

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

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October 26, 2022

Debbie Pedro, Director
Community Development Department
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

Dear Debbie Pedro:

RE: The City of Saratoga's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Saratoga's (City) draft housing element received for review on July 28, 2022. 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 October 17, 2022 with yourself, Nicole Johnson, and consultants Carla Violet, Curtis Banks, and Arly Cassidy Dolbakian. In addition, HCD considered comments from Faisal Haq, Anne Muller, Karthick Lyer, South Bay YIMBY, YIMBY Law and Greenbelt Alliance, Anne Paulson, Joanne Cornbleet, Stephen A. Smith, Joseph B. Houston Jr. and Elizabeth M. Houston, Curt Bianchi, and Marc Barberis 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.

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 (January 31, 2023), then any rezoning to make prior identified sites available or 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). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583,

subdivision (c) (1) (A) and Government Code section 65583.2, subdivision (c) are completed.

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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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.

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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the effort and cooperation the housing element team provided during the 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 Hillary Prasad, of our staff, at Hillary.Prasad@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SARATOGA

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 <https://www.hcd.ca.gov/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/building-blocks> 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).)

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of this analysis, the element should report progress in implementation, evaluate the effectiveness of programs and make adjustments in current programs as appropriate. While the element reports progress in implementation, it must evaluate the effectiveness of programs in achieving the goals and objectives of the housing element. For example, the element should specifically analyze the effectiveness of several programs that were essential to past compliance and part of the current programs without meaningful adjustment, including but not limited to Programs 4-1.5 (Lot Consolidation), 4-1.6 (Parking: especially for higher density non-affordable developments), 4-4.2 (Special Needs Zoning), 4-4.4 (Persons with Developmental Disabilities), 4-4.5 (Extremely Low-income Households) and 4-5.3 (Development Partnerships). Based on the outcomes of this evaluation, the element should add or modify programs as appropriate.

In addition, as part of the review of programs in the past cycle, the element must provide an evaluate of the effectiveness of 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 and Outreach: While the element describes some outreach and capacity to enforce fair housing laws, it should also include information on local enforcement, including the characteristics of complaints. In addition, the analysis must address compliance with existing fair housing laws as well as any past or current fair housing lawsuits, findings, settlements, judgements, or complaints.

Integration and Segregation: While the element includes recent data for most requirements, the information on income is from 2015 and should be updated. In addition, the element notes the significant differences in income relative to the region, but should analyze those differences, including consideration of local data and knowledge, other relevant factors (see below) and coincidence with other components of the assessment of fair housing (e.g., disparities in access to opportunity and disproportionate housing needs). This analysis is essential to the City's assessment of fair housing and appropriate programs should be added to promote housing mobility and new housing opportunities throughout the City. Lastly the element should describe any local concentrations of familial status within the City geographically as well as what contributes to the higher concentration of families within the City in comparison to the region.

Racial/Ethnic Areas of Concentration of Affluence (RCAA): The element currently uses 2013 data to state there are no RCAAs within the City and describes where they are regionally. However, HCD's fair housing data viewer indicates that areas within the City and much of the immediately surrounding region is considered a RCAA. The analysis should include updated data regarding the City's RCAA designations and as noted above this should be analyzed relative to the broader region, County, and neighboring communities including the City's eastern neighbors. For more information, please visit: <https://affh-data-resources-cahcd.hub.arcgis.com>.

Disparities in Access to Opportunity: The element provides information on the access to opportunity through the TCAC opportunity map but must also provide a complete local and regional analysis of patterns and trends for all components. A comprehensive analysis should include the local and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. It should also analyze persons with disabilities as well as access to transit. Please refer to page 35 of the Affirmatively Furthering Fair Housing (AFFH) guidebook (<https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Saratoga.

Disproportionate Housing Needs Including Displacement: While the element includes some data on disproportionate needs, additional information is needed. The element must describe any geographic concentration of cost burden, overcrowding, and persons experiencing homelessness both locally and regionally. Lastly, the element must describe and analyze areas sensitive to displacement risk due to disaster (e.g., earthquake, fire, and flood).

AFFH and Identified Sites: While the element includes a summary of fair housing related to the sites inventory, it must analyze how the identified sites contribute to or mitigate fair housing issues. An analysis should address all of the income categories of identified sites with respect to location, the number of units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). This analysis should specifically address isolation of the regional housing need allocation (RHNA) by income group and incorporate public comments as appropriate. If sites exacerbate conditions or isolates the RHNA by income group, the element should identify further program actions (not limited to the RHNA) that will be taken to promote equitable quality of life throughout the community (e.g., housing mobility and new opportunities in higher resource areas).

Local Data and Knowledge: The element notes some County documents (e.g., assessment of fair housing) and outreach with stakeholder, but it should incorporate the relevant content of those documents into the assessment of fair housing.

Other Relevant Factors: The element broadly mentions discriminatory practices in land use but should discuss the practices of the City, particularly related to zoning and other land use measures such as local initiatives and combine that discussion with other relevant factors such as demographics (e.g., tenure, housing types, incomes) and past investments or lack of investments, including applying for state and federal resources.

Contributing Factors: The element identifies many contributing factors to fair housing issues. In addition, the element must prioritize these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

Goals, Actions, Metrics, and Milestones: While the element includes general metrics for some programs, the element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. 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, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity areas (throughout the City), place-based strategies for community preservation and revitalization and displacement protection.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

Extremely Low-Income (ELI): While the element briefly quantifies ELI households but should specifically analyze their housing needs, including tenure, overpayment, available resources and strategies, effectiveness of past program and the magnitude or

disproportionate impacts on housing needs. Then, the element should add or modify programs as appropriate.

3. *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 Cost: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge).

Overpayment: The element must quantify and analyze the number of lower-income households overpaying by tenure (i.e., renter and owner).

4. *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).)*

Progress in Meeting the RHNA: The City's RHNA may be reduced by the number of new units built, approved, or pending since June 30, 2022; however, the element must demonstrate their affordability based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). The element should also discuss the status, any barriers to development and other relevant factors to demonstrate the availability or likelihood of development in the planning period.

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing (Gov. Code, § 65583.2, subd. (c)(2)(A)). The element lists small sites but must also evaluate whether those sites are suitable to accommodate housing for lower income households and add or modify programs as appropriate. For example, the element could list past consolidations by the number of parcels, number of owners, zone, number of units, affordability and circumstances leading to consolidation and then relate those trends to the identified sites or could explain the potential for consolidation on a site-by-site basis.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. While the element includes adequate analysis for most sites, it should specifically evaluate the potential for redevelopment on the Village East and Fellowship Plaza Housing Sites. The analysis should address the extent that existing uses may impede additional residential development. For example, the element can summarize past experiences converting similar existing uses to higher density residential development, discuss the lack of market demand for the existing use, address existing leases or contracts that would perpetuate the existing use or prevent

additional residential development and consider additional indicators such as age and conditions or the structure and existing versus allowable floor area. In addition, the element should describe the appropriateness of zoning and feasibility of developing additional housing on the Fellowship Plaza Housing site if the developer and owner acknowledged that they are having difficulty obtaining new funding and a conditional use permit (CUP) to add additional housing on the site expired in 2013. The element should also describe how much of the Wardell housing site will be rezoned, and whether the rezoned portion will include the existing use (p. 6-34).

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element 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 regional housing need allocation.

Finally, the element identifies sites with existing residential uses. Absent a replacement housing policy, these sites are not adequate sites to accommodate lower-income households. The replacement housing policy has the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

SB 9 Sites: The element identifies SB 9 as a strategy to accommodate the part of the City's need of above-moderate RHNA. To support these assumptions, the analysis must include experience, trends and market conditions that allow lot splits and missing middle uses. The analysis must list the potential SB 9 sites and demonstrate the likelihood of redevelopment, including whether existing uses constitute as an impediment for additional residential use. The analysis should describe how the City determined eligible properties, whether the assumed lots will have turnover, if the properties are easy to subdivide, and the condition of the existing structures. The analysis should also describe interest from property owners as well as experience. The analysis should provide support for the 80 units being developed within the planning period. Based on the outcomes of this analysis, the element should add or modify to establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development as well as monitor development every two years with and identify additional sites within six months if assumptions are not being met. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9.

City-Owned Sites: The element must include additional discussion on each of the City-Owned sites identified to accommodate the RHNA. Specifically, the analysis should address general plan designations, allowable densities, support for residential capacity assumptions, existing uses and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element must include programs

to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). In addition, the housing element must include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

Accessory Dwelling Units (ADU): The element projects 480 ADUs over the planning period or approximately 60 ADUs per year over the eight-year planning period. The element also notes permitting 16 ADUs in 2018, 24 in 2019, 68 in 2020, and 69 in 2021. These trends are inconsistent with HCD records (nothing reported in 2018, 24 in 2019, 43 in 2020, and 66 in 2021) and do not support an assumption of 60 ADUs per year. To support assumptions for ADUs in the planning period, the element should reduce the number of ADUs assumed per year and reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate.

Availability of Infrastructure: While the element generally discusses water and sewer infrastructure capacity, it should clearly state whether there is sufficient existing or planned capacity to accommodate the RHNA.

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.

Environmental Constraints: While the element generally describes a few environmental conditions, it must relate those conditions to identified sites and describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period.

Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element indicates the CN (RHD) zone permits emergency shelters by right including adoption of design and development standards but should also clarify emergency shelters are permitted without discretionary action, describe capacity and potential for reuse, including proximity to transportation and services for these sites and any conditions in appropriate for human habitability. In addition, the element should list and analyze the actual design and development standards, including how parking requirements comply with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement.
- *Housing for Employees*: The Employee Housing Act permits housing under specific provisions. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be

permitted in the same manner as other agricultural uses in the same zone. The element must demonstrate compliance with these requirements and include programs as appropriate.

- *Manufactured Housing*: Manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling would be subject to. The element must demonstrate consistency with this requirement or add or modify programs as appropriate.
- *Accessory Dwelling Units (ADUs)*: The element indicates the City modified its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which are not consistent 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 in order to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.

5. *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, heights, lot coverage, minimum lot size and limits on allowable densities. 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. For example:

- The element must identify and analyze heights and maximum lot coverage are allowed in the P-A, CN, C-N(RHD), C-V, CH-1, and CH-2 zones as well as the maximum density allowed and open space requirements in the C-N(RHD) zone.
- The element should also analyze the 40 percent maximum lot coverage (including all impervious surfaces), setbacks, and two-story height limits in multifamily zones as constraints on development and add programs as appropriate.
- The element should identify and analyze the specific findings in the P-A zone when more than 50 percent of the total floor area is residential (the identified note

is missing on page 4-5) and whether the CUP requirements are constraints for multifamily development in that zone.

- The element must identify the allowed densities in the R-M 5,000, R-M 4,000, and R-M 3,000 zones.
- Page 4-10 lists densities for multifamily based on population density per acre as well as dwelling units per acre. 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.
- The element should discuss minimum lot sizes and any impacts on identified sites to accommodate the RHNA.
- The element must analyze the parking requirements (p. 4-13) of one garage space and 1.5 additional spaces per dwelling unit or one garage space and an additional 0.5 space for a one-bedroom unit. This is particularly important since parking requirements were identified as a constraint in the prior housing element and the program appears to only have been partially implemented. Should the analysis determine the parking standards or permit procedures are a constraint on residential development, it must include a program to address or remove any identified constraints.

Fees and Exaction: While the element includes the cumulative impact of fees on single family and multifamily development on a per unit basis, it should clarify whether the analysis includes all impact fees, including non-locally controlled fees or modify the analysis as appropriate.

Local Processing and Permit Procedures: The element must describe the processing and permit 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 and any other relevant information. The analysis should address impacts on housing cost, supply, timing, feasibility, and approval certainty.

Measure G: While the element describes Measure G (p. 4-24) which only allows the City to amend residential and parkland designations by the vote of the people, it does include some exemptions for certain state laws. The element must clarify whether the rezoning needed to accommodate the City's RHNA is an exemption. If the rezoning is not exempt, the element must add a program to make the zoning available pursuant to statutory requirements, including timing provisions. In addition, the element should analyze the impacts of the voter approval on housing supply, cost, timing and feasibility and add or modify programs as appropriate to address identified constraints.

Codes and Enforcement: The element must describe and analyze any local amendments to the building code and their degree and type of enforcement for impacts on housing supply and affordability.

Constraints on Housing for Persons with Disabilities: The element must include an analysis of zoning, development standards, building codes, and process and permit

procedures as potential constraints on housing for persons with disabilities. The analysis must describe the findings and approval procedure for the City's Reasonable Accommodation procedure. In addition, the element must describe and analyze how group homes for six or fewer and seven or more are allowed within the City and add programs as appropriate. For your information, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. These housing types should not be excluded from residential zones, most notably lower-density zones, which can constrain the availability of housing choices for persons with disabilities. Requiring these housing types to obtain a special use or CUP could potentially subject housing for persons with disabilities to higher discretionary exceptions processes and standards where an applicant must, for example, demonstrate compatibility with the neighborhood, unlike other residential uses.

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... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact and achieve the goals and objectives of the housing element, program should have specific commitment, discrete timing (e.g., at least annually) and numerical objectives where appropriate. Examples of programs to be revised include:

- Programs 1-2.3 (Encourage and Facilitate Lot Consolidation), 3-1.1 (Pre-Approved Plan Sets for ADUs), and 3-1.2 (Reduced Fees for ADUs and JADUs): The programs must include proactive outreach during the planning period.
- Program 2-2.1 (Community Education Regarding the Availability of Rehabilitation Programs): The program should include specific timing related to outreach during the planning period. In addition, the element should modify the identified quantified objectives to match the metric associated with this program.
- Program 2-2.2 (Code Compliance Program): The program should include specific timing tied to enforcement as well as program implementation.
- Program 3-1.4 (Educational Campaign and Information): The program should include specific timing related to outreach during the planning period.
- Program 5-2.2 (Develop Comprehensive Outreach Strategy for Housing): This program should include specific timing of when the strategy will be updated. In addition, the program should include proactive outreach throughout the planning period.

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 B4, 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:

Program 1-1.1 (Adequate Sites for Housing or RHNA Rezoning): The program must commit to allowable densities, appropriate development standards to facilitate maximum densities. The program must also commit to all of the by-right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i)., including but not limited to permitting development with 20 percent or more of the units are affordable to lower income households without discretionary action, requiring minimum densities, accommodating at least 16 units per site and residential performance standards.

Program 1-2.4 (Lot Consolidation Program): The program must include a commitment to establish incentives by a specified date, beyond “consider appropriate” incentives, especially with the strong reliance on lot consolidation to accommodate the lower-income RHNA. In addition, the program should be modified based on the outcomes of the review and revise of the previous program and include a mid-term evaluation of the effectiveness of the program and commit to adjustment as necessary. This is particularly important given the apparent lack of implementation or outcomes in the prior planning period.

Program 3-2.4 (Low Barrier Navigation Center): The program should clarify zoning will be updated to permit these uses in multifamily zones as well as mixed use zones pursuant to Government Code section 65660.

Sites Identified in Prior Planning Periods: The element identifies sites from the prior planning period and as a result must include a program to make the site available or remove the site. The program must be implemented within the first year or three years of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households and allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households.

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).)*

Program 4-3.1 (Development of Housing for ELI): This program should describe what additional incentives are provided for developments with ELI units. In addition, the element should include specific time of when the incentives will be implemented and steps beyond meeting with developers such as annually identifying development opportunities.

Special Needs: While the element includes programs to assist in the development of very low-, low-, and moderate-income and some special needs households, it must also include a program(s) to assist in the development of housing for all special needs households (e.g., elderly, homeless, farmworkers, persons with disabilities, female-headed households). Program actions could include proactive outreach and assistance to non-profit service providers and developers, prioritizing some funding for housing developments affordable to special needs households and offering financial incentives or regulatory concessions to encourage a variety of housing types.

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 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. In addition, the element should be revised as follows:

Program 3-2.1 (Increase C-H Height Limit): The program should clarify whether the 35-foot height limit in the C-H zones will allow 3 story developments by-right.

Program 3-2.2 (Reduced Setbacks for Smaller Parcels): The element should describe what the setbacks for small parcels will be reduced to, and what size parcels would qualify for the reduction.

Program 4-1.1 (Continue to Implement Density Bonus Ordinance): The program should be revised to commit to steps beyond an annual assessment and revise the ordinance by a specified date.

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... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis.

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)(9).)

While the element includes a summary of the public participation process, the element should 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. The element could also describe which organizations participated and provided feedback out of the organizations that were contacted and describe how the City notified organizations of small group meetings. The element should also describe whether translations services were available throughout the process. In addition, while the element describes how public comments were received and incorporated during the 30-day review period, it should summarize and describe how public comments were considered and incorporated throughout the entire review process.