

**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



November 1, 2021

David Crabtree, Interim Director
Community and Economic Development Department
City of La Habra
110 E La Habra Boulevard
La Habra, CA 90631

Dear David Crabtree:

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

Thank you for submitting the City of La Habra's draft housing element received for review on September 2, 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 October 19, 2021 with Roy Ramsland, Deputy Director and Mark Hoffman, the City's consultant. In addition, HCD considered comments from the Kennedy Commission 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 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).

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County 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.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

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 Mashal Ayobi, of our staff, at Mashal.Ayobi@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF LA HABRA

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

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

A. Review and Revision

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

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

- Programs C4 (Outreach for Persons with Developmental Disabilities) and C5 (Permit Emergency Shelters and Transitional Supportive Housing) should list the effectiveness of the programs as well as quantify and describe the success of each program.

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))*

The element includes a section for Affirmatively Furthering Fair Housing (AFFH); however, additional information and programs are necessary to address the fair housing analysis requirement, as follows:

Fair Housing Issues: The element must include a summary of issues and 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 and knowledge not captured in regional, state, or federal data analysis.

Enforcement and Outreach: The element must address the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. The analysis must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity.

Integration and Segregation: While the element includes an analysis of integration and segregation, this section should also analyze whether there is a concentration of families with children in certain areas of the City and include a map. The element should also describe any concentrations of persons with disabilities within the City as well as any areas with a high concentration of persons by race. The analysis should also expand the regional analysis for familial status and persons with disabilities.

Racial/Ethnic Concentrated Areas of Poverty and Affluence: The element must analyze the area of affluence identified in the City.

Disproportionate Need: The element must describe where the substandard units are located within the City. It must also describe homelessness and displacement risk within the City. The element must also include a regional analysis for overcrowding, substandard housing, homelessness, and displacement risk.

Access to Opportunity: The element provides some information on access to opportunity, but a complete analysis should include a regional analysis of access to opportunity for environmental and educational factors. The element should also describe whether the employment and environmental disparities are based on protected groups. The educational opportunity section should discuss whether low/high school rankings are correlated with low/high opportunity areas in the City. Lastly, the Transportation Mobility should describe the distance of transit stops from residential neighborhoods as well as describe disparities in access to transit for protected classes.

Sites: While the element analyzes the sites in terms of fair housing, further details are needed for the three sites identified for lower-income households. The element must describe whether the sites identified for low-income households are in high or low opportunity areas, whether the schools identified in this section or of high or low ranking, whether the three sites are concentrated in one area of the city, and whether the sites identified for above moderate housing are concentrated in one area or are spread throughout the city. The identified sites should also be mapped by income category against the opportunity map.

Contributing Factors: While the element lists and prioritizes contributing factors, the top contributing factor, displacement risk affecting people with disabilities, was not discussed in the analysis. The list of contributing factors must be tied to the fair housing analysis.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies program(s) to encourage and promote affordable housing; however, most of these programs do not appear to facilitate any meaningful change nor address AFFH requirements. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. The programs identified to address persons with disabilities continue what the City is already doing, these programs must facilitate meaningful change to mitigate against the identified contributing factor. While the element identifies policies that are related to the environmental pollution contributing factor, the element must also identify actions that the City will take to facilitate meaningful change during the planning period.

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).)*

As part of the analysis on employment trends, the element should also describe the City's unemployment rate. It must also describe the total number of extremely low-income households and it must also analyze their housing needs. The analysis of extremely low-income (ELI) housing needs could consider tenure and rates of overcrowding and overpayment.

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

While the element identifies the total number of overpaying households, it must quantify and analyze the number of overpaying households by tenure (i.e., renter and owner), including lower-income households.

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

The City has a regional housing need allocation (RHNA) of 804 housing units, of which 308 are for lower-income households. To address this need, the element relies on higher density residential and mixed-use zones. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress Towards the Regional Housing Need: The element should list the status of the projects listed in Table HE-4.2 (page 4-3) (e.g., if the project has been approved or is pending entitlements). In addition, the element identifies two residential sites with 17 permitted units indicating they are affordable to moderate-income households with no analysis of affordability. The element must include an analysis to demonstrate the

affordability of these units based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period.

Sites Inventory: While the sites inventory included most requirements, all sites listed in Table HE-4.5 must list the parcel number. In addition, the element must clarify whether sites 12 and 14 are actually vacant without improvements. Improvements are generally defined as development of the land (such as a paved parking lot, or income production improvements such as crops, high voltage power lines, oilwells, etc.) or structures on a property that are permanent and add significantly to the value of the property.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). To demonstrate the likelihood for residential development in nonresidential zones, the element could describe any performance standards mandating a specified portion of residential and any factors increasing the potential for residential development such as incentives for residential use and relate residential development trends to the nonresidential zoning districts identified in the sites inventory. For example, while Table 4.4 lists recent project examples in the R4 zoning district, the majority of the sites listed in the inventory are zoned higher density residential or commercial. The element should include samples of recent projects with similar zoning to demonstrate feasibility of density assumptions in the inventory.

Suitability of Nonvacant Sites: The element must analyze the extent to which existing uses may impede additional residential development and include an analysis of development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g)(1).)

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element 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.

Accessory Dwelling Units (ADU): The element assumes an ADU build out of 50 ADU and/or junior accessory dwelling unit (JADU) per year based upon 2020 and potential 2021 production levels. The element lists 43 permitted ADUs in 2020, but HCD data lists 19 ADUs produced in 2020. Given that the City has only produced an average of 10 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 or affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within six 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.

Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and other dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the City's regional housing need for the planning period, and should describe if water, sewer, and dry utilities are city-owned. (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>.

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. The element should discuss compliance with these requirements and if necessary, add or modify programs to establish a written procedure by a date early in the planning period. 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>.

Sites With Zoning for a Variety of Housing Types:

- Emergency Shelters: While the element identifies an Emergency Shelter overlay with four contiguous parcels, it must clarify that emergency shelters are permitted without a conditional use permit or other discretionary action. The element must also demonstrate the overlay has sufficient capacity to accommodate the identified need and the potential for adaptive reuse on the nonvacant sites. Further, the element must list the emergency shelter standards such as spacing, whether there is access to services, and if the jurisdiction meets parking requirements of AB 139.
- Transitional/Supportive Housing: Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses 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)). Table HE-3.4 (p. 3-9) does not list transitional and supportive housing as allowed in the MHP zone. In addition, the spacing requirements and minimum standards are a constraint if they do not apply to other residential dwellings of the same type in the same zone. A program must be added to comply with statutory requirements.

The element must address whether or not requirements for AB 2162, Permanent Supportive Housing By-Right, and AB 101, Low Barrier Navigation Centers, are currently met, or add a program as needed.

- Housing for Farmworkers: The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, section 17021.5. 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.
- Accessory Dwelling Units: ADUs must be allowed in all zoning districts that allow single-family and multifamily uses. Page 3-9, it states that ADUs are not allowed in MH P zones but single-family residential is allowed. A program must be added to revise the zoning code to comply with state law.

5. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land use controls and evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities. For example, the element must analyze how the maximum heights listed on page 3-15 interact with maximum number of stories allowed in each zone, and whether it acts as a development cap for proposed projects. The element must also describe what is considered a private yard for multifamily developments and whether it is a constraint on housing development. In addition, the element must analyze the garage requirement for multifamily and how it affects lot coverage for infill sites as well as impacts on cost of housing.

Corridor Mixed Use: The element states that in the corridor mixed-use overlay multifamily housing is limited to 20% of the acreage of the block in which it is located. Residential development is also limited to parcels of one acre and larger (p. 3-8). The element must analyze this as a constraint and add a program as needed.

Fees and Exaction: The element must describe all required fees for single family and multifamily housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability. While the element lists many fees, the element should also list fees for an administration deviation, lot line adjustment, other EIR fees, and any other impact fee such as fire, police, etc.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards and associated fees for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1).

SB 35 Streamlined Ministerial Approval Process: The element must include a program to adhere to the SB 35 Ministerial Approval Process for development projects that meet specific requirements.

Codes and Enforcement: The element must describe the City's building and zoning code enforcement processes and procedures, including whether code enforcement is targeted to certain areas of the City or complaint based.

Local Processing and Permit Procedures: While table HE-3.8 lists the typical review for a residential proposed project, the analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single family and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures.

Design Review: While the element generally describes the design review guidelines and process, it should also include details on approval procedures and decision-making criteria for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

Constraints on Housing for Persons with Disabilities: The element currently details that residential care facilities serving six or fewer persons are permitted in all residential zones. However, the element distinguishes that elderly residential care facilities serving seven or more persons are limited to the same zones with the approval of a conditional use permit. The element does not include whether all residential care facilities serving seven or more persons are allowed. 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.

In addition, while the element lists the reasonable accommodation findings (p. 3-21), the administrative filing fee is a constraint and a program should be added to remove constraints. In addition, the element should include the City's definition of family and analyze it as a potential constraint.

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

The element must be revised to include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need. The element must also identify local efforts to address nongovernmental constraints that create a gap in the jurisdiction's ability to meet RHNA by income category.

7. *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).)*

While the element quantifies the special housing needs for most groups, the element could include developmental disabilities by age as well as employment status. In addition, the element should include analysis of housing needs for persons with developmental disabilities.

8. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next ten 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 must describe financial resources available to assist at-risk units for during the next ten years. The element must also list qualified entities that have the capacity to acquire and manage at-risk units.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs*

are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- The majority of programs list timeframes that go from 2021-2029. Programs must be revised to provide concrete timeframes in which actions will be taken during the planning period.
- Programs A3 (Land Use/Community Preservation) and A4 (Residential Rehabilitation Program) must describe whether certain neighborhoods will be targeted and whether there will be proactive outreach and how often.
- Program B1 (Adequate Housing Sites) should clarify the frequency of monitoring throughout the planning period.
- Program B2 (Priority Processing) should describe what other opportunities for streamlined permitting are being considered and include an implementation timeline.
- Program B3 (Affordable Housing Ordinance) should implement the objectives no later than two years into the planning period.
- Program C1 (Collaborative Partnership) must describe the purpose of the partnerships, how often they will meet, and whether they will provide resources.
- Program C2 (Inclusionary Housing) must include how often the program will be monitored.
- Program C3 (Mobile Home Preservation) must describe how the grants will be advertised and if the City will provide outreach.
- Program C5 (Housing Choice Voucher) should clarify that Housing Choice Vouchers are to be accepted at all apartments and owners cannot discriminate against source of income.
- Program D1 (Senior Housing) must describe whether and how often the City will proactively reach out to developers.
- Program D3 (Homeless Services) must specify zoning amendments that will be included and the timeframe to implement the program.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be*

identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.
(Gov. Code, § 65583, subd. (c)(1).)

As noted in Finding B4, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Sites Identified in Multiple Planning Periods: The element must include a program for vacant sites identified in two of more consecutive planning periods' housing elements or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be implemented within the first three years of the planning period and commit to zone for the following:

- sites must meet the density requirements for housing for lower-income households, and
- allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).)

Replacement Housing Requirements: The housing element must include a program to provide replacement housing. Nonvacant sites identified in the sites inventory with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years, require a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). The element must indicate whether this applies to sites 7 and 15 listed in the inventory (page 4-11). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

3. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of a variety of housing types, such as multifamily housing, to address the identified housing needs for ELI households.

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 B5 and B6, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

Program to Mitigate Non-Governmental Constraints: The element must be revised to include a program that mitigates non-governmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category. (Gov. Code, § 65583.2, subd. (c)(3).)

Program D2 (Housing for People with Disabilities): The Program must be revised to include developmental disabilities and include what actions will be taken regarding residential care facilities for seven or more persons.

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).)*

Program to AFFH: While the element includes Program D6 (Fair Housing) which describes the Fair Housing Foundation's role in AFFH, it must also include actions that promote and AFFH opportunities. Existing programs could be expanded to incorporate AFFH principles. Programs should include actions to facilitate mobility enhancement, provide new housing choices and affordability in high opportunity areas, include place-based strategies for preservation and revitalization, and provide displacement protection. As one example, the element could include a program committing to implement Government Code section 8899.50, subdivision (b), which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH. Specifically, AFFH means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all public agency's activities and programs relating to housing and community development.

In addition, program D6 (Fair Housing) must describe how often training will occur.

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).)*

Program C4 (Preservation of Assisted Housing) must go beyond considering an action and should include a definitive implementation timeframe, quantified objectives, and a commitment to include actions regarding state preservation notice law requirements such as outreach to owners. (Gov. Code, § 65863.10, 65863.11, and 65863.13.)

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. 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).)*

While the element includes program B4 (Accessory Dwelling Units) regarding ADUs, the Program must be expanded to include incentives to promote the creation and affordability of ADUs. Examples include exploring and pursuing funding, modifying development standards and reducing fees beyond state law, increasing awareness, pre-approved plans and homeowner/applicant assistance tools. In addition, given that the City's assumptions for ADUs exceed recent trends, the element should include a program to monitor permitted ADUs and affordability every other year and take appropriate action such as adjusting assumptions or rezoning within a specified time period (e.g., six months).

D. 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. While the element includes these objectives by income group for low-, moderate- and above-moderate income, the element must break out the objectives for extremely low- and very low-income households.

E. 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 (p. 1-4), it must 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 should also summarize the public comments and describe how they were considered and incorporated into the element. The element must also describe translation services that were available during the planning process, and whether the element was available to the public at least 30 days before submitting the element to HCD for review.