

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

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February 22, 2021

Jeff Murphy, Director
Community Development Department
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Dear Jeff Murphy:

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

Thank you for submitting the City of Carlsbad's (City) draft housing element received for review on December 24, 2020 along with revisions on February 8, 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 various communications throughout 2020 and to date. In addition, HCD considered comments from the People for Ponto, 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 revisions needed to comply with State Housing Element Law.

Government Code section 65588, subdivision (e)(4), requires a jurisdiction that failed to adopt its housing element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. The City is subject to the four-year revision requirement and has satisfied the first four-year update requirement. Provided the City adopts its 6th cycle housing element by the due date (April 15, 2021), the City will satisfy the second consecutive four-year update and return to an eight-year update cycle. Please reach out to HCD with any questions regarding timing and meeting the second four-year update requirements.

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.

HCD appreciates your hard work and effort; the exemplary cooperation and diligence of the Carlsbad housing element team: including Don Neu, Jeff Murphy, Scott Donnell and Eric Lardy. 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 Sohab Mehmood, of our staff, at Sohab.Mehmood@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 the last name "West" clearly distinguishable.

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF CARLSBAD

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. *A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584 (Gov. Code, § 65583.2(a).)*

The analysis shall determine whether the inventory can provide for a variety of types of housing, 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, § 65583.2(c).)

Affirmatively Furthering Fair Housing: The element does not address this requirement. The element must identify sites throughout the community to foster inclusive communities and affirmatively further fair housing.

Zoning for a Variety of Housing Types: The element must demonstrate zoning for a variety of housing types, as follows:

- *Emergency Shelters:* The element describes a zone to permit emergency shelters without discretionary action but must also evaluate the available acreage for characteristics like parcel size or potential redevelopment or reuse opportunities and describe development standards. The analysis must also address the appropriateness of allowable uses, particularly as noted on page 167, the presence of chemicals or hazardous materials and whether parking requirements are limited to staff working in the emergency shelters and do not require more parking than other residential or commercial uses in the zone. The element must include programs as appropriate based on the outcomes of this analysis.
- *Permanent Supportive Housing:* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. While the element includes an indication that zoning will be amended to comply with housing laws (Program 2.13) regarding supportive housing, the element must clearly demonstrate compliance with this requirement by including specificity in the program.

Electronic Sites Inventory: 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. Finally, the City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

2. *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, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. 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 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). (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land use controls for impacts as potential constraints on the cost, supply, timing and approval certainty of housing. Specifically, the element must analyze:

- *Definition of Density:* Based on communications with the City, the zoning code implements a definition of density that potentially limits the number of allowable units in a development. The element must analyze this definition and include programs as appropriate. In additions, while the element includes Program 2.3 to update zoning to implement State Density Bonus Law (Government Code section 65915), please note, pursuant to Government Code section 65915, subdivision (f), density bonus means a density increase over the maximum allowable gross residential density.
- *Growth Management Program:* Based on communications, HCD understands the City continues to require an allocation under the Growth Management Program. Any limits on the number of land use approvals or permits involving housing development projects, including housing caps, moratorium and requiring unit allocations, must be void pursuant to Government Code section 66300, subdivision (b)(1)(D), As a result, this activity must immediately be suspended.

Processing and Permit Procedures: The element indicates a Site Development Plan (SDP) is required and in some cases, the Planning Commission or City Council may impose special conditions or requirement that are more restrictive than development standards for a variety of provisions such as density, parking and other provisions that can limit the supply of housing or impact costs and approval certainty. The

element must include an analysis of this requirement and specific programs to address and remove or mitigate the requirement.

Housing for Persons with Disabilities: The element shows (Table 10-34) that group homes for seven or more persons are excluded in some zones allowing residential uses (e.g., R-E, R-A, R-1 and R-2 zones). In addition, the element notes parking requirements of two space plus 1 space per three beds for residential care facilities. Both of these requirements must be evaluated as potential constraints and programs added or modified 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).)*

Programs must include definitive implementation timelines to demonstrate a “beneficial impact” in the planning period. Several programs include timelines such as “ongoing” despite having clear deliverables in the planning period. These programs must be revised with discrete timelines (e.g., annual, within 1 year). Program to be revised include: 1.5 (Flexibility in Development Standards), 1.8 (Mixed Use), 2.4 (City Initiated Development), 2.5 (Land Banking) and 2.9 (Assistance for Special Needs Populations).

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 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 the Finding A1, the element does not include a complete analysis. Based on the results, programs may need to be added, or revised. In addition:

City-owned Sites: The element identifies several city-owned sites that are essential to demonstrating adequate sites to accommodate the housing needs of lower income households. As a result, the element must include specific commitment with timelines to encourage development on the City owned site. Actions include additional incentives, schedule for development, significant outreach with developers of affordability housing, reducing fees and seeking financing or supporting applications for funding.

Water and Sewer Priority: Given the City controls most water service, the element must include a specific program to establish written procedures to grant priority to developments with units affordable to lower-income households.

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. Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650). (Gov. Code, § 65583, subd. (c)(3).)*

As noted in the Finding A2, the element does not include a complete analysis and based on the results of a complete analysis, may need to add or revise programs.

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).)*

Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. (Gov. Code, § 65583, subd. (c)(10)(A)).

While the element lists statewide impediments to fair housing, the element must also list and prioritize contributing factors to fair housing issues that are specifically tailored to Carlsbad. 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, 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. HCD will send additional examples under separate cover.

Based on the outcome of a complete analysis, the element should include actions to enhance housing mobility strategies and encourage development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protect existing residents from displacement. The element includes many meaningful actions such as expanding housing choices in high opportunity areas through the City's inclusionary requirement and promoting access to opportunity such as safe routes to school in the Village and Barrio Master Plan areas. However, the element should include additional actions to enhance housing mobility, encourage place-based strategies to revitalize communities and protect existing residents from displacement. Several programs could be enhanced to assist in meeting these requirements, including : Programs 2.7 (Section 8 Housing Choice Vouchers and Similar Housing Cost Offsets), 2.8 (Assistance for Homebuyer Down Payment and Closing Cost), 3.1 (Pursue State and Federal Funding), 3.3 (Mobilehome Park Preservation), 3.4 (Acquisition/Rehabilitation/Retention of Rental Housing), 3.5 (Rehabilitation of Owner-Occupied Housing) and 4.1 (Fair Housing Services). Also, the element should include specific action to protect existing residents from displacement in the Village and Barrio areas. HCD welcomes the opportunity to discuss additional actions with the City.

C. Quantified Objectives

A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing. It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low-income, that can be constructed, rehabilitated, and conserved over a five-year time period. (Gov. Code, § 65583, subd. (b).)

While the element includes quantified objectives for new construction (Table 4-1), it must include additional quantified objectives for rehabilitation and conservation and preservation by income group, including extremely low-income households.