relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, it triggers requirements to make findings based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period.

Sites with Zoning for a Variety of Housing Types – Emergency Shelters: 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)). For additional information and a sample analysis, see the *Building Blocks* at [http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb2\\_memo050708.pdf](http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb2_memo050708.pdf).

5. *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 (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 could also describe past or current efforts to remove identified



governmental constraints. Possible examples include, but are not limited to, whether 100% residential developments are allowed in mixed-use areas, Town Center District regulations, special use standards on manufactured homes, maximum building heights below 36 feet in multifamily districts, parking standards for studio and one bedroom apartments, and maximum lot coverage of less than 50% for multifamily housing. The element should include programs to address or remove the identified constraints.

Fees and Exaction: While the element describes all required fees for single family and multifamily housing development, including impact fees, it must 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. For additional information and a sample analysis and tables, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml>.

Local Processing and Permit Procedures: While the element provides some details in regards to permit processing, it must describe and analyze the City permit processing and approval procedures by zone and housing type (e.g., multifamily rental housing, mobilehomes, housing for agricultural employees, supportive housing). 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- and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/processing-permitting-procedures.shtml>.

Constraints on Housing for Persons with Disabilities: While the element provides some details on group homes, the City did not provide an analysis of the impact on housing for lower-income households and persons with disabilities pursuant to the amendment to Dana Point's Municipal Code - 6.14.002: Public Nuisances Designated. The element should provide a specific analysis addressing the positive and/or negative impacts the amended Municipal Code has or has had on housing supply and residents affected by the amendment. Additionally, the element should also provide an analysis of potential constraints associated with the City's definitions of Group Homes and Residential Care Facilities. The City should clarify the differences between the definitions for Group Homes and Residential Care Facilities identified in the municipal code. This is important because Group Homes for six or fewer persons (defined by the City as requiring licensing) are permitted by right in all SFR zones; however, Group Homes seemed to be also defined as Residential Facilities (Mun. Code 9.75.270), which require conditional use permits (CUPs) (Mun. Code 9.09.02(b)). Furthermore, the element should provide greater detail on what constitutes a typical finding for the CUP process.

In addition, residential care facilities serving seven or more persons are limited to all residential zones, all mixed-use zones, and some commercial zones with the approval of a CUP. The element should analyze the CUP process as a potential constraint on housing for persons with disabilities. For example, excluding this type of housing from residential zones or imposing standards such as compatibility with surrounding uses would be considered a constraint.

Although local ordinances and policies are enacted to protect the health and safety of citizens and further the general welfare, it is useful to periodically reexamine local ordinances and policies to determine whether, under current conditions, they are accomplishing their intended purpose or constituting a barrier to the maintenance, improvement, or development of housing for all income levels. Such an examination may reveal that certain policies have a disproportionate or negative impact on the development of particular housing types (e.g., multifamily) or on housing developed for low- or moderate-income households and persons with disabilities. Ordinances, policies, or practices that have the effect of excluding housing affordable to low- and moderate-income households may also violate state and federal fair housing laws that prohibit any land-use requirements that discriminate (or have the effect of discriminating) against affordable housing.

In cases where the analyses identify existing constraints, the housing element should include program responses to mitigate the effects. A determination should be made for each potential constraint as to whether it poses as an actual constraint.

6. *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).)*

Developed Densities and Permit Times: The element must be revised to include analysis of requests to develop housing at densities below those anticipated, and 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.

## **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 City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Additionally, several programs still require clear, meaningful, and specific actions and objectives. All programs containing unclear language (e.g., "Continue to facilitate"; "Explore"; "Consider"; "Encourage"; etc.) should be amended to include more specific and measurable actions. To have a beneficial impact in the planning period and address the goals of the housing element, programs to be revised, especially in regards, to specificity and timelines, include, but are not limited to the following:

Program 1.1 (Adequate Sites) – Describe how the City will maintain the inventory of vacant and underutilized land suitable for residential development and when the City will initiate a general plan update to expand opportunities.

Program 2.1 (Rental Assistance) – Describe how and when the City will coordinate with the Fair Housing Council to promote the use of vouchers and acceptance of vouchers by landlords.

Program 3.2 (Development Fees) – Define "periodically" for the development of the study. For example, annually, midway through the planning period, etc.

Program 3.5 (Streamlined Residential Project Review) – As the provisions of SB 35 (Chapter 366, Statutes of 2017) sunset in 2026, this action to comply with State law should be completed earlier than three years from adoption of the element to have a beneficial impact within the planning period.

Program 3.6 (Supportive Housing) – As the City's zoning ordinance is out of compliance with State law, the program should be revised to sooner in the planning period, such as within one year of adoption.

Program 4.2 (Rental Rehabilitation) – Describe when the City will explore redirecting housing in-lieu fees and what action steps the City will take at the conclusion of that exploration.

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 B4, 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.

Sites with a Pending General Plan and Zoning Designations: Many sites are listed with pending Doheny Village zoning designations, and the element anticipates making these zoning changes with the adoption of the housing element in 2021, prior to the start of the planning period (October 15, 2021). Please be aware, if rezonings are not completed by that date, the element must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period (Gov. Code, § 65583.2, subd. (h) and (i).) and 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 CUP, planned unit development permit, or other discretionary review or approval.

Accessory Dwelling Units (ADUs): The element assumes an ADU build out of 81 ADU and/or junior accessory dwelling unit (JADU) per year based upon assumptions of incremental increasing interest in ADUs from recent trends and includes Program 1.3 to facilitate and monitor ADU production. The program must be revised to clarify the frequency of monitoring ADU production throughout the course of the planning period and commit to implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

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).)*

Extremely Low-Income Program: While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable to extremely low-income (ELI) households. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy (SRO) units, to address the identified housing needs for ELI households. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

4. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B5 and B6, 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).)*

While the element includes Program 62, more specificity is needed, and it must also include further actions that promote and affirmatively further fair housing opportunities. As noted in Finding B1, the program to AFFH should go beyond status quo actions, and should generally address housing mobility, encourage new housing development in high resource areas, improve place-based strategies, and protect existing residents from displacement. For example, the element could include a program committing to implement Government Code section 8899.50, subdivision (b), which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to affirmatively further fair housing. For your information, pursuant to Government Code section 8899.50, “affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based

on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all public agency's activities and programs relating to housing and community development.