

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

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October 21, 2022

Deanna Chow, Assistant Director
Community Development Department
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Dear Deanna Chow:

RE: City of Menlo Park's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Menlo Park's (City) draft housing element received for review on July 25, 2022. 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 September 30, 2022 with yourself, Calvin Chan, Chris Turner, Tom Smith and consultants Sung Kwon, Geoff Bradley, and Asher Kohn. In addition, HCD considered comments from Housing Leadership Council of San Mateo County, Campaign for Fair Housing Elements and YIMBY Law, Misha Silin, Sheppard Mullin, YIMBY Law and Greenbelt Alliance, Kevin Burke, and Menlo Together 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.

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 (January 31, 2023), then any rezoning to make sites identified in prior planning period(s) or accommodate the regional housing needs allocation, 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). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c)(1) (A) and Government Code section 65583.2, subdivision (c) are completed.

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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the dedication of the housing element team during the review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Hillary Prasad, of our staff, at Hillary.Prasad@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF MELNO PARK

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 <https://www.hcd.ca.gov/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/building-blocks> 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 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).)*

Integration and Segregation: The element reports and maps data on components of the assessment of fair housing but should evaluate patterns and trends. The element should describe what contributes to the concentration of Hispanic residents within the City, as well as what contributes to the identified segregation in the Belle Haven neighborhood. In addition, the element should describe what contributes to the concentration of female headed households north of Highway 101. The element should also describe the concentration of low-income residents east of Highway 101 as well as describe and analyze the City's high median income in relation to the immediate surrounding region (i.e., East Palo Alto, Palo Alto, Redwood City).

Racial/Ethnic Areas of Concentration of Affluence (RCAA): The element currently states that there are no RCAAs within the City. However, HCD's fair housing data viewer indicates that the City and much of the surrounding region is considered a RCAA. The analysis should include updated data regarding the City's RCAA designations and as noted above this should be analyzed relative to the broader region, County, and neighboring communities including the City's eastern neighbors. For more information, please visit: <https://affh-data-resources-cahcd.hub.arcgis.com>.

Disparities in Access to Opportunity: While the element included some data, additional information is required. The element should analyze the identified disparities in access to opportunity locally as well as include a regional analysis (City compared to the broader region). In addition, the element should describe whether there is access to jobs for protected classes and analyze the relationship between the least positive economic outcomes located in the same areas with the highest proximity to jobs. The element should also describe availability and access to transit geographically within the City and whether protected classes have access to transit. Lastly, the element must describe what contributes to the low environmental scores other than location of the highway.

Disproportionate Housing Needs including Displacement: While the element reports some data on disproportionate needs, it should analyze what contributes to the concentration of cost burdened renters and owners. In addition, the element should analyze the identified concentration of substandard housing and provide a regional analysis. The element should also describe and analyze disproportionate housing needs for persons experiencing homelessness, including impacts on protected characteristics and patterns or areas of higher need relative to access to transportation and services. Lastly, the element must also describe and analyze areas sensitive to displacement, including displacement risk due to disaster (e.g., earthquake, fire, and flood).

Affirmatively Furthering Fair Housing (AFFH) and Identified Sites: While the element includes a general summary of fair housing related to the sites inventory, it must analyze how the identified sites contribute to or mitigate fair housing issues. The element must identify and analyze sites throughout the community to foster inclusive communities and affirmatively further fair housing. An analysis should address all of the income categories of identified sites with respect to location, the number of units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). If sites exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies).

Goals, Actions, Metrics, and Milestones: The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. 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 specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community preservation and revitalization and displacement protection.

- 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).)*

Extremely Low Income (ELI): While the element includes the total number of ELI households in the City, it must include this data by tenure (i.e., renter and owner) and analyze their housing needs.

- 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).)*

Overpayment: The element must quantify and analyze the number of lower-income households overpaying by tenure (i.e., renter and owner).

Overcrowding: The element must quantify the total number of overcrowded households within the City and analyze their housing needs.

Housing Costs: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge) to reflect more current market conditions.

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).)*

Progress in Meeting the Regional Housing Need Allocation (RHNA): As you know, the City's RHNA may be reduced by the number of new units built since June 30, 2022, however, the element must demonstrate the affordability and availability of units in the planning period. The availability or likelihood the units will be built in the planning period should account for any barriers to development, phasing, anticipated build out horizons, market conditions and other relevant factors. This analysis should specifically address proposed projects, particularly the 1,729 units in Willow Village, rescale assumptions if appropriate and, given the magnitude of the project relative to the RHNA, should include a program to monitor progress and make adjustments as appropriate.

Realistic Capacity: The element must include a methodology for calculating the realistic residential capacity on identified sites. The methodology must account for land use controls 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 includes a methodology that essentially starts with developable area then multiplies that area by maximum densities then a series of adjustments. This method can be generally consistent with statute. However, in many cases the adjustments are 100 percent or more, do not appear to discount from the maximum allowable density and conflate non-residential likelihood and nonvacant development potential in a manner that the reasoning for the assumption is indiscernible. To address this requirement, the element could utilize a minimum density and HCD shall accept that methodology without any analysis or demonstration or the element could utilize a conservative methodology that will also assist in maintaining sites throughout the planning period pursuant to Government Code section 65863. Otherwise, the element must provide adequate supporting information for the various adjustment factors, rescale assumptions as appropriate and should separate the non-residential and nonvacant adjustment factor. Adequate supporting information would include a listing of all recent developments in the City by acreage, zone, allowable density, built density and affordability and then relate that information to the assumptions utilized in the inventory. For example, if the characteristics of past development are not similar to identified sites then the assumptions should not be utilized. With respect to the non-residential adjustment factor, the element should list or evaluate all development (residential and non-residential) to determine the likelihood for 100 percent nonresidential development than account for that trend in the adjustment

factor. For example, the element could list and evaluate all recent development in the City by acreage, zone, allowable density, allowable uses, built uses, built densities and affordability.

Small and Large Sites: Sites smaller than a half acre and larger than ten acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period 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)). The element lists small and large sites but also evaluate whether those sites are suitable to accommodate housing for lower income households and add or modify programs as appropriate. For example, the element could list past consolidations by the number of parcels, number of owners, zone, number of units, affordability and circumstances leading to consolidation and then relate those trends to the identified sites or could explain the potential for consolidation on a site-by-site basis.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. While the element includes a detailed description of existing uses, it must also demonstrate the potential for additional development in the planning period. In addition, the element must analyze the extent that existing uses may impede additional residential development. For example, the element includes sites identified as religious institutions, a post office, parking lots, a supermarket, and office buildings. The element should describe how residential development is likely to occur on sites including an office building built in 2013, as well as a supermarket, and an operating post office. The element can summarize past experiences converting similar 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 and relate those trends to the sites identified. In addition, the element should tie the feasibility of parking lot developments mentioned in nearby cities to the sites listed in the inventory. The element should also provide additional support for development on church sites including a history of development with few units affordable to lower income, especially on the sites where there is not church interest.

In addition, as noted in the housing element, 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 regional housing need allocation.

City-Owned Sites: The element must include additional discussion on each of the City-owned sites identified to accommodate the RHNA. Specifically, the analysis should address general plan designations, allowable densities, support for residential capacity

assumptions, existing uses and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element must include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). In addition, the housing element must include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

Federally-Owned Sites and School Sites: The element identifies two federally-owned sites, the USGS and Veterans Affairs hospital site in addition to the Ravenswood School District site. The element should provide additional discussion on each of the sites and address general plan designations, allowable densities, support for residential capacity assumptions, existing uses, whether lot splits are needed, and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element must include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). The element must provide additional support and describe whether the City has contacted the owners regarding feasibility of development on these sites and whether they will be available during the planning period.

Replacement Housing Requirements: The element identifies sites with existing residential uses. Absent a replacement housing policy, these sites are not adequate sites to accommodate lower-income households. The replacement housing policy has the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

Availability of 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 RHNA.

Environmental Constraints: While the element generally describes a few environmental conditions within the City, it must describe any other known environmental constraints or conditions within the City that could impact housing development in the planning period.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element should describe the permit processing, development, and management standards of the Homeless Overlay that allows emergency shelters by-right and should provide an analysis of proximity to transportation and services for these sites, hazardous conditions, and any conditions in appropriate for human habitability. In particular, the element describes a limit of 16 beds per facility, which is a constraint. In addition, the element should describe the capacity of sites included in the overlay to accommodate the City's need. Lastly, the element should describe how emergency shelter parking requirements comply with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement.

- *Transitional and 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. (c)(3).) The element must demonstrate compliance with these requirements and include programs as appropriate.
- *By-Right Permanent Supportive Housing*: Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with these requirements and include programs as appropriate.
- *Housing for Employees*: The Employee Housing Act permits housing under specific provisions. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. The element must demonstrate compliance with these requirements and include programs as appropriate.
- *Accessory Dwelling Unit (ADU)*: The element indicates the City modifies its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should modify Program H4-F to update the City's ADU ordinance to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.

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... (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 parking, heights, lot coverage and limits on allowable densities. 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. For example, the element should analyze the conditional use permit (CUP) requirement for multifamily development in the R4 zone where densities are allowed at 40 dwelling units per acre. In addition, the element should describe whether three stories are allowed without a use

permit in the R-3, R3A, R3-C, C-2B, and R-MU zones where height limits are 35 feet or less. The element should also analyze the land use controls including landscaping, parking, and floor area ratio (FAR) requirements in the R-3 zone and whether they allow maximum build out at allowed densities. The element should also describe and analyze densities and development standards that are allowed in the Affordable Housing Overlay. In addition, the element must describe and analyze the X Conditional Development District (p. 5-14) and any related land use controls. Lastly, the element should add programs as appropriate to address any identified constraints.

Voter Initiative: HCD was made aware of a proposed ballot measure in the City seeking to put any single-family rezoning to a vote, seemingly blocking affordable housing. The City must monitor and analyze the proposed ballot measure. If it passes, the element must add a program to include outreach and mitigation measures for the impact of the ballot measure on housing development throughout the planning period. The element should analyze the measure as a constraint on development based on site suitability for development and add or modify programs to address the constraint.

Parking: The element must analyze the parking requirements (p. 5-16) of more than one space per studio and one-bedroom unit and more than two spaces for two or more bedroom units. In addition, the element must describe what determines the parking requirements for C-2B and R-MU zones and analyze potential constraints. Should the analysis determine the parking standards or permit procedures are a constraint on residential development, it must include a program to address or remove any identified constraints.

Density Bonus: The City's current density bonus ordinance should be reviewed for compliance with current state density bonus law and programs should be added as necessary. (Gov. Code, § 65915.). In addition, the City's Affordable Housing Overlay states that the overlay will be an alternative to state density bonus law. This is in conflict with state law and must be revised.

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 some standard fees in Table 5-4, it must list typical fees including, but not limited to, CUPs, zone changes, general plan amendments, variances, site plans, specific plans, affordable housing in lieu fee, lot line adjustment, and other environmental fees. In addition, the element should describe and analyze fees as a proportion to the development costs for both single family and multifamily housing. Based on the outcomes of the analysis, the element should include programs to address identified constraints.

Local Processing and Permit Procedures: While the element describes the use permit procedure for single family housing, it must describe and analyze the City's permit processing and approval procedures by zone and housing type (e.g., multifamily rental housing, mobilehomes, housing for agricultural employees, supportive housing). 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- and multi-family developments, including type of permit, level of review, approval findings and any discretionary approval procedures. The element should also describe and analyze the process and approval for a CUP and architectural control review. Lastly, the element should analyze the total processing time for both single family and multifamily developments and add a program as needed.

Design Review: The element must describe and analyze the design review guidelines and process, including 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.

Streamlining Provisions: The element must clarify whether the City has procedures in place consistent with streamlining procedures pursuant to Government Code section 65913.4 and include programs as appropriate.

Codes and Enforcement: The element must describe the City's building and zoning code enforcement processes and procedures, including any local amendments to the building code, and analyze their impact as potential constraints on housing supply and affordability.

Constraints on Housing for Persons with Disabilities: The element must include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. For example, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities. While the element describes the City's definition of family, it should analyze the requirement of "a common housekeeping management plan based on an internally structured relationship providing organization and stability", whether this is a potential constraint on housing for persons with disabilities and add or modify programs as appropriate. In addition, the element must describe the findings and approval procedure for the City's Reasonable Accommodation procedure. Lastly, the element must describe and analyze how group homes for six or fewer and seven or more are allowed within the City and add programs as appropriate. For your information, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. These housing types should not be excluded from residential zones, most notably low-density zones, which can constrain the availability of housing choices for persons with disabilities. Requiring these housing types to obtain a special use or CUP could potentially subject housing for persons with disabilities to higher discretionary exceptions processes and standards where an applicant must, for example, demonstrate compatibility with the neighborhood, unlike other residential uses.

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

requirements, and fees for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1).

6. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... 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... (Gov. Code, § 65583, subd. (a)(6).)*

Developed Densities and Permit Times: 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.

7. *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).)*

While the element includes Table 3-9 listing at-risk properties within the next 10 years, it must provide additional information on the expiration date on projects listed "n/a" and "beyond 2025" to help determine whether these properties are eligible to change to non-low-income housing uses during the next ten years. In addition, the element must identify public and private nonprofit corporations known to the City to have the legal and managerial capacity to acquire and manage at-risk units, as well as identify 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... (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Gov. Code section 65583, subd. (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:

- Program H2.C (Assist in Implementing Housing Rehabilitation Programs): The program should include proactive outreach as well as specify how often sponsors and the City will apply for funding.
- Program H2.D (Accessory Dwelling Unit Amnesty Program): The program should include proactive outreach to owners.
- Program H2.E (Anti-Displacement Strategy): The program should include outreach to owners and organizations in the identified neighborhoods. It should also define which neighborhoods will be the focus. Lastly, the program should include timing for implementing the actions that result from the new programs identified.
- Program H3.E (Continue Support for Countywide Homeless Programs): The program should describe what the City is doing to implement the results of the check-in meetings. The program should also include timing of implementing the resulting actions.
- Program H3.F (Work with the U.S. Department of Veterans Affairs on Homeless Issues): This program should include specific timing to implement the potential programs identified.
- Program H3.H (Inclusionary Accessible Units): This program should describe what the City will do to encourage the units and whether incentives will be provided.
- Program H3.L (Large Units): This program should include proactive outreach to developers.
- Program H5.B (Undertake Community Outreach When Implementing Housing Element Programs): This program should clarify how often outreach will occur throughout the planning period.
- Program H5.D (Address Rent Conflicts): This program should describe whether the progress is in place or include timing for implementation. The program should also include proactive outreach.
- Program H5.F (First-Time Homebuyer Program): This program should be revised to include proactive outreach. In addition, the program should include specific implementation timing.
- Program H7.A (Create Residential Design Standards): This program includes timing to start implementation two years after adoption but should also specify when the actions will be completed.

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 A4, 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:

Shortfall of Adequate Sites: if the element does not identify adequate sites to accommodate the regional housing need for lower-income households, it must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. The program should identify the shortfall by income group, acreage, allowable densities, appropriate development standards and meet all by right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i), including but not limited to permitting multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower income households. The element must clarify whether programs 4H.I (Create New Opportunities for Mixed-Use Development), 4H.J (Increase Residential Density), 4.HK (Maximize Development Proposals), and 4H.L (Modify El Camino Real/Downtown Specific Plan) are needed to meet the City's RHNA, and if so, address the requirements above. In addition, program 4H.L should include specific commitment to the action, beyond considering implementation.

Program H4.G (Consider City-Owned Land for Housing): This program should commit to comply with surplus lands requirements for City owned sites. In addition, the program should describe when the sites will be offered, when an RFP will be issued during the planning period and include a numerical objective consistent with assumptions in the sites inventory.

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 A5 and A6, the element requires a complete analysis of potential governmental and non-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 should be revised as follows:

Program H4.E (Ministerial Review of 100 Percent Affordable Housing): This program should clarify whether creating objective design standards are included within this program. Proactive outreach should also be included throughout the planning period.

Program H4.M (Update Parking Requirements and Design Standards): The program should clarify what parking requirements will be revised and ensure updates will result in addressing constraints on development.

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 B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. 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 specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

In addition, Program H5.C (Provide Multilingual Information on Housing Programs) should clarify whether the multilingual information is currently available or whether they will need to be translated. If translation needs to occur, the program should include timing related to the action.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program H2.A (Adopt Ordinance for “At-Risk” Units): While this program commits to actions for at-risk properties, it should also include a commitment to reach out to owners to ensure compliance with state preservation notice law (Gov. Code Sections 65863.10, 65863.11, and 65863.13).

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. While the element includes these objectives by income group for very low-, low-, moderate- and above-moderate income, the element must also include objectives for extremely low-income households. In addition, while the element includes these objectives for construction, it must also include estimates for rehabilitation and conservation/preservation.

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)(9).)

While the element includes a summary of public participation including outreach to the community, it must also describe how comments from public participation were considered and incorporated into the element.