

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

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October 1, 2020

Fabiola Huerta, City Manager
City of La Habra Heights
1245 N. Hacienda Road
La Habra Heights, CA 90631

Dear Fabiola Huerta:

RE: City of La Habra Heights' 5th Cycle (2013-2021) Draft Housing Element

Thank you for submitting the City of La Habra Heights' (City) draft housing element received for review on August 5, 2020, along with revisions received on September 14, 29 and 30, 2020. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes revisions needed to comply with State Housing Element Law.

The draft element includes Program H-2 (Adequate Sites). The Program accommodates the housing needs of lower-income households for the 4th and 5th cycle planning periods, 34 and 51 units, respectively, pursuant to the requirements of Government Code section 65583, subdivisions (c)(1), and 65583.2, subdivisions (h) and (i). For your information, pursuant to Government Code section 65584.09, as more than one year has lapsed since the beginning of the current planning period, the element cannot be found in compliance with State Housing Element Law until the required rezoning is adopted.

Government Code section 65588, subdivision (e)(4), requires a jurisdiction that failed to adopt its housing element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. The City did not meet the requirements of Government Code section 65588, subdivision (e)(4); therefore, it is subject to the four-year revision requirement until the City has adopted at least two consecutive updated revisions by the applicable due dates.

In addition to failing to adopt its housing element within 120 days of the statutory due date, the City also failed to adopt a housing element within the first four years of the planning period. Therefore, prior to obtaining housing element compliance, the City must adopt both an initial 5th cycle housing element and a compliant four-year update. The two housing elements may not be adopted concurrently. In addition, the four-year update requires standalone public outreach and participation, separate from the public outreach conducted for the initial 5th cycle housing element. The four-year update must also demonstrate meaningful progress in implementation since adoption of the initial 5th cycle housing element.

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 program; and ongoing SB 2 funding (Permanent Local Housing Allocation) consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

HCD appreciates the cooperation that you and Rafferty Wooldridge provided during the course of our review. 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 Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF LA HABRA HEIGHTS

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

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

A. Housing Needs, Resources, and Constraints

1. *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, subdivision (a)(3).)*

Parcel Listing: The element notes an estimated 200 vacant single-family lots to accommodate housing for above-moderate income households and parcel listing in Appendix C. However, the parcel listing and Appendix is missing. The element must list parcels to accommodate the regional housing need by parcel number, size, general plan designation, zoning district, number of units that can be realistically accommodated and anticipated affordability level. The parcel listing must also be accompanied by an analysis of suitability for development in the planning period.

Multifamily Sites: The element mentions site constraints on identified sites but must also evaluate the impacts of those constraints on development in the planning period. For example, the evaluation should address whether those constraints preclude development, including financial feasibility.

Sites to Accommodate Moderate-Income Households: On page IV-2, the element notes multifamily sites (Table IV-2) can accommodate the housing needs of moderate-income household. On page V-2, the element also indicates moderate-income households will be accommodated by accessory dwelling units (ADU). The element must address this internal consistency. If utilizing ADUs toward the housing need of moderate-income households, the element must include an analysis of trends, affordability and other relevant factors. For more information, please see the Building Blocks.

B. Housing Programs

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need*

for each income level that could not be accommodated on sites identified in the inventory 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 A-1, 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:

Program H-2 (Adequate Sites): While the program mentions rezoning “consistent” with Government Code sections 65583.2, subdivisions (h) and (i), it must also include clear commitment to:

- multifamily uses without discretionary action for developments with at least 20 percent of the units affordable to lower-income households;
- a minimum density of 20 units per acre;
- a maximum allowable density with a sufficient range to facilitate housing for lower-income households; and
- permit at least 16 units per site.

Program H-4 (Housing for Persons with Special Needs): While the program mentions low barrier navigation centers (LBNCs), it must clearly commit to permit LBNCs without discretionary action. In addition, the program must amend zoning to permit permanent supportive housing without discretionary action which is in addition to permitting transitional and supportive housing only subject to the same requirements as other uses of the same type in the same zone. Finally, zoning for emergency shelters was required as part of the 4th cycle housing element. Since this date has long ago lapsed, the element will not be found in compliance until zoning is appropriately amended.

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 housing element does not address this requirement. The element must include a program(s) to assist in the development of housing for extremely low-, very low-, low- and moderate-income households, including households with special needs. The program, at least, must include proactive outreach to developers and assistance such as incentives, financing or supporting applications for financing and expedited permitting. This program must also address housing for persons with special needs

and should address the housing needs of employees as noted on page II-16. This program must also clearly commit to adopt a density bonus ordinance pursuant to Government Code section 65915 separately from Program H-2.

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).)*

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 on page III-2, the smallest minimum lot area and density in the City is 1 unit per acre. Further, minimum parking requirements are six spaces per unit, including 2 spaces in an enclosed garage. This zoning and standards are fundamental constraints on the development of housing choices for all income levels and exclusionary to households of all incomes and persons with special needs in nature. The element must acknowledge these fundamental barriers and include programs commensurate with the circumstances and conditions.

While the element includes programs to rezone sites for multifamily development, amend zoning for households with special needs and “consider” smaller lot sizes, it must include clear commitment to amend zoning by a date certain for a variety of lot sizes, beyond simply considering actions. In addition, Program H-5 commits to continue administering programs to affirmatively further fair housing. However, the element does not contain sufficient programs to affirmatively further fair housing, rendering Program H-5 without beneficial impact and meaningful action. The element must include meaningful action. HCD will provide additional assistance under separate cover.

For your information, pursuant to Government Code section 8899.50, “affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing 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 affirmatively further fair housing extends to all public agency's activities and programs relating to housing and community development. This duty can be carried out in conjunction with the housing element.

C. Consistency with General Plan

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

For your information, some general plan element updates are triggered by housing element adoption. For example, the safety and conservation elements of the general plan must include analysis and policies regarding fire and flood hazard management and be revised upon each housing element revision. (Gov. Code, § 65302, subd. (g).) HCD reminds the City to consider timing provisions. 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.