

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

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December 9, 2021

Justin Carlson, City Planner
Community Development Department
City of Walnut
City Hall, 21201 La Puente Road
Walnut, CA 91789

Dear Justin Carlson:

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

Thank you for submitting the City of Walnut's (City) draft housing element received for review on October 12, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on December 7, 2021 with consultant Veronica Tam.

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 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: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD is committed to assisting Walnut in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Fidel Herrera at fidel.herrera@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF WALNUT

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. 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).)*

Fair Housing Enforcement and Outreach Capacity: The summary should include (1) a listing of local, regional, and state agencies and organizations active in the locality, (2) description of primary activities and capacity for each entity, including actions taken by the City, such as provision of dedicated resources, (3) evaluation of impacts on protected characteristics and geographic trends, and (4) any additional relevant information about fair housing enforcement.

Integration and Segregation Patterns and Trends Related to People with Protected Characteristics and Lower Incomes: The analysis must address areas of ongoing and concentrated segregation and integration and compare concentrations of protected characteristics and incomes at both a regional and local level. The element only discussed trends and patterns at a local level for disability and familial status.

Racially & Ethnically Concentrated Areas of Poverty (R/ECAP): The analysis should evaluate the patterns and changes over time and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Disproportionate Housing Needs, Including Displacement: The analysis must compare the locality to the broader region and the sub-geographies within the locality. The element did not compare the City to the broader region for cost burden, overcrowding and substandard housing.

Sites and Affirmatively Furthering Fair Housing: The element must demonstrate the sites inventory affirmatively furthers fair housing (AFFH). For example, the analysis should address whether the identified sites improve or exacerbate each of the fair housing issue areas.

For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtm>.

2. *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 1,293 housing units, of which 652 are for lower-income households. To address this need, the element relies on nonvacant sites, including sites in the Medium Density Residential District Overlay and the High Density Residential Overlay. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include a complete analysis, as follows:

Parcel Listing: The site inventory should include the current and proposed general plan and zone designation for each site and describing existing uses for any nonvacant sites. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, rezones sites to permit housing development by-right pursuant to statutory requirements. The element must clarify if sites used to accommodate the housing need for lower-income households were previously identified in prior planning periods and include programs as appropriate.

Realistic Capacity: While the element assumes the minimum proposed density for the sites based on the proposed overlay for determining of realistic capacity, it does not take into consideration the likelihood of residential development on sites where the underlining allows commercial or industrial uses. The element could consider the approximate percentage of identified sites that would realistically convert to residential uses within the planning period.

Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it must include a methodology

that demonstrates the potential for additional development in the planning period. The methodology must consider factors such as 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. 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, it must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Water and Sewer Priority: For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers.

Zoning for a Variety of Housing Types:

- *Manufactured Housing:* The element must demonstrate the City's zoning code allows and permits manufactured housing in the same manner and in the same zone(s) as conventional or stick-built structures are permitted. (Gov. Code, § 65852.3.) Per Table 24, page 50 manufactured homes are not allowed in the C-P, C-1 and C-3 zones, but single-family dwellings are allowed. Specifically, manufactured homes should only be subject to the same development standards that a conventional single-family residential dwelling on the same lot would be subject to, with the exception of, architectural requirements for roof overhang, roofing material, and siding material.
3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).*

Parking: the element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should address the parking requirement for 2.5 spaces per unit for multifamily development, particularly smaller bedroom types for impacts on cost, supply, housing choice and affordability and include programs to address identified constraints.

Residential District Overlay Zone: The element relies on sites that will be rezoned to allow residential development through the implementation of a residential overlay. While some information was provided on how the overlay allows residential the element must include a complete description and analysis of the overlay, including if commercial and industrial uses will continue to be allowed per the underlying zoning. The element should also describe permitting procedures that will apply to the residential development in the overlay and describe incentives to encourage and facilitate the development of housing affordable to lower-income households.

Building Codes and their Enforcement: While the element states on page 59 that the City has adopted the International Building Code (IBC), it must also discuss the type and degree of enforcement conducted by the City.

Housing for Persons with Disabilities: While the element identifies how community care facilities serving six or fewer persons are permitted, it must describe and analyze how community care facilities serving seven or more persons are approved including any approval findings. The element should analyze the process for potential constraints on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes for seven or more persons objectively with approval certainty.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.

Fees: 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. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

SB 35 Streamlined Ministerial Approval Process: The element must describe the availability of written procedures for the SB 35 streamlined, ministerial approval process or include a program as appropriate.

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 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).)*

The element must provide discrete timing for all programs (e.g., month and year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period and quantify objectives where feasible. Examples include but are not limited to Program 1 (Provisions of Adequate Sites), Program 2 (No-Net-Loss), Program 3 (Housing Choice Vouchers), Program 7 (Code Enforcement), and Program 10 (Zoning Amendments and Implementation).

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 A2, the element does not include a complete site analysis. 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:

Program 1: Provision of Adequate Sites: The element acknowledges that the zoning is not currently in place to accommodate the RHNA and includes Program 1 which commits to amend the zoning code to establish two residential overlay zones. However, in addition to addressing the by-right approval provisions, when accommodating the shortfall of sites for lower income, the program needs address all the provisions of Government Code section 65583.2, subdivision (h) and (i). This Program must be revised to commit to rezone to the following standards:

- Minimum of 16 units per site.
- Minimum density of 20 units per acre.

- At least 50 percent of identified shortfall is accommodated on residential only zoned sites, or up to 100 percent of the identified shortfall can be met on mixed-use sites if the mixed-use zoning allows both
 - 100 percent of a development to be residential; and
 - requires a minimum of 50 percent of the square footage in a mixed-use development to be residential.

Nonvacant Sites Reliance to Accommodate RHNA: As the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, it should include a program(s) to promote residential development of those sites. The program(s) could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites. Examples of incentives include identifying and targeting specific financial resources and reducing appropriate development standards.

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

The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-, very low-, low-, and moderate-income households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to lower and moderate-income households; assisting, supporting, or pursuing funding applications; and outreach and coordination with affordable housing developers. Programs to facilitate development such as Program 4 (Collaboration with Housing Developers) should be evaluated to ensure meaningful and specific actions and objectives. Programs containing unclear language (e.g., "Evaluate"; "Consider"; "Encourage"; etc.) should be amended to include more specific and measurable actions.

4. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in finding A3, 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.

5. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion,*

sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)

As noted in Finding A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. 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.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low-, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element is required to include a program that incentivizes or promotes ADU development for very low-, low-, and moderate-income households. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department.

C. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

While the element includes a general summary of the public participation process, it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

In addition, HCD understands the City made the element available to the public two weeks prior to its submittal to HCD. By not providing an adequate opportunity for the public to

review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.