

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

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January 11, 2022

Kanika Kith, Director
Community Development Department
City of San Fernando
117 Macneil Street
San Fernando, CA 91340

Dear Kanika Kith:

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

Thank you for submitting the City of San Fernando's (City) draft housing element received for review on November 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.

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).

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.

HCD appreciates the City's dedication and cooperation in the housing element update. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions, please contact Gerlinde Bernd, of our staff, at Gerlinde.Bernd@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SAN FERNANDO

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).)*

Public Outreach: The element provides a brief discussion of community outreach conducted in Chapter V.B.1. but it generally does not address affirmatively furthering fair housing (AFFH) requirements. While AFFH outreach can be conducted with the other portions of the housing element, it must also be specific to AFFH. For example, the outreach could specifically target fair housing organizations or neighborhoods with relatively concentrated poverty for input related to housing and community development needs and access to opportunities such as education and transportation.

Assessment of Fair Housing: The element reports and maps data on some components of the assessment of fair housing (e.g., segregation and integration, disparities in access to opportunity) but it must also analyze the information, such as evaluating patterns, trends, conditions and circumstances, coincidence with other components of the assessment of fair housing and the effectiveness of past and current strategies to promote inclusive and equitable communities. This analysis should be complemented by local data and knowledge, including input from commenters, and other relevant factors as described below.

Enforcement: The element mentions local capacity for fair housing education and outreach, but it should also address any trends and characteristics of fair housing complaints and enforcement. In addition, the element should address compliance with existing fair housing laws as well as any past or current fair housing lawsuits, findings, settlements, judgements, or complaints. Based on the outcomes of this evaluation, the element should summarize issues, identify contributing factors, and formulate meaningful goals and actions as described below.

Sites Inventory and AFFH: The element includes some general discussion about the identification of adequate sites and affirmatively further fair housing but generally does

not address this requirement. The analysis must examine sites by location, number of units by income group, impact of identified sites on existing patterns of socio-economic concentrations and any isolation of the RHNA by income group to determine whether sites improve or exacerbate conditions. The analysis should address all components of the assessment of fair housing (e.g., segregation and integration, disparities in access to opportunity and disproportionate housing needs including displacement). If sites exacerbate conditions, the element should identify further program actions that will be taken to promote inclusive communities and equitable quality of life throughout the community (e.g., new housing choices and affordability, anti-displacement, and place-based community revitalization strategies).

Local Data and Knowledge: The element should incorporate local data and knowledge of the jurisdiction into the AFFH section. To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis. For example, the element notes differences in the age of the housing stock, but it should incorporate information from the housing condition survey (p. 25) to better evaluate difference in housing conditions to formulate appropriate policies and programs. Also, the element points out differences in neighborhoods by income group but should supplement that data with local knowledge such as housing conditions or other factors that indicate differences in quality of life.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. 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.

Contributing Factors: The element should re-assess and, particularly, prioritize contributing factors upon completion of the analysis and make revisions as appropriate.

Goals, Actions, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Currently, programs are not sufficient to facilitate meaningful change and address AFFH requirements. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions accordingly. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have 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 further guidance, please visit HCD's Affirmatively Furthering Fair Housing in California webpage at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

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

Extremely Low-Income Households (ELI): While the element includes some basic information regarding ELI households such as the number of households, it must also include an analysis of their housing needs to better formulate policies and programs. For example, the element should analyze tenure, cost burden, and other household characteristics then examine the availability of resources to determine gaps in housing needs. 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>.

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).)*

Parcel Listing: The element lists parcels by various factors such as size, zoning, general plan designation and existing use. However, the description of existing use is generic and should include sufficient detail to facilitate an analysis of the potential for additional development on nonvacant sites. For example, many sites describe existing uses as commercial by year built. Instead, the inventory could also describe condition, improvement to land value, vacancies, expiring leases, lack of improvements or other indicators of use turnover, expressed interest in residential development and an existing floor area 0.1 versus allowable floor area (e.g., “underutilization index”).

Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it must include a methodology that demonstrates the potential for additional development in the planning period. The methodology must consider factors including the extent to which existing uses may constitute an impediment to additional residential development, past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For example, the element describes factors utilized in identifying nonvacant sites, but it should also examine development trends and past experience to support these factors and relate those circumstances to identified sites. Additionally, the element should include some discussion on whether existing uses preclude redevelopment and how planned regulatory and other incentives, such as the mixed-use overlay, can encourage redevelopment.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the regional housing needs allocation (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 RHNA.

Realistic Capacity: The element (p. 67) mentions an assumption of 75 percent of maximum allowable densities to calculate residential capacity on identified sites. However, the element should include supporting information on typical densities of existing or approved residential developments at a similar affordability level. For example, the element mentions the calculation is based on recent projects, but it could list these projects by zone, acreage, built density, allowable density, level of affordability and presence of exceptions, such as a density bonus.

In addition, the element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses. While the element mentions the mixed-use overlay, it must still account for the likelihood of nonresidential uses given base zoning. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculation, policies, and programs accordingly. The element should include analysis based on factors such as development trends, performance standards or other relevant factors.

City-Owned Sites: The element should include a discussion of City-Owned sites (e.g., City Hall) identified to accommodate the RHNA. Specifically, the analysis should address whether existing uses impede additional development, any known conditions that preclude development in the planning period, the potential schedule for development and necessary actions to facilitate development (e.g., consolidation) as intended in the sites inventory. In addition, the housing element must include a description of whether there are any plans to dispose of the properties during the planning period and how the jurisdiction will comply with the Surplus Land Act (commencing with Government Code section 54220) and add or modify programs as appropriate.

Environmental Constraints: While the element generally describes a few environmental conditions, it must relate those conditions to identified sites and describe any other known environmental or other constraints (e.g., easements, conditions and restrictions, site shape and known contamination) that could impact housing development on identified sites in the planning period.

Infrastructure: The element describes infrastructure limitations (p. 60) in the City. However, it must also demonstrate sufficient total water and sewer capacity (existing and planned) to accommodate the RHNA and include programs if necessary.

For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. While the element discusses the City will deliver the adopted housing element and coordinate with providers, it also appears to indicate the City is a water provider. As a result, the element should discuss whether the City has procedures to grant priority and include programs if necessary. For additional information and sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Accessory Dwelling Units (ADU): ADUs may be counted toward the RHNA based on past permitted units and other factors. In the element, the City projects 100 ADUs per year based on 80 ADUs permitted over the last three years. These past trends do not support an assumption of 100 ADUs per year. The element states the increase is based on a consistent trend; however, the trend appears consistent around 80 ADUs a year. As a result, the element should either adjust assumptions or include analysis based on additional trends, other relevant factors and policies and programs.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program rezones sites to permit housing development by right pursuant to statutory requirements. While the element has a program, it should also denote which sites were previously identified in prior planning periods and include programs as appropriate.

Electronic Sites Inventory Form: 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> 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.

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... (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 analyze land-use controls independently and cumulatively with other land-use controls. The analysis should specifically address requirements related to multifamily lot coverages. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Processing and Permit Procedures: The element discusses a typical review process for a single-family residence but should also evaluate the typical process for a multifamily development, particularly as anticipated in the element. The analysis should address the approval body, typical number of hearings if any, approval findings and typical timeframes. The analysis should evaluate impacts on cost, supply (whether project densities are reduced in the approval process), timing and approval certainty and add or modify programs as appropriate.

Housing for Persons with Disabilities: The element notes the City adopted a reasonable accommodation procedure; however, it should describe and analyze that procedure, including approval findings, for any constraints on housing for persons with disabilities. In addition, the element indicates group homes for seven or more persons are subject to a conditional use permit (CUP). The element must analyze the CUP procedure as constraints on housing for persons with disabilities and add or modify programs to promote objectivity and approval certainty for these housing types.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program to address these requirements.

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

B. 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... Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels... (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding A3, the element does not include a complete site analysis. 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:

- *Program 11 (Adequate Housing Opportunity Sites for RHNA):* The Program should be revised to meet all requirements pursuant to Government Code section 65583.2, subdivision (h) and (i), specifically permit at least 16 units per site. In addition, the Program should commit to a minimum acreage to be rezoned.
- *Program 16 (Lot Consolidation):* The Program should commit to proactively coordinate with property owners (beyond posting on the City's website) on a specific timeframe (e.g., annually) and include a discrete timeline for adjusting incentives or utilizing other strategies (e.g., within six months of monitoring effectiveness).
- *Program 14 (No Net Loss of Residential Capacity to Accommodate RHNA):* The Program should commit to when the City will establish a process.
- *City-Owned Sites:* The Program should be revised with actions based on a complete analysis of City-owned properties, including a schedule of actions to

facilitate development such as requests for proposals, coordination with property owners, incentives, and permit streamlining.

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).)*

Program 4 (Facilitate Affordable and Special Needs Housing Development): The Program includes commitment to annually apply for funding, but is should also commit to similar timing for the other listed actions in the Program (e.g., contact, coordination, and support to developers).

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 A4, 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... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

Program 18 (Accessory Dwelling Units): The Program should go beyond exploring the possibility of waiving fees and make a specific commitment to establish incentives in the planning period. Also, in addition to monitoring program effectiveness, the Program should commit to alternative actions (e.g., incentives, rezoning) within a specified timeframe (e.g., six months) if ADUs are not produced or affordable as assumed in the element.

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. For more information, please see the Building Blocks at <https://www.hcd.ca.gov/community-development/building-blocks/program-requirements/program-overview.shtml>.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

While the element includes a general summary of the public participation process (pp. 7-8), it should also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process.

In addition, the element (Appendix A) should summarize the public comments and describe how they were considered and incorporated into the element.

In addition, the City should confirm if the element was available to the public concurrent with its submittal to HCD. Providing an opportunity for the public to review and comment on a draft of the element in advance of submission is a statutory mandate ensuring the City makes a diligent effort to encourage the public's participation in the development of the element. Not providing the opportunity for the public 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 revising 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.