

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

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February 21, 2020

Matt Schneider, Director
Community Development Divisions
City of Rialto
150 S. Palm Avenue
Rialto, CA 92376

Dear Matt Schneider:

RE: Review of the City of Rialto's 5th Cycle (2013-2021) Draft Four-Year Housing Element Update

Thank you for submitting Rialto's draft housing element received for review on December 24, 2019, along with revisions received on February 6, 2020. Pursuant to Government Code section 65585, subdivision (h), the Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by various communications with the city's consultant, Dave Barquist. In addition, HCD considered comments from Inland Counties Legal Services 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). In particular, HCD cannot find the element in full compliance until Rialto amends zoning to permit year-round emergency shelters without discretionary action pursuant to Government Code section 65583, subdivision (a)(4)(A). The enclosed Appendix describes this, and other revisions needed to comply with state housing element law.

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 of Rialto did not meet the requirements of Government Code section 65588, subdivision (e)(4); therefore, it is subject to the four-year revision requirement. The city missed its first opportunity to adopt on time (10/15/2017). The next opportunity to adopt on time will be on or before the due date for the 6th planning cycle housing element update.

Public participation in the development, adoption and implementation, including the annual progress report, of the housing element is essential to effective housing planning. Throughout the housing element process, the city must continue to engage

the community, including organizations that represent lower-income and special-needs households and commenters on this letter. The city should make information regularly available in a timely manner and through a variety of methods and languages and consider and make revisions to incorporate comments where appropriate.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. Housing element compliance is a threshold criteria to receive SB 2 Planning Grant funding. HCD received the City's SB 2 Planning Grant application and is placing the City's application on hold pending determination of housing element compliance. To ensure the awarding of grant funding, in addition to other program requirements, the City's housing element must be determined to be compliant with sufficient time to meet the encumbrance deadline of June 30, 2020. A determination of compliance after February 2020 puts the City's award of SB 2 Planning Grant Program funding at risk of not meeting the encumbrance deadline. Additional guidance can be obtained from the SB 2 Planning Grant Team at SB2PlanningGrant@hcd.ca.gov.

HCD is committed to assisting Rialto in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Cynthia Marsh, of our staff, at (916) 263-7421.

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 Manager

Enclosure

APPENDIX CITY OF RIALTO

The following changes would bring Rialto'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, subd. (a)(3).)*

The city has a regional housing need allocation (RHNA) of 2,715 housing units, of which 1,068 are for lower-income households. To address this need, the element relies on lot consolidation, mixed-use zones, and specific plan areas. To demonstrate the adequacy of these strategies to accommodate the city's RHNA, the element must include complete analyses:

Realistic Capacity: The element relies on a combination of sites identified in the site inventory (Appendix C) and approved specific plans. However, there are inconsistencies in the capacity and affordability estimates between the narrative (pages 4-4 and 4-5) and the information in Table 4-4, and the inventory in Appendix C. The element should be revised for consistency.

Map of Sites: The element must include a general map of identified sites. While the element includes some maps to illustrate potential lot consolidations, the element should include a map illustrating the location of all sites. For additional information, see the sites inventory analysis section of the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

Mixed-Use Sites: The element relies upon nonresidential zoned sites (e.g., commercial and mixed use zones) to accommodate a significant portion of the RHNA for lower-income households. To support this estimate, the element must include analysis of residential development on nonresidential zoned sites. For example, the analysis could include the following:

- Discussion of development trends such as the typical number or proportion of residential projects built in nonresidential zones.
- Discussion of residential development trends (regionally or locally) in nonresidential zones.

- Description of any existing or planned policies, programs, or local guidance or efforts promoting residential development in nonresidential zones.
- Description of any existing, or planned, mixed-use or overlay zoning, performance standards, or incentives for promoting residential development in nonresidential zones.
- Demonstrate a surplus of nonresidentially zoned sites relative to the regional housing need.

For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#zoning>.

Sites with Zoning for a Variety of Housing Types:

Emergency Shelters: Program 5.2C, identified in the previous element, committed to amend the zoning ordinance to permit emergency shelters within the Industrial Park zone without discretionary action within one year of the adoption of the 5th cycle housing element. However, Program 5.2C was not implemented. Pursuant to Government Code section 65583, subdivision (a)(4)(A), the housing element cannot be found in full compliance until the city has amended zoning to permit a year-round emergency shelter without discretionary action. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/zoning-for-variety-housing-types.shtml> and HCD's SB 2 memo at http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb2_memo050708.pdf.

Housing for Farmworkers: The Employee Housing Act (Health and Safety Code § 17000 et seq.), specifically, sections 17021.5 and 17021.6. 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 either demonstrate consistency with these requirements or include programs to amend zoning as appropriate. For additional information and sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/farmworkers.shtml>.

2. *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 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 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)).*

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.

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:

Program 5.4B – Remove Development Constraints: The program should be revised to provide a specific dates by which:

- The city will establish a procedure to accommodate SB 35 streamlining requests.
 - The city will review and revise minimum unit size requirements.
 - The city will revise the CUP requirement for multifamily development in the R-3 zone.
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 A1, 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.

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)). 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. *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 A2, the element requires a complete analysis of potential 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 5.5B – Reasonable Accommodation: The requirement to provide reasonable accommodation pursuant to Senate Bill 520 was effective January 1, 2002, however, the city has yet to adopt a reasonable accommodation procedure. Program 5.5B commits to adopting a reasonable accommodation procedure by April 2020. It is imperative that the city adopt the procedure on the schedule proposed. Additional information can be found in HCD’s technical assistance memo at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>

E. 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, a jurisdiction must address environmental justice in its general plan by the adoption of an environmental justice element, or by the integration of environmental justice goals, policies, and objectives into other general plan elements upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. (Gov. Code,

§ 65302, subd. (h).) In addition, 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).) Also, the land-use element must identify and analyze disadvantaged communities (unincorporated island or fringe communities within spheres of influence areas or isolated long established legacy communities) on, or before, the housing element's adoption due date. (Gov. Code, § 65302.10, subd. (b).) HCD reminds the City of Rialto 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.