

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

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December 10, 2021

Jason Mikaelian, Deputy Director
Community and Economic Development Department
City of El Monte
City Hall West
11333 Valley Boulevard
El Monte, CA 91731

Dear Jason Mikaelian:

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

Thank you for submitting the City of El Monte's (City) draft housing element received for review on October 12, 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 conversation on December 8, 2021 with you, Tony Bu, Senior Planner and consultants Diane Bathgate and Veronica Tam.

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

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

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

should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

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

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 Tristan Lanza, of our staff, at tristan.lanza@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF EL MONTE

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).)

As part of the review of programs in the past cycle, the element must provide an evaluation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers, and persons experiencing homelessness).

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))*

Racially and Ethnically Concentrated Areas of Poverty (R/ECAP): The element identifies a R/ECAP and should include specific analysis beyond reporting the identified area. The analysis should address trends, past and current efforts, including investment and their effectiveness, local data and knowledge, other relevant factors, particularly relative to equitable quality of life, resources, and strategies to address any inequities in quality of life. The analysis should also consider any overlapping fair housing issues with other components of the assessment of fair housing (e.g., access to opportunity and disproportionate housing needs, including displacement).

Disproportionate Housing Needs, Including Displacement: The analysis must compare the City to the broader region and the sub-geographies within the City. Particularly, the element should compare the City to the broader region for cost burden and displacement. In addition, the element should address homelessness.

Identified Sites and Affirmatively Furthering Fair Housing: The element provides information regarding the proportion of sites by income group according to various concentrations of socio-economic characteristics. In addition, the element should address the number of units by income group, magnitude of impact on local patterns, any isolation of the RHNA by income group and address the placement of the sites such as concentrations of sites in key areas and corridors.

Local Data and Knowledge: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element should analyze historical land use, zoning, governmental and nongovernmental spending including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Goals, Priorities, Metrics, and Milestones: While the element provides some analysis and identifies contributing factors to fair housing issues in El Monte, it does not include sufficient actions to overcome patterns of segregation and foster inclusive communities. As a result, programs must be added and modified as appropriate to sufficiently respond to contributing factors to fair housing issues based upon a complete analysis. Goals and actions must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For more information, see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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).)*

Projected Extremely Low Income: While the element quantifies the existing housing needs of extremely low-income (ELI) households, it must still quantify projected ELI housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of the regional housing need allocation (RHNA) for very low-income households qualify as ELI households.

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

The City has a Regional Housing Need Allocation (RHNA) of 8,502 housing units, of which 2,650 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites in Specific Plan Areas and within the Religious Facilities Overlay Zone (RF-OZ) area. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Using Density to Credit Projects in the Pipeline: The element (Appendix. A, p. 3) credits 53 units of the 3637-3649 Tyler Ave. development toward the regional housing need for lower-income households based upon the development's density. However, to credit permitted units toward the regional housing need, the element must demonstrate the unit's affordability based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period.

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/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.

Zoning for Lower-Income Households: The element must demonstrate zoning appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (allow at least 30 units per acre for El Monte), no analysis is required. Otherwise, the element must include an analysis based on, including, but not limited to, factors such as market demand, financial feasibility and development experience within identified zones demonstrating how the adopted densities can accommodate housing for lower-income households. The element (Table 31, p. TR-38) assumes sites R-2, R-3, R-4, C-O, C-1 and C-2, C-3 and C-4 allowing up to 25 units per acre can accommodate a portion of the housing need of lower-income households. This density is less than the 30 units per acre standard and as a result, the element must include analysis as described above or utilize sites with appropriate densities.

In addition, while the element identifies on Appendix A, page 6 the Religious Facilities Overlay with a density of 0-25 units per acre as potential sites to accommodate very low and low-income housing, the analysis provided is insufficient. This density is less than the 30 units per acre default density and analysis must be provided as described above.

Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes in general the existing use of each nonvacant site for example “commercial” or “Industrial” or “residential”. This alone is not adequate to demonstrate the potential for redevelopment in the planning period. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element must include a methodology that demonstrates the potential for additional development in the planning period. The methodology must consider factors such as the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. The inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, it must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the regional housing need allocation.

Replacement Housing Requirements: Nonvacant sites that include residential units, either existing or demolished, that are/were occupied by, or subject to affordability agreements for lower-income households within five years preceding the beginning of the planning period are subject to a housing replacement program consistent with the requirements listed as set forth in Government Code section 65915, subdivision (c)(3) and Government Code section 65583.2, subdivision (g)(3). The element should clarify if the sites inventory identifies sites with existing residential uses and must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use.

Small Sites: The element identifies several sites at less than a half-acre in Table A (Appendix. A). Sites smaller than 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. The element should include the factors that will lead to lot consolidation. As a result, if utilizing these sites toward the housing need for lower-income households, the element must include analysis and programs as appropriate.

Zoning for a Variety of Housing Types:

- *Transitional and Supportive Housing:* Transitional and supportive housing must be permitted as a residential use in all zones and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone (Gov. Code, § 65583, subd. (a)(5)). The element must demonstrate consistency with these statutory requirements and include a program, as appropriate.
 - *Employee Housing:* The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5, 17021.6. and 17021.8. 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.
 - *Accessory Dwelling Units (ADU):* After a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. 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).)*

Fees: While the element describes the development fees on page TR-57, it must describe all required fees for single family and multifamily housing development, including planning fees (e.g., CUP, rezone, variance, general plan amendments), and analyze their impact as potential constraints on housing supply and affordability.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each

parcel on the jurisdiction's website pursuant to Government Code section 65940.1, subdivision (a)(1).

Parking Requirements: The element must analyze the multifamily parking requirement of two spaces within a garage for first 1,200 and 1,400 square feet for its impact as a potential constraint on housing. Program 5 includes a commitment to reduce parking requirements for residential projects, however the program should be revised to be more specific and commit to remove or mitigate the two spaces within a garage parking constraint.

Housing for Persons with Disabilities: While the element identifies how community care facilities serving six or fewer persons are permitted, it must describe and analyze how community care facilities serving seven or more persons are approved including any approval findings. The element should analyze the process for potential constraints on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes for seven or more persons objectively with approval certainty.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Identified Densities, Approval Times and Efforts to Address Nongovernmental Constraints: The element (TR-61) has some information on timing and density. However, the element must include an analysis of requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for a housing development and submittal of an application for building permits. The element must also include an analysis regarding local efforts to address nongovernmental constraints. The element must address any hinderance on the development of housing and include programs as appropriate.

C. Housing Programs

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the*

inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)

As noted in Finding B3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Rezone Program for Adequate Sites: The element acknowledges that the zoning is not currently in place to accommodate the RHNA and includes Programs 1 (Develop a Garvey Avenue and 5-Points Plan for High Density Housing), 2 (Flair Park Flex Housing), and 14 (Religious Facilities Overlay Zone) to accommodate the regional housing need. However, programs to accommodate lower-income housing need must commit to rezone to the following standards:

- accommodate a minimum of 16 units per site.
- require a minimum density of 20 units per acre;
- At least 50 percent of identified shortfall is accommodated on residential only zoned sites, or up to 100 percent of the identified shortfall can be met on mixed-use sites if the mixed-use zoning allows both
 - 100 percent of a development to be residential; and
 - requires a minimum of 50 percent of the square footage in a mixed-use development to be residential; 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.

Lot Consolidation/Small Sites: As the element relies on consolidated small sites to accommodate the RHNA for lower-income households, it should include a program to facilitate lot consolidation and development of housing on small sites. For example, the program could commit to (1) granting density bonuses above state density bonus law (Gov. Code, § 65915.); (2) reductions of fees or fee waivers specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; and, (5) reduction in setbacks, parking requirements, and other standards.

Program 15 (Employee Housing): As mentioned in Finding B3, if the zoning code is not consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.),

specifically, section 17021.5, 17021.6 and 17021.8, the program must be revised to comply.

2. *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).)*

The element must include a program with specific actions and timelines to assist in the development of housing for extremely low-, very low-, low-, and moderate-income households. The program could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to lower and moderate-income households; assisting, supporting or pursuing funding applications; and outreach and coordinating with affordable housing developers. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/assist-in-development-housing.shtml>

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 B4 and B5, 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.

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 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 B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.