

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

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January 11, 2022

Allison Cook, Assistant Planning Director
Planning Division
Community Development
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

Dear Allison Cook:

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

Thank you for submitting the Agoura Hills' (City) draft housing element received for review on November 16, 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 January 4, 2022 with you and consultant Karen Warner. In addition, HCD considered comments from Armbruster Goldsmith & Delvac LLP, and Rae Greulich 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 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 Agoura Hills in addressing all statutory requirements of Housing Element Law. If you have any questions or need additional technical assistance, please contact Fidel Herrera at fidel.herrera@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall". The signature is stylized and somewhat cursive.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF AGOURA HILLS

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: The element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. The element includes information about a senior housing needs survey; however, the element should also include information about efforts to involve all economic segments of the community in the development of the housing element including other special needs groups such as homeless, farmworkers, female-headed household and persons with disabilities including developmental.

Disparities in Access to Opportunity: The housing element must identify and analyze significant disparities in access to opportunity. Specifically for transportation opportunities, the analysis should compare concentrations of protected groups with access to transportation options, assess any disproportionate transportation needs for members of protected classes, and analyze combined housing and transportation cost impacts on protected groups. For access to a healthy environment, the element should evaluate consistency with the environmental justice element.

Concentrated Areas of Poverty and Affluence: The element includes general information relative to concentrated areas of poverty and affluence; however, the analysis should evaluate the patterns, changes over time and coincidence with other fair housing components and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends. This analysis is particularly important for areas of affluence and at a regional level (comparing the City to the broader region). This information should be specifically utilized to inform policies and actions.

Sites Inventory and Affirmatively Furthering Fair Housing (AFFH): The element must include an analysis demonstrating whether sites identified to meet the RHNA are distributed throughout the community in a manner that AFFH. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element should analyze historical land use, zoning, governmental and nongovernmental spending, including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Currently, programs are not sufficient to facilitate meaningful change and address AFFH requirements. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions accordingly. 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 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. Given that most of the City is considered a high and highest resource community, the element could focus on programs that enhance housing mobility and encourage development of more housing choices and affordable housing. For further guidance, please visit HCD's Affirmatively Furthering Fair Housing in California webpage at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

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 318 housing units, of which 199 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites in the Affordable Housing Overlay (AHO). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include a complete analysis, as follows:

Nonvacant Sites: While the element identifies nonvacant sites and provides a site-specific evaluation 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 element should demonstrate what development trends, market conditions, factors, and other evidence will lead to additional residential development. 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.

Large Sites: The element identifies sites greater than ten acres. For example, Site A is a large site of 12.37 acres and Site K is larger than ten acres. Sites greater than ten acres are not eligible absent a demonstration that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless other evidence is provided. If utilizing these sites toward the housing need for lower-income households, the element must include analysis and programs as appropriate.

Availability of Infrastructure: While the element includes information on water capacity, it must also clarify sewer capacity (existing and planned) sufficient to accommodate the RHNA or include programs if necessary.

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.

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 III-7, page 7 manufactured homes are allowed through CUP in the RV zone, but single-family dwellings are permitted. 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.
- *Accessory Dwelling Units (ADU):* After a cursory review of the City's ordinance, HCD discovered several areas which do not comply with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new ADU state requirements.

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...(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. For example, the analysis should address the height limits in the High Density (RH) zone which only allow two stories and 35 feet as a potential constraint to multifamily development. While the element includes Program 9 Affordable Housing Overlay and Rezone Program that states the AHO includes incentives to be offered such as increased height limits, the program does not specify the actual increase to height that will be allowed.

Affordable Housing 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. 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. In addition, the element should list and evaluate the objective design and development standards that will be applied.

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.

Processing and Permit Procedures: The element must describe and analyze the City's permit processing and approval procedures for single family and multifamily developments. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single- and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval. Pursuant to third party comments, the City's processing of development applications lacks transparency and objectivity. The element should analyze the City's process for consistency with the Streamline Permit Processing Act, the Housing Accountability Act, and approval processes for impacts on transparency, timing and certainty in the development application process.

4. *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. (Gov. Code, § 65583, subd. (a)(6).)*

Land Cost, Construction Cost and Available Financing: The element did not include estimates for land costs and construction costs and available financing in the community. The element must include an estimate of the average cost or the range of costs per acre for single family and multifamily development, an estimate of typical construction costs including material and labor and available housing financing, including private financing and government assistance programs generally available in the community.

Approval Time and Requests for Lesser Densities: The element must address the length of time between receiving approval for housing development and submittal of application for building permits. The element provides estimates for length of time between application approval and building permit issuance for single family but does not provide estimates for multifamily developments. The analysis must address any hinderances on housing development and programs should be added as appropriate.

5. *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).)*

Persons with Disabilities: While the element quantifies persons with disabilities in the City, it must also analyze those needs including available housing resources.

B. Housing Programs

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding 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.

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

The element must include a program(s) with specific actions and timelines to assist in the development of housing for all special needs households including seniors, homeless, farmworkers, female-headed households and persons with disabilities including developmental. 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 extremely low, very low, low and moderate-income households; assisting, supporting, or pursuing funding applications; and outreach and coordination with affordable housing developers. In addition:

Program 5 (Affordable Housing Development Assistance): While this program includes a list of incentives the City can offer, the program should be revised to include specific actions and objectives to assist in the development of housing for extremely low-, very low-, low-, and moderate-income households.

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 A3 and A4, 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.

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 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.

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes quantified objectives for construction, it should also include objectives for rehabilitation by income level during the planning period. The quantified objectives do not represent a ceiling on development, but rather set a target goal for the City to achieve, based on needs, resources, and constraints.

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 includes a general summary of the public participation process (page I-5), 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 on page I-7 states 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.