

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



December 28, 2021

Benjamin Martinez, Director
Community Development Department
City of Baldwin Park
14403 E. Pacific Avenue
Baldwin Park, CA 91706

Dear Benjamin Martinez:

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

Thank you for submitting the City of Baldwin Park's (City) draft housing element received for review on October 29, 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.

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 these 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 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:

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

We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Reid Miller, of our staff, at reid.miller@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy
Senior Housing Accountability Manager

Enclosure

APPENDIX CITY OF BALDWIN PARK

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The element must provide a cumulative evaluation of the effectiveness of past goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

Access to Opportunity: The element provides a general overview of access to opportunities through identifying low-moderate resourced areas, census tracts that are considered disadvantaged communities (DAC) and deferring to the Environmental Justice Element for additional information. However, the element must independently analyze access to educational, environmental, transportation, and economic opportunities for trends and patterns at both a local and regional level. The element should include a specific discussion on census tracts identified as disadvantaged communities and analyze those communities with other fair housing components including race, income, low opportunity areas, disproportionate housing needs, etc., For example, the element could discuss whether individuals in DAC census tracts are lower-income, minority-majority population, degree of access to resources, etc.,

Disproportionate Housing Needs: While the element analyzed local and regional trends related to cost burdened and overcrowded households, it must complete this analysis for substandard housing conditions and persons experiencing homelessness.

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

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

Sites Inventory: While the element includes a general analysis of some sites relative to low and high resourced census tracts, it must analyze whether sites for all income categories improve or exacerbate each of the fair housing issue areas including segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, and disproportionate housing needs including displacement risk.

Programs, Actions, Metrics, and Milestones: The element included actions related to zoning, density, development standards, and ADUs to address contributing factors. However, in addition to address contributing factors, programs and actions must enhance housing mobility, provide new housing choices and affordability in high opportunity areas, place-based strategies that promote community preservation and revitalization, and displacement protection. Given that majority of the City's census tracts are low resourced, in addition to addressing the program requirements mentioned above, the element must establish strong programs and policies that enhance housing mobility options and place-based actions that conserve and revitalize communities. Additionally, the City can incorporate relevant policies and actions from other general plan elements such as the environmental justice and safety element. For your information, place-based programs include actions that improve one's quality of life related to housing, transportation, safety, education, recreation, infrastructure, etc., Furthermore, the element must include metrics and milestones for targeting meaningful change and evaluating progress on programs, actions, and fair housing results. For a list of sample policies and programs, please visit page 73 of HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf.

- 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 2,001 housing units, of which 851 are for lower-income households. To address this need, the element relies on ADUs, SB9 projections, pending and approved projects, nonvacant sites, including sites in specific plans and within the mixed-use zones. 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 lists several projects that have been pending, approved, and/or under construction. For projects that have not received their certificate of occupancy, the element must demonstrate these projects will be built during the planning period. For example, while the element discussed the status of some of these projects, it did not include a discussion for all projects listed in Table H-5.2 and H-5.3. The analysis should discuss the status of projects within the permitting process and expected dates for any pending entitlements. Additionally, the element indicates that it is counting 296 units as credit towards RHNA; however it lists projects that equate to 293 units. The element should reconcile the number units that will be counted as progress towards RHNA.

Progress in Meeting the RHNA – (Tiny Homes): The element is counting 25 tiny homes towards their lower income RHNA. The element indicates that the tiny homes is intended to act as a temporary bridge shelter and each resident will have access to a prefabricated cabin with locking doors. The element must demonstrate that each tiny home meets the census definition of a housing unit and indicate whether this housing type will be reported to the Department of Finance as a unit. For information on the definition of a unit, please visit page 6 of HCD's Sites Inventory Guidance: https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf.

Downtown Specific Plan: The element identifies several sites within its downtown specific plan for lower-income housing at 40 du/ac. However, the element also included program 4-1 to allow for densities above 30 du/ac. The element must clarify the current allowable densities for the specific plan area.

Realistic Capacity:

- *R1 Vacant Lots:* the element is counting 10 units across 7 vacant lots in the R1 zone for above moderate households. The zoning currently allows 8.7 du/ac, identified site size ranges from 0.1-0.2 acres, and the element assumes 1-2 units on each site. However, when multiplying the maximum allowable density and site acreage, the calculations do not yield 1-2 units. While the element states that due to SB9 (Statutes of 2021) legislation, these sites will be allowed to build 4 units per lot, the element does not support these assumptions. The element must analyze realistic capacity relative to land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. .
- *Sites in Nonresidential Zone:* The element assumes 92 percent of maximum allowable densities on sites within the mixed-use zones where the current zoning allows for 100 percent nonresidential uses (e.g., commercial). The element also indicates that the MU-2 zone allows for standalone commercial projects and that the city utilizes incentives such as FAR bonuses to encourage residential. Lastly, it

lists one residential project that was approved in the mixed-use zone (Table H-5.15). However, while the incentives encourage residential, the element still needs to analyze and account for the likelihood of residential in zones that allow 100 percent nonresidential uses. The analysis could discuss the utilization of residential incentives, discuss development trends such as part projects and developer/owner interest to develop mixed-use projects, or other relevant factors. Additionally, the element could analyze all development activity in the identified nonresidential zones, how often residential development occurs and adjust residential capacity calculations, and commensurate the analysis with policies and programs.

- *Religious institutions:* The element assumes 92 percent of maximum allowable densities on sites owned by faith-based organizations. The element also indicates that housing will occur on half of the existing parking lot area and does not utilize the entire site acreage. However, the inventory indicates that the City is assuming the maximum allowable capacity based on the total site acreage. The element should clarify the methodology used to determine realistic capacity on these sites. For example, the element could include separate columns for total site acreage and buildable acreage.

Suitability of Nonvacant Sites: The element states that nonvacant sites were identified based on objective factors such as improvement value, age of structure, declining uses, nearby residential development, owner/developer interest and filtered sites based on certain uses. However, the element must provide support for these assumptions. For example, the element should analyze and discuss how these factors are indicative of redevelopment potential.

In addition, the element states that most uses are commercial; however the description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. The element must also analyze the extent that existing uses may impede additional residential development. The element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development, include current information on development trends and market conditions in the City and relate those trends to the sites identified.

Lastly, the element identifies sites owned by faith-based organizations and assumes that due to faith-based organizations mission and purpose and the passage of recent legislation making it easier to develop on religious sites, that residential development will occur. However, the element needs to include additional supporting information such as interest from owners, analyze the degree of utilization for parking lots, or other relevant factors. Furthermore, the element should commensurate the analysis with appropriate programs and policies committed to redeveloping nonvacant sites.

As noted in the housing element, 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.

Senate Bill 9 (Statutes of 2021) Projections: The element is projecting 250 units that will be developed based on the passage of SB 9 (Statutes of 2021) to accommodate a portion of its above moderate income RHNA. To utilize projections based on SB 9 legislation, the element must 1) include a site-specific inventory of sites where SB 9 projections are being applied to 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute as an impediment for additional residential use and 3) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB9.

Accessory Dwelling Units (ADU): The element is projecting 366 ADUs for an average of 46 ADUs per year over the eight-year planning period to accommodate a portion of its RHNA. The projections are based off submitted ADU applications. However, the City's Annual Progress Reports (APR) records indicate that the City permitted 7 ADUs in 2018, 5 in 2019, and 10 in 2020 for an average of 7 ADUs/year. The City's past performance on permitting ADUs do not support a six-fold increase. The element should reconcile these figures and adjust assumptions based on a realistic estimate of the potential for ADUs and include strong policies and programs that commit to incentivizing ADUs. Additionally, while the element can use ADU applications to support projecting ADU production beyond what was actually permitted, it cannot solely rely on ADU applications to make projection assumptions. Depending on the analysis, the element must commit to monitor ADU production and affordability throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. If necessary, additional actions should be taken in a timely manner (e.g., within six months). The degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Adequate Sites Alternative (Homekey Units): The element indicates that the City has partnered with the County to convert a motel 6 to units for permanent supportive housing. To utilize the potential of existing space towards the RHNA, the element must demonstrate how these units will meet the requirements of Government Code section 65583.1, subdivision (c)(1), including but not limited to identifying sources of committed assistance and various other requirements. For additional information, please visit: https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/adequate-sites-alternatives/docs/adequate_site_alt_checklist.pdf.

Suitability and Availability of 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, please visit:

<http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

Environmental Constraints: The element must analyze the suitability of sites relative to environmental conditions and describe whether that could impact housing development on identified sites in the planning period. For additional information, please visit:

<https://hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element must demonstrate compliance with emergency shelters parking requirements. Pursuant to AB 139 (Chapter 335, Statutes of 2019) emergency shelters are only required to provide sufficient parking to accommodate all staff working in the emergency shelter, provided that the states do not requirement more parking for emergency shelters than other residential or commercial uses within the same zone. Additionally, the element states emergency shelters are not allowed to be within 300 ft from each other; however, state law only allows a maximum of 300 ft separation requirement. The element should describe compliance with these requirements or include programs as appropriate.
 - *Single Room Occupancy (SRO) Units*: The element indicates that the City does not allow SRO units. For your information, SROs are small units that provide a valuable source of affordable housing for extremely low-income (ELI) individuals and persons experiencing homelessness. The element should include a program to encourage and facilitate SRO units.
 - *Employee Housing*: The element states that to comply with Health and Safety Code Sections §17021.5, the City allows employee housing of six or fewer in the same manner as group homes. The element should specifically define employee housing.
 - *ADUs*: After a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. This includes, but is not limited to, height restrictions, requirement of setbacks for junior accessory dwelling units (JADUs), restricting bedroom count, open space requirements, among others. While the element does include a program to update the City's ADU ordinance, HCD will be provided a complete listing of ADU non-compliance issues under a separate cover.
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).

Land-Use Controls: While the element identified relevant land use controls impacts as potential constraints and included a statement that the cumulative development standards are not considered a constraint because most projects achieve close to maximum permitted densities, the element still needs to include an analysis. For example, the element could include a discuss about applicable development standards in different zones and how a hypothetical project could achieve densities when applying those standards. Additionally, the element should examine multifamily parking requirements (e.g., 2 spaces per unit) and analyze their impact as potential constraints on housing supply and affordability.

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

Zoning, Development Standards and Fees: The element must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City's website and add a program to address these requirements, if necessary.

Constraints on Housing for Persons with Disabilities:

- *Group Homes:* The element states that group homes of six or fewer are excluded from zones that allow residential uses. Additionally, group homes of seven or more are permitted with a CUP in all zones. For your information, excluding these uses from residential zones or subjecting the uses to conditional use permits (CUP) is generally considered a constraint and programs should be modified as appropriate with specific commitment to allow the use in residential zones with objectivity and certainty.
 - *Reasonable Accommodation:* While the element briefly describes its reasonable accommodation procedures, it must describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities.
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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)

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

- 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).)*

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

Farmworkers: While the element includes some data on farmworkers, it should specifically quantify the number of permanent and seasonal farmworkers at the County level (i.e., USDA data) to better understand the broader and unique housing needs of farmworkers.

- 6. Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element states that the City has three developments equating to 173 units at-risk of converting in the next ten years. However, CHPC records indicate that there are 222 units that have affordability restrictions expiring between 2023-2025. Additionally, the element identifies Ramona Park Project with 48 units set to expire in 2068. However, CHPC records state that this project is set to expire in 2025. The City must reconcile conversion dates and the number of units at-risk of converting in the next ten years.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised as followed:

The element included several programs that have various actions, but does it include a timeline for when that action will begin, end or how frequent the action will be. For example, Program H1-2, states that the City will work with owners to discuss preservation options; however this program should include when the City will start outreaching to owners and how often. The following programs should be revised to include timelines for each action listed, including Program H1-2, H2-1, H2-2, H2-3, H3-1, H3-4, H2-11, H3-8, H4-1, H4-2, H4-6, H4-7, and H5-1.

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

Program H3-3 – Accessory Dwelling Units (ADU): The City is relying on ADUs to accommodate a portion of its RHNA. While the element included a program to update

the City's ADU ordinance and implement ADU incentives, the element must specifically identify those incentives and a timeline for implementing incentives. Additionally, while the element states it will monitor ADU applications and implement additional incentives, this program should commit to frequent monitoring (i.e., every two years) and take appropriate action such as adjusting assumptions or rezoning within a specified time period (e.g., six months).

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

As noted in Findings B3 and B4, the element requires a complete analysis of potential governmental and nongovernmental 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 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. In addition, most programs lack milestones and metrics to target meaningful AFFH outcomes in the planning period and should be revised as appropriate.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

Program H1-2 – Preservation of At-Risk Rental Housing: As noted in Finding B6 the City has units at-risk of converting in the next ten years. This program must commit to complying with noticing requirements within three years, twelve months, and six months of the affordability expiration date.

D. 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).)

The element must include quantified objectives for number of housing units that will be conserved/preserved for moderate and above moderate-income category (e.g., lower, moderate, and above- moderate). Conservation objectives may include the variety of strategies employed by the City to promote tenant stability, code enforcement and repair programs that conserve the housing stock, and the preservation of units at-risk of conversion to market rate.

E. Public Participation

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

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

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



November 8, 2022

Benjamin Martinez, Director
Community Development Department
City of Baldwin Park
14403 E. Pacific Avenue
Baldwin Park, CA 91706

Dear Benjamin Martinez:

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

Thank you for submitting the City of Baldwin Park's (City) revised draft housing element received for review on September 9, 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. In addition, HCD considered comments from Californians for Homeownership pursuant to Government Code section 65585, subdivision (c).

The draft element addresses most statutory requirements described in HCD's December 28, 2021 review; 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.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or 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. As this year has passed and Programs H3-6: AB 1397 Re-use of Sites has not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been 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 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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Reid Miller, of our staff, at Reid.Miller@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF BALDWIN PARK

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. 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).)*

Local Data and Knowledge: The element provides a high-level summary of public outreach efforts and brief overview of concerns from the public. However, local data and knowledge should supplement the existing analysis and provide context and information that is not captured with federal and state data. While the element can reference public outreach, it should utilize that information where relevant. Additionally, the element could discuss feedback regarding the type of community investments and strategies that are reflective of the community's needs.

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).)*

Progress in Meeting the Regional Housing Need Allocation (RHNA): While the element provided a complete analysis demonstrating the availability of these units in the planning period, the element is still inconsistently reporting the number of units that will be counted as progress in meeting RHNA. For example, Table H-5-2 and H-5-3 equate to 291; however the element states that it will be counting 296 units as credit for the RHNA. The element should reconcile the number of units that will be counted as progress towards RHNA.

Realistic Capacity: The element is assuming 92 percent of maximum allowable densities to calculate residential capacity. The element notes that the City provides incentives for residential development in nonresidential zones but also mentions the zones allow 100 percent nonresidential uses. The calculation of residential capacity must account for the likelihood of 100 percent nonresidential uses. For example, the element could examine

all recent development (including 100 percent nonresidential) in the pertinent zones, gather how often 100 percent nonresidential occurs, adjust the calculation of residential capacity as appropriate and add or modify programs if necessary.

Suitability of Nonvacant Sites: The revised element included a list of criteria used to determine redevelopment potential, referenced some projects, and included a description of the existing uses on each site. However, the element should support the validity of the criteria used to identify redevelopment potential. The element should do this by including past projects that redeveloped with the same criteria. For your information, when including examples, the element should list specific site characteristics that relate to the factors utilized in the analysis. Lastly, the element stated that sites were considered if the improvement value is less than half of the land value. In the sites inventory, the element includes sites with improvement to land ratio ranging from 0.1-7.0. The element should clarify what criteria it used when identifying sites with low improvement value.

As noted in the housing element, 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 RHNA.

Suitability of Nonvacant Sites (Faith-Based Sites): HCD's prior review found that the element must include supporting information to demonstrate redevelopment potential on the identified church sites. The revised analysis notes that one site has received interest from a nonprofit and included examples from surrounding jurisdictions. However, this still does not support the likelihood that these church sites will redevelop. As found in HCD's prior review, the element should provide supporting information related to interest and outreach efforts from owners and the degree of utilization for parking lots.

Senate Bill 9 (Statutes of 2021) Projections: HCD's prior review found that to utilize projections based on SB9, the element must include a site specific inventory, nonvacant sites analysis, local information and data to support the assumptions, and commensurate policies and programs.

- *Nonvacant sites analysis* – To address the nonvacant analysis, the element indicates that the existing use does not act as an impediment to additional development because the most financially feasible option is to add a detached ADU to the subdivided lots and build an additional single family home on the second lot. However, the element must provide support for this assumption such as owner interest in creating new single family homes or adding additional ADUs and information about financial feasibility related to Baldwin Park.

- *Site specific inventory* – The element states that the City has undertaken a process to identify a site-specific inventory. However, the element should specifically denote within the inventory which sites are being used towards SB9 projections.
- *Support for Assumptions* – the element is projecting 220 units through the usage of SB9 based on a uptake in ADU applications and 40 inquiries regarding the usage of SB9. However, this still does not support the assumption that 220 units will be built using SB9 legislation. The element should either provide additional analysis to support these assumptions or reduce the assumptions.

Sites Identified in Prior Planning Periods: The element indicates (Appendix B) that some sites were identified in prior planning periods but then notes that they are not subject to the requirements under AB 1397 (Statutes of 2017) without any further explanation. For your information, 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, requires rezoning within specified time periods. The element should denote which sites were identified in the prior planning periods. For more information on program requirements, please see HCD’s Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Zoning for a Variety of Housing Types (Emergency Shelters): The element now includes Program H3-4 (Address Homelessness) to amend zoning and provide one parking space per 250 square feet in addition to one space for every five beds. However, parking for emergency shelters should only be the number of spaces necessary for staff working in the shelter and no more than other uses in the same zones. Program H3-4 should be revised to amend zoning and parking spaces consistent with this standard.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels... 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).)*

Zoning, Development Standards and Fees: While the element stated that the City post all fees on it’s website, as found in the prior review, the element still needs to clarify transparency requirements for posting development standards and zoning on the City’s website and add a program to address these requirements, if necessary.

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... (Gov. Code, § 65583, subd. (c)(1).)

As noted in Finding A2, 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 H3-7 (Implement SB 9): While the element now commits to adopting objective standards, an ordinance to comply with SB 9, and monitoring program, given that the City is relying on SB 9 to accommodate a portion of the RHNA, this program should also include developing incentives and outreach to further encourage the usage of SB 9.

Program H3-3 (Accessory Dwelling Units): The element now commits to frequent monitoring and implementing additional incentives or other strategies. However, as found in HCD's prior review, if production and affordability does not keep pace with the assumptions, the element must commit to specific strategies such as reducing assumptions and rezoning or identifying alternative sites within a specific timeframe (e.g., 6 months).

Program H3-4 (Address Homelessness) and Program H3-8 (Hotel/Motel Conversions): These programs should be revised to provide specific timelines and actions for each activity.

- 2. 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... (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings A3, element requires a complete analysis of potential governmental and nongovernmental 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.

- 3. 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 A1, the element must include a complete analysis of affirmatively furthering fair housing (AFFH). The element must be revised to add goals and actions based on the outcomes of a complete analysis. In addition, as found in HCD's prior review, the element must include programs actions that meaningfully overcome fair housing issues and address contributing factors. Secondly, programs and actions must enhance housing mobility, provide new housing choices and affordability in high opportunity areas, place-based strategies that promote community preservation and revitalization, and displacement protection. Furthermore, the element must include specific commitment, timelines, geographic targeting and metrics or numerical targets.

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



April 17, 2023

Benjamin Martinez, Director
Community Development Department
City of Baldwin Park
14403 E. Pacific Avenue
Baldwin Park, CA 91706

Dear Benjamin Martinez:

RE: City of Baldwin Park's 6th Cycle (2021-2028) Revised Draft Housing Element

Thank you for submitting the City of Baldwin Park's (City) revised draft housing element that was received for review on February 16, 2023 along with revisions received on March 31, 2023. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from David Kellogg, SGV Habitat of Humanity and Baldwin Park United Methodist Church pursuant to Government Code section 65585, subdivision (c).

The revised draft housing element addresses most statutory requirements described in HCD's November 8, 2022 review; however, additional revisions are necessary to substantially comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

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).)*

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).)

Goals, Actions, Metrics, and Milestones: To address housing affordability and housing choices, the element revised Program 5-4 affirmatively furthering fair housing (AFFH) to reference actions including inclusionary, density bonus, and hotel/motel conversion policies. However, given the high need of affordable housing in the City, the element should include significant actions to meaningfully

address fair housing issues. For example, the element could modify programs related to accessory dwelling units (ADUs) (Program 3-3), SB 9 (Program 3-7) hotel/motel conversions (Program 3-8), religious sites (Program 3-10), regional housing needs allocation (RHNA) sites strategies (Program 4-1, 4-2) with significant metrics and geographic targeting to address this finding.

Additionally, the assessment of fair housing (Chapter 4) demonstrated that environmental justice (EJ) is a significant issue within the City due to various contributing factors. While the element included some revisions, it must include stronger and specific actions to meaningfully address the issue and target change. For example, while the element included an action (Program 5-4 AFFH) committing to implement the City's EJ element such as traffic calming, street trees, etc., many of these timelines are beyond the planning period. This program could be revised to committing to specific actions, annually, and include metrics that are based on annual outcomes and goals instead of outcomes that are beyond the planning period. Additionally, the element should include or expand on actions to have a significant commitment to EJ issues. For example, the element noted various green space and park projects that the City will be implementing during the planning period (p. 4-37). The element could include or modify a program with commitments to these projects with quantifiable metrics.

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 analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair housing. (Gov. Code, § 65583, subd. (c).)

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... (Gov. Code, § 65583, subd. (c)(1).)

Suitability of Nonvacant Sites: As noted in prior reviews, 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 RHNA.

Zoning for a Variety of Housing Types (Emergency Shelters): Chapter 654, Statutes of 2022 (AB 2339), adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

Programs: As noted above, 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 zoning available to encourage a variety of housing types.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels... 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).)*

The element should address public comments on this revised draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted, if necessary, to substantially comply with the above requirements pursuant to Government Code section 65585.

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.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or 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. As this year has passed and Programs H3-6: AB 1397 Re-use of Sites has not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.

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/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

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 will meet housing element requirements for these and other funding sources.

HCD appreciates the dedication of the housing element team. 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 Reid Miller, of our staff, at Reid.Miller@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager