

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

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December 21, 2021

Angelica Frausto-Lupo, Director
Community Development Department
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030

Dear Angelica Frausto-Lupo:

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

Thank you for submitting the City of South Pasadena's (City) draft housing element received for review on October 22, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on December 16, 2021 with you, Elizabeth Bar-El, Interim Long Range Planning Principal Planner, Matt Chang, Planning Manager, Margaret Lin, Deputy Director of Community Development, Andrew L. Jared, City Attorney and your consultant team. In addition, HCD considered comments from Josh Albrekston, Abundant Housing LA, Our Future Los Angeles, Andrew Jarnagin, and California Renters Legal Advocacy and Education Fund pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of this statutory deadline, 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).

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 hard work and dedication of you and the rest of the City's housing element team during the review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need assistance, please contact me at paul.mcdougall@hcd.ca.gov.

Sincerely,



Paul McDougall

Senior Program Manager

Enclosure

APPENDIX CITY OF SOUTH PASADENA

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

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

A. Housing Needs, Resources, and Constraints

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

Outreach: Outreach specifically related to affirmatively furthering fair housing (AFFH) is foundational to a complete analysis and formulating appropriate goals and actions to overcome patterns of segregation and foster more inclusive communities. The City should relate outreach efforts and input to all components of the AFFH analysis and modify or add goals and actions as appropriate.

Enforcement: The element mentions local capacity for fair housing education and outreach, but it should also address compliance with existing fair housing laws as well as any past or current fair housing lawsuits, findings, settlements, judgements, or complaints.

Racial/Ethnic Areas of Concentration of Areas of Affluence (RCAA): The element states that a RCAA does not exist, however, the City as a whole is the highest resource category according to TCAC/HCD Opportunity Maps and is predominantly higher income. These patterns differ from the surrounding region and the element should include specific analysis of the City compared to the region and should formulate policies and programs to promote an inclusive community. For example, the City should consider additional actions (not limited to the RHNA) to promote housing mobility and improve new housing opportunities throughout the City. This is particularly important since, based on the December 16, 2021 conversation, the City of South Pasadena does not have a track record of developing 100 percent affordable development to lower-income households.

Disproportionate Housing Need including Displacement Risk: The element evaluates patterns of disproportionate housing need for overpayment and overcrowding but it must also address homelessness and displacement risk. For homelessness, the element should address disproportionate impacts on protected characteristics and disparities in access to opportunity.

For displacement risk, the element could utilize information from the Urban Displacement Project mapping neighborhood change project available at <https://www.urbandisplacement.org/maps/los-angeles-gentrification-and-displacement/>.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element includes some broad discussion and conclusions such as sites being identified in all census tracts. However, to support conclusions related to fostering inclusive communities, the element should analyze the location of all sites by income group and the number of units, magnitude of the impact on existing patterns of socio-economic characteristics, any isolation of the sites and number of units by income group.

Local Data and Knowledge: The element generally does not address this requirement. The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. 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, service providers and City staff and records.

Contributing Factors: The element should re-assess and prioritize contributing factors upon completion of analysis and make revisions as appropriate.

Goals, Actions, Metrics, and Milestones: 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, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

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).)*

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).)

Extremely Low-income (ELI) Households: While the element generally describes the housing needs of extremely low-income (ELI) households, it should also examine the availability of resources to determine gaps in housing needs to better formulate policies and programs.

Housing Conditions: The element identifies the age of the housing stock and concludes a majority of the housing stock is in good condition. However, it should estimate the number of units in need of rehabilitation and replacement to better formulate policies and programs such as actions to address disproportionate housing needs, including displacement risk.

3. *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).)*

Realistic Capacity: For sites intended to accommodate the moderate and above moderate income RHNA (Table VI-41), the element indicates a realistic capacity assumption of 80 percent of maximum allowable densities based on development standards and historic trends. However, the element should include supporting information such as a list of recent trends by project, zone, allowable density, number of units, built density and affordability.

In addition, the City will be using an affordable housing overlay zone to accommodate the RHNA. Several sites proposed for the overlay have existing non-residential general plan designations and as a result, the calculation of residential capacity should account for the likelihood that sites may develop with 100 percent non-residential uses. The methodology should be based on based on factors such as development trends, performance standards or other relevant factors and add or modify programs (e.g., Program 3.b) as appropriate. The analysis should also rescale the 95 percent assumption on overlay sites, taking into account proposed new allowable densities and development standards such as heights.

Finally, due to recent legislation, the element assumes 100 percent of larger (greater than 0.2 acres) vacant sites will double in capacity. The element should include information to support this assumption. For example, the City could survey owners or rescale assumptions with enhanced policies and programs to encourage development consistent with recent legislation.

Suitability of Nonvacant Sites: The element lists examples of recent development on nonvacant sites and includes site by site discussion of existing uses. However, the element should provide supporting information to demonstrate the similarity between redevelopment trends and identified sites. For example, the element could explain the characteristics of existing uses on recently redeveloped sites and evaluate how those characteristics relate to identified sites. Further, the element includes site by site descriptions of existing uses (Appendix A) but it must either remove sites or include additional analysis to demonstrate whether existing uses impede additional development in the planning period. Examples of sites to be further evaluated or removed include Sites 22, 23 and 25.

In addition, because the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, it must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Small Sites: Sites smaller than half an acre are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. While the element broadly mentions potential for consolidation based on trends in other nearby cities, it must include additional analysis to demonstrate the potential for consolidation on sites 10, 15, 19, 21 and 25. For example, the analysis could describe interest in consolidation from property owners based on proposed or enhanced policies or other conditions rendering parcels suitable and ready for lot consolidation.

City-owned Sites: The element must include additional discussion of the City-Owned sites identified to accommodate the RHNA. Specifically, the analysis should address whether existing uses impeded additional development, any known conditions that preclude development in the planning period, the potential schedule for development and necessary actions to facilitate development (e.g., consolidation) as intended in the sites inventory. In addition, the housing element must include a description of whether there are any plans to dispose of the properties 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.

Environmental Constraints: The element notes many parcels are impacted by environmental constraints and sensitivities and generally describes a few environmental conditions within the City. However, the element must relate those conditions to identified sites and describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period.

Accessory Dwelling Units (ADUs): The element projects 297 ADUs over the eight-year planning period. The projection assumes ADU permits will increase at a similar rate to increases since 2017 and then flatten around the mid-point of the planning period. However, based on 2020 and 2021 planning permit figures, ADU permits appear to already be flattening and the analysis favorably uses proportionate increases that are a result of low permit figures (less than 10 ADUs). The element should either adjust projections downward based actual on the average number of ADU permitted since 2018 (approximately 10 units per year) or include additional analysis and policies and programs.

Further, while the element utilizes Southern California Association of Governments (SCAG) affordability figures approved by HCD, it must also consider public comments, including related to ADU affordability and could consider market conditions dissimilar from SCAG's affordability figures.

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

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element mentions emergency shelters are permitted in the Business Park zone, includes analysis of acreage and lists development standards. However, the element should also analyze those standards, particularly bed limits and parking and add or modify programs as appropriate.
 - *Employee Housing:* Zoning must be consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.). Specifically, Health and Safety Code 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. Programs should be added or modified to address this statutory requirement.
 - *Accessory Dwelling Units:* After a past cursory review of the City's ordinance, the City has amended its ordinance to address comments from HCD. As part of future reviews, HCD will review the amended ordinance for compliance with statutory requirements and programs may require revisions to ensure compliance with statutory requirements.
4. *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 multifamily parking garages, heights and open space and must address how development standards will facilitate achieving maximum allowable densities under the proposed overlay zones. 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.

Processing and Permit Procedures: While the element mentions the design review by the Design Review Board, Cultural Heritage Commission or Planning Commission, it should analyze the process, including processing times. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information such as the time from initial application to issuing building permits. The analysis should address impacts on housing cost, supply, timing and approval certainty.

Other Local Ordinances: The element must analyze any locally adopted ordinances that directly impacts the cost and supply or residential development (e.g., inclusionary requirements, short term rentals, growth controls). The element currently describes the City's inclusionary ordinance, but it must also analyze impacts on development costs and financial feasibility. Finally, the element must describe and analyze any local initiatives or other rules that limit development, including heights for impacts on housing cost, supply, timing, approval

certainty and ability to achieve maximum densities, including densities proposed as part of this housing element.

Building Codes and Enforcement: The element must describe and analyze enforcement procedures (e.g., complaint based or proactive) for impacts 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.

Housing for Persons with Disabilities (Group Homes for Seven or More Persons): The City's zoning code excludes group homes for seven or more persons from most residential zones and subjects these uses to a conditional use permit (CUP). The element should include specific analysis of these and any other constraints for constraints on housing for persons with disabilities and add or modify programs as appropriate to permit these uses objectively with approval certainty.

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

While the element includes an analysis of potential non-governmental constraints, such as the availability of financing, it must analyze requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the jurisdiction's ability to accommodate RHNA by income category and include programs as appropriate.

B. Housing Programs

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

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines. Programs to be revised with discrete timelines include Program 1.b (Housing Acquisitions), 1.c (Housing Rehabilitation and Code Enforcement), 2.a (Technical Assistance for Projects with Affordable Housing) and 2.b (Affordable Housing Production).

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 A3, 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:

- Shortfall of Adequate Sites: Programs to rezone sites and accommodate a shortfall of adequate sites (2.j, 2.k and 3.a) must be revised to address all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i), such as permitting at least 16 units per sites. Further, Program 3.a should provide a clear linkage to accompanying programs (2.j and 2.k).
 - Program 3.b (Mixed-use Development): The Program should be revised with additional incentives or other strategies based on a complete analysis of nonvacant sites and realistic capacity assumptions.
 - Program 3.d (Enable Parcel Assemblage): The Program should consider additional incentives, more frequent review and revision and any modification based on a complete analysis.
 - Program 2.l (City-owned Property): The Program should be revised with additional actions based on a complete analysis of City-owned properties.
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).)*

Programs 2.a (Technical Assistance for Projects with Affordable Housing), 2.b (Affordable Housing Production) and 2.h (Incentives for Special Needs Housing) should include specific and proactive steps the City will take to facilitate affordable development, including proactive outreach with developers of affordable housing to identify and pursue opportunities on an annual basis.

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 Findings A4 and A5, the element requires a complete analysis of potential governmental and non-governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

5. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element requires a complete analysis of affirmatively furthering fair housing. Depending upon the results of that analysis, the City must revise or add programs.

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

Program 3.g (Monitor ADU Production) should commit to monitoring and alternative actions more than once in the planning period (e.g., every two years) and should go beyond incentives and funding (e.g., rezoning) if ADUs are not permitted consistent with assumptions. The Program should also include a timeframe for when alternative actions will take place (e.g., within 6 months).

C. Quantified Objectives

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

While the element includes these new construction, rehabilitation and conservation objectives, the element could consider conservation objectives beyond 5 units in the planning period. For example, the City could consider other programs that result in conservation of the existing housing stock such as enforcement, housing choice vouchers or energy conservation strategies.

D. Public Participation

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

While the element describes public meetings, workshops and study sessions, moving forward, the City could employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts.

In addition, the element should describe how comments, including those received by HCD, were or will be considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

Finally, HCD understands the draft element was made available for review on October 12, 2021, only ten days before submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including revising the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.

E. Consistency with General Plan

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The housing element states the housing element will be consistent as part of the general plan update. In addition, the element should discuss how internal consistency will be maintained throughout the planning period. For example, the City could consider an internal consistency review as part of its annual general plan implementation report required under Government Code section 65400.