

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

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July 9, 2021

Bob Manis, Director of Development Services
Development Services Department
City of Poway
13325 Civic Center Drive
Poway, CA 92064

Dear Bob Manis:

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

Thank you for submitting the City of Poway's (City) draft housing element received for review on May 10, 2021 along with revisions received on June 25, 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 telephone conversation on June 23, 2021 with David De Vries, City Planner; Austin Silva, Senior Planner; Scott Nespore, Associate Planner; and Polina Mitcheom, Planning Intern. In addition, HCD considered comments from Chris Cruse 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, the Affirmatively Furthering Fair Housing, sites analysis, and programs sections, amongst other, need revisions to fully comply with State Housing Element Law. The enclosed Appendix describes these, and other revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due April 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 make revisions to the element as described herein, adopt, and submit to HCD to regain housing element compliance.

As a reminder, 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> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of April 15, 2021 for San Diego Association of Governments (SANDAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

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 meets housing element requirements for these and other funding sources.

HCD appreciates the responsiveness and dedication David De Vries, Austin Silva, Scott Nespor, and Polina Mitcheom 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 fluid and cursive, with the first name being more prominent.

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF POWAY

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 reviews the 5th cycle programs but does not provide a specific review for programs regarding the effectiveness of the 5th cycle programs for meeting the community's special housing needs. An analysis must be provided for the cumulative impact of the previous housing element's programs to address the housing needs of special needs populations. The element should specifically look at programs targeted for special needs populations and provide a narrative analysis.

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).)*

Additional analysis is required to meet the statutory requirements. In particular, the element must analyze the enforcement and outreach capacity trends and patterns at the regional level. Currently, the element only analyzes this data at the local level. Additionally, the element must analyze trends and patterns of race at the regional level. Currently, the element only analyzes the trends and patterns at the local level. Moreover, the element must analyze the economic access to opportunity at the regional level; currently, the element only analyzes the data at the local level.

In addition, more information is needed to fully analyze the disproportionate housing needs at the local and regional level. At the local and regional level, the element must analyze the homeless housing need. Additionally, at the regional level, the element must analyze cost burden and substandard housing. Next, the element must also look at other relevant factors that contribute to fair housing issues in the jurisdiction. To meet this requirement, the element should consider information beyond data that identifies and compares concentrations of groups with protected characteristics.

Additionally, the element must analyze how the sites inventory affirmatively furthers fair housing. For example, the element should analyze whether and/or how concentrating the lower-income housing need in the portion of the City that has the most non-white and less affluent residents furthers the goals of fair housing.

Lastly, the element must include programs that (1) enhance housing mobility strategies, (2) encourage development of new affordable housing in areas of opportunity, (3) improve place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and (4) protect existing residents from displacement. Currently, the programs listed in the element are not sufficient to take any meaningful actions in combating fair housing issues in Poway. The actions must directly target the contributing factors to fair housing issues and have a quantifiable outcome.

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 1,319 housing units, of which 736 are for lower-income households. To address this need, the element relies on vacant, nonvacant, and sites located in the Poway Road Specific Plan (PRSP). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses.

Progress in Meeting the RHNA: The element indicates (pages 4-6) that 144 units affordable to low-income households have been built or are under construction or approved but provides no information documenting how affordability of the units was determined. As you know, the City's RHNA may be reduced by the number of new units built since June 30, 2020; however, the element must describe the City's methodology for assigning these units to the various income groups based on actual sales price or rent level of the units and demonstrate their availability in the planning period. Currently, the element states that over the last few years projects have had deed restrictions to ensure affordability. While this information is useful, the element must describe how 6th cycle RHNA credits are assumed to be affordable.

Realistic Capacity: While the element provides some information regarding realistic capacity, the element must also describe the methodology used to assume realistic capacity for all sites. For example, Sites 23-30 assume full build-out without any supporting information on how this assumption was calculated. While these sites are residentially zoned, the element must describe past projects, incentives, and other factors that support full build-out of these sites. Furthermore, the analysis on Pages 4-19 concludes that past projects located in the PRSP have averaged 27 dwelling units per acre, but the development assumptions for sites listed in the PRSP is 30 dwelling units per acre. In addition, most of the sites located in the PRSP are not residentially zoned sites; the element must account for the potential for non-residential development in these non-residential zones in its development assumptions.

Zoning for Lower Income Households: The element relies upon the City’s inclusionary housing requirement to accommodate the regional housing need for lower-income households on Site 23 and Site 25. However, identifying potential results of an inclusionary zoning ordinance, by itself, is not sufficient or appropriate to demonstrate the adequacy of a zone to accommodate housing affordable to lower-income households; therefore, HCD is not considering the unit potential for lower-income on these sites when assessing the adequacy of sites to accommodate the RHNA for lower income.

Suitability of Nonvacant Sites: While the element includes some recent developments (Pages 4-20) to demonstrate past experience, it does not explain how those developments relate to zoning, existing uses, densities, and the listed sites in the inventory. To analyze the extent that existing uses may impede additional residential development, the element should also include information on whether existing uses are operating, have been operating, or whether they are or not anticipated to continue operating. The element can also analyze the age of the structure, structural conditions or other circumstances and trends, lease information, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites to demonstrate redevelopment potential.

Infrastructure: While the element describes water and sewer infrastructure, it must also demonstrate sufficient existing or planned dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the City’s regional housing need for the planning period (Gov. Code, § 65583.2, subd. (b).). For additional information, see the *Building Blocks* at <https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml>.

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). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Design Review: While the element provides a general overview of the design review process, the element must analyze the effects of design review on the cost and length of the approval process, and whether design review is a constraint to housing development in the City.

Inclusionary Housing: The element must analyze the effects of the inclusionary housing requirements on the development of housing for all income levels, specifically housing supply, and affordability. Namely, the element should provide greater detail on the effects of the inclusionary housing requirements on the development of housing, and whether the inclusionary housing requirements are having the intended impact.

Constraints on housing for Persons with Disabilities: While the element describes its definition for “family” does not pose a constraint, the element does not include the definition of family in the element. The element must describe the zoning code definitions of family and analyze the impact of the definition on housing for persons with disabilities.

4. *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).)*

The element provides a general overview of the special housing needs of farmworkers, but additional analysis is needed to fully meet requirements. For example, the element must identify and analyze the housing needs of farmworkers relative to the region. Farmworkers may choose to live within a city to ensure higher access to services but travel to more rural areas of the city for work. Comparing Poway’s farmworker population relative to the region would help fully describe the farmworker housing need.

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).)*

While the element provides outcomes for most programs, Program 16 must be revised to include more specific commitments during the planning period for persons with special housing needs. In this specific case, the program should commit to actions beyond a semi-annual review of HCD’s Program Directory and establish more concrete actions to assist in the development in housing for persons with special housing needs.

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 B2, 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.

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 B3, 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 B1, the element does not fully meet the requirements for Affirmatively Furthering Fair Housing. The element must complete an analysis of impediments to fair housing and create targeted programs that will directly assist in mitigating these fair housing issues.