

**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



December 13, 2021

Daniel Casey, Acting Community Development Manager
Community Development Department
City of Rialto
150 South Palm Avenue
Rialto, CA 92376

Dear Daniel Casey:

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

Thank you for submitting the City of Rialto's (City) draft housing element received for review on October 14, 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. 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). 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).

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 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 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.

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 Sohab Mehmood, of our staff, at Sohab.mehmood@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall".

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF RIALTO

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 element must provide a cumulative evaluation of the effectiveness of past 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).)*

Enforcement: While the element briefly describes fair housing services with Inland Fair Housing and Mediation Board (IFHMB), it generally does not address this requirement. The element must include information on past or current fair housing complaints, findings, lawsuits, or judgements related to enforcement actions regarding fair housing. In addition, the element must discuss compliance with existing fair housing laws and regulations. For more information and guidance on this analysis, please visit pg. 28-30 of the HCD's AFFH guidance memo:

https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

Local Knowledge and Data: The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates, public comments, and service providers.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Integration and Segregation: The element provided some data on integration and segregation across racial groups and one map displaying income by census tracts. The element must discuss and analyze this data for trends over time and patterns across census tracts. Additionally, it must evaluate patterns at a regional basis, comparing the City to the region.

High Segregation and Poverty: TCAC/HCD opportunity maps indicate that the City has two areas considered high segregation and poverty in the center of the City. The element must analyze all of these census tracts for trends and patterns and consider other relevant factors, local data and knowledge and evaluate factors that contributed to the conditions of these areas.

Access to Opportunity: While the element provided a general analysis of opportunity areas, and high-level conclusions about the City's disparities in access to opportunity, it must independently analyze trends and patterns related to access to educational and economic opportunities. Additionally, the element must evaluate patterns at a regional basis and compare those to conditions at the local level.

Disproportionate Housing Needs and Displacement: The element must provide an analysis of trends and patterns related to people experiencing homelessness at a local and regional level. The element deferred to an at-risk analysis of affordable housing as a way to analyze displacement risk. The element should consider and analyze additional data. For example, UC Berkeley's Urban Displacement Project indicates that there are several census tracts in the middle of the City with people vulnerable to displacement.

Sites Inventory: The element concludes that the sites inventory does not exacerbate existing fair housing conditions, however the analysis clearly demonstrates that the sites will either maintain the status quo of fair housing conditions or further worsen areas already experiencing several fair housing issues including income and racial segregation and limited access to opportunities. For example:

- *Race* – Figure 3-16 of the element illustrates that all of the City's lower-income RHNA has been identified in areas with the highest percentages of Hispanic population, while no lower-income sites and majority moderate and above moderate sites have been identified in census tracts with the lowest Hispanic population.
- *Income* – Figure 3-18 illustrates that majority of the above and moderate RHNA sites are identified in areas with the least percentage of low to moderate income households while no lower-income sites are identified in these census tracts.
- *Access to Opportunity* – Figure 3-21 displays that no lower-income units were identified in the City's high resourced census tracts while all lower-income

sites were identified in most of the City's low resourced areas and areas of high segregation and poverty.

The element must include further analysis, strong reasoning, and accurate conclusions about the location of sites and its impact on current fair housing conditions (e.g., isolating lower-income sites in low resourced areas and moderate to above moderate in high resourced, high income areas). Further, if the inventory continues to isolate the RHNA for lower income households in central areas, the element must have commensurate programs with strong place-based strategies for community revitalization and new opportunities in higher opportunity areas (beyond RHNA) to result in an equitable quality of life and affirmatively further fair housing (AFFH) throughout the City.

Fair Housing Issues and Contributing Factors: The element did not provide a conclusion of fair housing issues. The element should list and identify fair housing issues as a result of the analysis. Additionally, the element did not sufficiently identify, describe, and prioritize contributing factors. For example, the element listed R/ECAP, low resourced census tracts, and the City's availability to meet their RHNA as contributing factors, however, these are not contributing factors. For more information and guidance, please visit pages 49-56 of HCD's AFFH Guidance Memo: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

Goals, Actions, Metrics and Milestones: The element identified few actions to address AFFH including continuing to work with the Inland Fair Housing Board and reviewing historic policies. These actions do not include specific commitments, address fair housing issues, and meaningfully overcome contributing factors. At minimum, programs must enhance housing mobility, provide new housing choices and affordability in high opportunity areas, and place-based strategies for community preservation and revitalization. Additionally, programs and actions must create meaningful impact in addressing a jurisdiction's fair housing issues. Furthermore, the element must include metrics and milestones for targeting meaningful change and evaluating progress on programs, actions, and fair housing results. For more information and guidance, please visit pages 72-74 of HCD's AFFH Guidance Memo: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

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

Housing Stock Conditions: While the element identifies the age of the housing stock (p. 2-28), it must quantify the number of units in need of major rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.

3. *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 RHNA of 8,272 housing units, of which, 3,424 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites in Specific Plan Areas and within the Mixed-Use Overlay area, ADUs, and pipeline projects. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Realistic Capacity: The element states that the City is assuming 50-80 percent of the maximum allowable density, however the inventory indicates that for sites where the buildable and gross acreage is the same (e.g., no deductions on site acreage for constraints), the element assumed that units will be developed at the maximum allowable density. The element must demonstrate specific trends, factors, and other evidence led to the assumptions or adjust assumptions as appropriate. Additionally, 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. Lastly, the element identifies sites within commercial and mixed-use zones where the current zoning allows for 100 percent nonresidential uses (commercial, industrial, etc.). To demonstrate realistic capacity on these sites, the element must analyze and account for the likelihood of residential development in the zones that allow 100 percent nonresidential uses. The analysis should be based on factors such as development trends, performance standards or other relevant factors.

Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate a portion of the regional housing need for households of all incomes. While the element includes general statements such as "developer interest" and sites are "underutilized," this alone is not adequate to demonstrate the suitability of these sites. A complete analysis should describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period. This can be demonstrated by

providing substantial evidence that the existing use is likely to be discontinued during the planning period. (Gov. Code, § 65583.2, subd. (g)(2).)

Specific Plans: The element identifies several specific plan areas to accommodate the City's RHNA and that some of these plans have been entitled for a certain number of units. To utilize residential capacity in Specific Plans, the element must:

- Indicate whether suitable sites have approved or pending projects or are suitable for development in the planning period.
- If projects are approved or pending, describe the status of the project, including any necessary approvals or steps prior to development, development agreements, conditions, or requirements such as phasing or timing requirements that impact development in the planning period, and the affordability of the project's units based on anticipated rents, sales prices, or other mechanisms (e.g., financing, affordability restrictions) ensuring their affordability.
- For suitable sites without pending or approved projects, the element must list sites by parcel number or unique reference, size, general plan designation, zoning and include a calculation of the realistic capacity of each site. The element must also include an analysis of any requirements such as phasing or timing requirements that impact development in the planning period and large sites, if applicable, with policies and programs.

Accessory Dwelling Units (ADU): The element is projecting 128 ADUs for an average of 16 ADUs per year during the planning period to accommodate a portion of its RHNA. The City's Annual Progress Reports (APR) shows no records of ADU permits in 2018 and 2020 and one ADU permitted in 2019. The City's past performance on permitting ADUs do not support a sixteen-fold increase. The element should reconcile these figures and adjust assumptions based on a realistic estimate of the potential for ADUs and include strong policies and programs that commit to incentivizing ADUs. Additionally, while the element can use ADU applications to support projecting ADU production beyond what was actually permitted, it cannot solely rely on ADU applications to make projection assumptions. Depending on the analysis, the element must commit to monitor ADU production and affordability throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. If necessary, additional actions should be taken in a timely manner (e.g., within six months). 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.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml> for a copy of the form and instructions. The City can reach out

to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

Environmental Constraints: While the element includes a general description of various environmental constraints related to earthquakes, fires, and flood, it must describe how these conditions relate to identified sites including any known environmental constraints within the City that could impact housing development in the planning period. (Gov. Code, § 65583.2, subd. (b).) For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

Zoning for a Variety of Housing Types (Emergency Shelters): While the element identifies the I-P zone for emergency shelters, it should also analyze the suitability and capacity of the I-P zone to meet the need for emergency shelters. For example, the element should identify the number of parcels, typical parcel sizes, available acreage, whether sites are underutilized, and any potential for reusing existing buildings to emergency shelters. The element should also discuss proximity to transit and services and any known hazardous conditions unfit for human habitation.

4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

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, minimum lot sizes, and open space requirements. Specifically, the element indicates that a minimum of two parking spaces is required and concluded that while parking requirements may be a constraint, developers can receive reductions per density bonus law. However, the element should include programs to address constraints on development regardless of the availability of reductions under density bonus law. Secondly, the R-3 and PRD-A zone requires a minimum lot size of 1 acre, and Foothill Specific Plan and PRD-D requires a minimum lot size of 3-5 acres. The element also states that the PRD-D zone minimum unit size is determined by planning commission. Both provisions appear to be a constraint. 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.

Population Density: The element lists densities based on population density per acre as well as dwelling units per acre (p. 3-6). The element must analyze how the

population density requirement is determined for a project, how it interacts with the dwelling unit per acre standard, and whether it acts as a development cap for proposed projects.

Processing and Permit Procedures: While the element included information on the type of permit application and whether a public hearing is required, it should also describe the procedures for a typical single-family and multifamily development. The analysis should address the approval body, the number of public hearings, if any, approval findings, design review requirements and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty. Additionally, the element states that a conditional use permit (CUP) is required for multifamily housing of five or more units in multifamily zones (e.g., R-3 zone). The element must specifically analyze the CUP process as a potential constraint on housing supply and affordability. The analysis should identify findings of approval for the CUP and their impact on development approval certainty, timing, and cost. The element must include a program to address and remove or mitigate the CUP requirement.

On/Off-Site Improvements: While the element states that on/off site improvements include curb, gutters, sidewalks, etc., the element should include information on actual standards and typical improvements required. Additionally, it should further identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width) and analyze their impact as potential constraints on housing supply and affordability.

Local Ordinances: The element must specifically analyze any locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development.

Constraints on Housing for Persons with Disabilities:

- *Reasonable Accommodation:* The element states that the City's reasonable accommodation approval findings include "impact on surrounding uses." The element should analyze this reasonable accommodation finding for constraints on housing for persons with disabilities and revise programs to address identified constraints.
- *Family Definition:* The element should also describe and analyze any definition of family used in zoning and land use.
- *Residential Care Facilities for Six or fewer and Seven or More Persons:* The element must describe how the City defines and permits group homes of six or fewer and seven or more persons. For your information, group homes with six or fewer should be treated no differently than other by-right single-family housing uses and must be allowed in all residential zones. Additionally, group homes of 7 or more should not be excluded from residential zones or treated differently than other similar uses.

5. *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).)

Requests for Lower Density, Permit Times, and Efforts to Address Nongovernmental Constraints: The element must analyze (1) requests to develop housing at densities below those identified in the inventory, (2) the length of time between receiving approval for a housing development and submittal of an application for building permits, and (3) any local efforts to address or mitigate nongovernmental constraints such as reduced fees, financing for affordable housing or expedited processes. The analysis should address any hinderances on the construction of a locality's share of the regional housing need and programs should be added or modified as appropriate.

6. *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).)*

Special Needs Households: While the element includes data and a general discussion of housing challenges faced by special needs households, it still must provide an analysis of the existing needs and resources for each special need group including seniors, female headed households, large householders, extremely low-income households (ELI), and persons experiencing homelessness. For example, the element should discuss the existing resources to meet housing needs (availability of shelter beds, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps

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 an inventory of deed-restricted projects and analysis of at-risk units, California Housing Partnership Cooperation lists three affordable projects that were not included in the inventory. The element should include the following projects in the inventory:

- TELACU Rialto III – 74 assisted units located on 545 Bloomington Avenue
- Greentree Senior Apartments – 270 assisted units on 245 East First Street

- Park Place – 30 assisted units on 310 West Jackson Street

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 have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines. For example, several programs list specific implementation actions such as developing marketing materials and revising the zoning code but should also provide a timeline for when that action will end or the frequency of the action (where applicable). The following programs should be revised:

- Program 2C – Accessory Dwelling Unit Construction
 - Program 2D – Accessory Dwelling Unit Monitoring Program
 - Program 2N – Small Lot Consolidation
 - Program 3C – Preserve and Monitor At-Risk Units
 - Program 4B - Remove Development Constraints
 - Program 4C – Water and Sewer Service Providers
 - Program 4D – Availability of Zoning, Development Standards, and Fees Online
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 B3, 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:

Housing Program 2B – Rezone to Provide Adequate Sites to Accommodate RHNA:

While the element includes a program committing the City to rezone sites to address a 6th cycle shortfall, the program must specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i). Specifically, the program must commit to:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval;
- accommodate a minimum of 16 units per site;
- require a minimum density of 16/20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
 - allow 100 percent residential use, and
 - require residential use occupy 50 percent of the total floor area of a mixed-use project.

City-owned Sites: The element identified several city-owned sites to accommodate a portion of the RHNA including parking lot lots for Metrolink stations. The City should consider including a program that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of City-owned sites. Actions could include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.

Proposed Housing Overlay: The element states that the City is considering implementing an overlay to increase densities and/or allow for residential uses. If the element is proposing an overlay where the underlying zoning allows for nonresidential uses, the element should include a program that commits to sufficient incentives (beyond State Density Bonus Law) to assure the intended residential uses and affordability.

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 B4 and B5, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element does not include a complete Assessment of Fair Housing (AFH). Depending on a complete analysis, the element will need to add and revise programs as appropriate.

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)(8).)

While the element described various efforts to achieve public participation in the preparation of the housing element update, the element should also describe how comments were considered and incorporated into the element.