

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



July 1, 2021

Ashley Feeney
Community Development Director
City of Davis
23 Russell Blvd., Suite 1
Davis, CA 95616

Dear Ashley Feeney:

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

Thank you for submitting the City of Davis's (City) draft housing element received for review on May 3, 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 two telephone conversations held on June 18 and June 21, 2021. Participants on the calls included Jessica Lynch, Senior Planner; Sherri Metzker, Principal Planner; and the City's consultant Stephanie Hagar representing Bay Area Economics. In addition, HCD considered comments from both residents and advocates including, Don Gibson, Gwen Chodur, Vero Sandrosky, Gayna Lamb-Bang, Georgina Valencia, Paul Kolarik, Martha Teeter, Nancy Crocker, Marilú Carter, Davis Opportunity Village, Davis College Democrats, Heart of Davis, UC Davis Graduate Student Assembly, Sustainable Growth Yolo, The Sierra Club Yolano Group, Davis United Methodist Church Service and Justice Ministry, Campaign for Fair Housing Elements, House Sacramento and Legal Services of Northern California 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.

As a reminder, the City's 6th cycle housing element was due May 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 make revisions to the element as described herein, adopt, and submit to HCD to regain housing element compliance.

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 May 15, 2021 for Sacramento Area Council of Governments (SACOG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be

revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City 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. Specifically, as noted below, HCD understands the City made the element available to the public at the same time of submittal to HCD. 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, and diligently consider and address comments, including making revisions to the document where appropriate. Consideration of comments should not be limited by HCD's findings in this review letter.

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. 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 Irvin Saldana, of our staff, at Irvin.Saldana@hcd.ca.gov.

Sincerely,



Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF DAVIS

The following changes would bring Davis'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 www.hcd.ca.gov/hpd. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at www.hcd.ca.gov/hpd/housing_element2/index.php and includes the Government Code addressing State Housing Element Law and other resources.

A. Housing needs, Resources, and Constraints

1. *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 (Pg. 61) includes some information on the current condition of the City's housing stock; however, analysis was primarily guided by a windshield survey conducted in 2008. While windshield surveys are a good way of assessing housing conditions, the referenced survey is too old to accurately represent current housing conditions. The element must include more current data and analysis on rehabilitation and replacement need in the City. For example, the analysis could include estimates from a more recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.

2. *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))*

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).)

Integration and Segregation: Integration and segregation is covered on (Pgs. 95-110) and meets most requirements. However, while the element does include local data on race and ethnicity, the element does not include data on this topic at a regional level. A regional analysis is required so that local and regional trends and patterns can be identified and guided through meaningful goals and actions that address fair housing issues.

Racially/Ethnically Concentrated Areas of Poverty (R/ECAP) and Racially Concentrated Areas of Affluence (R/CAA): The element identifies census tract 106.08 (Pg. 111) as the only census tract in the City meeting HUD's definition of a R/ECAP. While the analysis is suitable in meeting requirements on a local level, the element must include a comparison of local data on a regional scale. In addition, the element should also include an analysis of R/CAA. This analysis should also include both local and regional data.

Access to Opportunity: The housing element must identify and analyze significant disparities in access to opportunity by education, employment opportunity, transportation, and environmental quality. While HCD recognizes the City's high opportunity designation in accordance with California Tax Credit Allocation Committee (TCAC)/HCD opportunity maps, a complete analysis is required.

Disproportionate Housing Needs: While the element includes local data on housing cost burden (Pg. 117), the element must also include regional data. In addition, the element should include an analysis on displacement caused by both investment and disinvestment. The element should also analyze trends and patterns relating to homelessness and substandard housing on a local and regional level. Lastly, the element should assess if there are patterns of disproportionate housing needs related to protected groups throughout the city.

Local Data and Knowledge: While the element does include local data and knowledge to fair housing issues, the element does not reflect on this data in the contributing factors section of the analysis. Data provided by regional advocates and service providers should help the city identify patterns and further evaluate trends and contributing factors to fair housing issues.

Other Relevant Factors: Given the socioeconomic patterns identified by the fair housing assessment, the element needs to include analysis to understand the dynamics behind past actions to better inform future actions. For example, the element can discuss barriers in zoning and land use rules, information about redlining, patterns of institutionalization, restrictive covenants, and other discriminatory practices as applicable.

Contributing Factors: While using the regional analysis of impediments is acceptable when identifying potential contributing factors to fair housing, relying on this data exclusively for this section is not. Contributing factors should be guided by the analysis of the previous sections and be specific to the patterns and trends identified. Furthermore, the element should look at relevant factors such as community opposition to affordable housing, housing discrimination, zoning laws and high housing cost.

Sites Inventory: The element states that no sites identified in the sites inventory are in areas of concentrated race and poverty (Pg. 161). However, the accompanying analysis must evaluate the sites relative to socioeconomic 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) relative to

access to opportunity segregation and integration, racially and ethnically concentrated areas of poverty and affluence and displacement risk, whether the sites are isolated by income group, and should be supported by local data and knowledge.

Goals and Actions: The element must be revised to add or modify goals and actions based on the outcomes described above. Goals and actions must specifically respond to the analysis and identify and prioritize contributing factors to fair housing issues. Actions must have metrics and milestones as appropriate and address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

3. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

The City has a regional housing need allocation (RHNA) of 2,075 housing units, of which 930 are for lower-income households. To address this need, the element relies on approved, pending projects, and nonvacant residential and commercial sites. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses as follows:

Student Housing: The housing element relies on Nishi student housing to accommodate 105 units of the City's low-income RHNA. As the City is aware, college and university student housing may be considered noninstitutional group quarters and not a housing unit for purposes of meeting the RHNA. According to the census, college/university student housing includes residence halls and other buildings, including apartment-style student housing, designed primarily to house college and university students in group living arrangements either on or off campus. The City should verify that the Nishi project meets the census definition of a housing unit and is not considered group quarters. For further information on whether this housing project meets the definition of a housing unit, please consult with the Department of Finance at (916) 323-4086. In addition, while the element outlines the methodology behind converting deed-restricted affordable beds into units, the element must also commit to providing a methodology that assures units are rented to low-income households and not limited to students only.

While the element provides some specifics on the anticipated annexation of Nishi student housing (Pg. 153), to demonstrate the project will be developed within the planning period, the element must include additional information relating to the anticipated timing of the annexation including a description of remaining steps in the annexation process, expected date of construction, and describe any barriers to development such as access to infrastructure including water and sewer.

Realistic Capacity: Currently, the element assumes residential development on sites zoned for non-residential uses while also assuming 100 percent development

capacity. To support this assumption, the element must include analysis to demonstrate the likelihood for residential development, especially given the zones are intended for nonresidential uses. The analysis may be based on factors such as land use controls, development trends including typical density of existing or approved developments at similar affordability levels, performance standards or other relevant factors. This is especially critical as standards in the Core Specific Plan requires vertical mixed use where residential is only allowed with ground floor retail and office uses (Pg. 148). 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 provides a description of existing uses on nonvacant and underutilized sites, table 57 (Pg.158)of the element needs to also analyze the extent that existing uses may impede additional residential development. For example, the element includes sites identified in the previous cycle, including the Ace Hardware and businesses along the E Street plaza that include active retail and restaurants. The three sites that were identified in the element are all nonvacant, underutilized sites, but no analysis was provided. The element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City. In addition, pursuant to public comments, 1752 Drew Circle is a current site of 96 affordable housing units with certain covenant restrictions but is included in the sites inventory as having potential for additional units. Per our conversation, we understand that the inclusion of the site was a drafting error, and the element will be revised to remove this site.

In addition, depending on a complete site analysis, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2).). This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period (Gov. Code, § 65583.2, subd. (g)(2).

Small Sites: As previously stated, the element identifies three sites (1, 3, and 11) as suitable for lower-income housing (Pg. 158). Site number 1 relies on the consolidation of 8 parcels most of which are under 0.5 area. 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 the element appears to rely on consolidated small sites to accommodate the RHNA for lower-income households, it should provide analysis demonstrating the potential for consolidation. For example, the analysis could describe 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 lot consolidation such as common ownership, or information from the owners of each aggregated site.

Candidate Sites for Rezoning: The element identifies a shortfall of adequate sites to accommodate the regional housing need for lower-income households. It also identifies candidate sites that will be rezoned within the first three years of the planning period. However, two of the nine candidate sites are large sites above ten-acres, and one of the two sites currently assumes 100 percent build out. The element should include additional analysis to demonstrate the appropriateness of these sites. To demonstrate that large sites can accommodate the lower-income need, the element must demonstrate 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 recognized in the housing element, Measure J poses a constraint to the development of housing by requiring voter approval of any land use designation change from agricultural, open space, or urban reserve land use to an urban use designation. Since the ordinance was enacted in March of 2000, four of the six proposed rezones have failed. As the element has identified the need for rezoning to accommodate a shortfall of sites to accommodate the housing need, the element should clarify if any of candidate sites to rezone would be subject to this measure.

Accessory Dwelling Units (ADU): The element assumes an ADU build out of 37 ADU and/or junior accessory dwelling unit (JADU) per year based upon a five-fold expected increase in production from pre-2017 averages. This is an acceptable methodology when no other data is available. Given that the City has only produced an average of 21 units per year since 2018, it is not clear if this production level will be achievable in the planning period. As a result, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and 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.

In addition, the City will need to provide additional information and analysis related to the expected affordability of the ADUs as the SACOG survey does not accurately represent affordability trends of ADUs in the City. The City could conduct a community survey of existing accessory dwelling units should look at rents and

include other factors such as square footage, number of bedrooms, amenities, age of the structure and general location.

Infrastructure: While the element describes water and sewer infrastructure, it must also demonstrate sufficient existing or planned dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the City's regional housing need for the planning period (Gov. Code, § 65583.2, subd. (b).). 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#environmental>.

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. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Sites with Zoning for a Variety of Housing Types:

Emergency Shelters: While the element notes several zones where emergency shelters are permitted without discretionary action, given the identified need of 190 individuals experiencing homelessness, the element must demonstrate the City still has sufficient capacity to accommodate the identified housing need for emergency shelters and evaluate the available acreage for characteristics like parcel size or potential redevelopment or reuse opportunities, proximity to services and describe development standards. In addition, the element identifies that a conditional approval is required when accommodating more than 35 beds on site. While housing element law does allow a jurisdiction to limit the number of beds or persons permitted to be served nightly by a facility, standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. The element should analyze the 35-bed limit to ensure that the standard does not unduly constrain the development of emergency shelters.

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).)*

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... (Gov. Code, § 65583, subd. (c)(3).)

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints. The analysis must evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities. In particular, the element should specifically address the process for which affordable housing have received parking reductions and describe how alternate transportation plans (Pg. 193) affect the cost and timing of development.

Currently the element states that SB 330 prohibits the City's 1-percent growth ordinance and includes a program to suspend the ordinance until 2025. However, the element must also provide analysis on its potential effects on development past 2025 and include appropriate programs to mitigate this constraint. This could include extending the prohibition on enforcement of this ordinance or removal of the growth control policy.

On/Off Site Improvements: While the element provides some analysis on site improvements (Pg. 192), the element must identify additional subdivision level improvement requirements. The analysis can include curbing requirements and circulation improvements and analyze their impact as potential constraints on housing supply and affordability.

Constraints on housing for Persons with Disabilities: While the element includes an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities. In addition, the element describes the City's procedure for requesting and granting reasonable accommodation to zoning and land use requirements for persons with disabilities (Pg. 199). The element must analyze the reasonable accommodation procedure to determine if it is considered a constraint. The element should include a program to revise the procedure to remove constraints, including but not limited to findings number 3 and 7 in the City's Reasonable Accommodation Procedure.

In addition, the element currently details that residential care facilities serving six or fewer persons are permitted in all zones except the City's agricultural and industrial zone. However, residential care facilities serving seven or more persons are limited to the same zones with the approval of a conditional use permit. The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

Fees and Exactions: While the element describes all required fees for single family and multifamily housing developments, including impact fees and notes on page 189 that development fees are higher than the Sacramento regional average, the element does not fully analyze the impacts of fees as potential constraints on housing supply and affordability. For example, the analysis should identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing. In addition, the element could also provide information on how the city provides financial assistance to affordable housing developments.

Permit Processing: The element states that a significant portion of the City's residential districts are zoned as planned development and acknowledges that the process is not transparent and predictable (Pg. 173). The element must describe and analyze approval procedures, decision-making criteria on housing supply and affordability, particularly for residential development affordable to lower-income households and provide policies and programs to mitigate and/or remove constraints resulting from the lack of transparency and predictability.

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

Farmworkers: The element must quantify and analyze the housing needs of farmworkers. While the element includes a general discussion, it must still include complete information to guide an appropriate analysis. Specifically, the element must identify and analyze farmworkers in the City using local data and include county and regional data for seasonal and permanent farmworkers (e.g., USDA data).

6. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element currently identifies 4 units at risk of converting to market rate. However, according to data from the California Housing Partnership, there are at least 8 additional developments, including the Suntree Apartments identified by third party comments, that may be at risk of conversion to market rate over the next 10 years. HCD can provide a list of the additional at-risk units upon request. If units are identified as at-risk, the analysis must include the following:

- Listing of each development by project name and address.
- Type of governmental assistance received and the earliest date of change from low-income use.
- Total number of units for senior vs. non-senior residents.
- Estimated total cost for producing, replacing, and preserving the at-risk units.
- Identification of public and private nonprofit corporations known to the City to have the legal and managerial capacity to acquire and manage at-risk units.
- Identification and consideration of use of federal, state, and local financing and subsidy programs.

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 (Section 65583(c)).

Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, all programs should be revised to include: (1) a description of the City's specific role in implementation including meaningful actions the city will take to achieve the identified goals, policies, and program objectives; (2) definitive implementation timelines (e.g., December 31, 2024); (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials (e.g., Planning Assistant, Community Development, etc.). For example, many programs have a "ongoing" timeframe but require specific actions to implement. Where there are specific actions identified, those actions must be accompanying specific timeframes.

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 contains Program 1.3.1 to "Work with housing providers to meet the special housing needs of individuals with disabilities and developmental disabilities, extremely low, very low, and low incomes, large families, senior citizens, farmworkers and their families, female-headed households with children, and others with special needs" (Pg. 215). However, the program should include specific actions and commitments the City will take to implement this program. For example, the program should be more specific on the regulatory incentives, zoning standards, and programs it will offer to assist in the development of housing. These commitments should be targeted to address the specific needs of the special-needs populations and very-low and extremely low-income households.

3. *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 the Finding A3, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning has not been established.

Based on the results of a complete sites inventory and analysis, programs may need to be added, or revised, to address a shortfall of sites and zoning for a variety of housing types. While Program 1.1.2 (rezone) is included in the element, the program will need to be amended to identify the acreage of sites to be rezoned and ensure that rezone sites have existing, or planned, water sewer, and dry utilities.

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 Finding 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. In addition, the element must 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.

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).)*

As noted in Finding A2, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.

6. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

As noted in Finding A6, the element must list and analyze any affordable units that are at risk of conversion to market rate during the planning period. If at-risk units are identified, the element should include a program to preserve affordability for those units.

7. *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. (Gov. Code, § 65583, subd. (c)(7).)*

The element is required to include a program that incentivizes or promotes ADU development for very low-, low-, and moderate-income households. While the element include Program 1.5.1 to facilitate production of ADUs, it does not identify strategies to target moderate- and lower-income households. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department.

C. 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).)

HCD understands the City did not make the element available to the public prior to submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission to HCD, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. In addition, HCD reviewed a number of third-party comments as part of this review. These comments will be provided to the City under a separate cover and should be considered as part of the revised element. HCD's future review will consider the extent to which the revised element documents were circulated and 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.

D. Consistency with General Plan

The housing element shall describe how consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The housing element affects a locality's policies for growth and residential land uses. The goals, policies and objectives of an updated housing element may conflict with those of the land-use, circulation, open space elements as well as zoning and redevelopment plans. The general plan is required to be "internally consistent." As part of the housing element update, the City should review the general plan to ensure internal consistency is maintained and include programs to ensure consistency as necessary. In addition, the City should consider an internal consistency review as part of its annual general plan implementation report required under Government Code section 65400.