

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

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April 1, 2022

Christine Cordon, Interim City Manager
City of Westminster
8200 Westminster Blvd.
Westminster, CA 92683

Dear Christine Cordon:

RE: City of Westminster's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Westminster's (City) housing element adopted January 26, 2022 and received for review on February 1, 2022. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The adopted housing element addresses some statutory requirements described in HCD's December 17, 2021 letter; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code), see enclosed Appendix. The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted to comply with the requirements.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), Program 3 Rezone Program/Shortfall and Program 4 Westminster Mall Specific Plan/Larges Sites to rezone 8,034 units to accommodate the regional housing needs allocation (RHNA) must 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).

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.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

HCD appreciates the effort the City's consultant provided throughout the course of the housing element 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 additional technical assistance, please contact Divya Sen, of our staff, at Divya.Sen@hcd.ca.gov.

Sincerely,

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

Melinda Coy
Senior Housing Accountability Manager

Enclosure

APPENDIX CITY OF WESTMINSTER

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

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

A. Housing Needs, Resources, and Constraints

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

Fair Housing Issues: The element includes outreach, education implementation and description of how City is in compliance with existing fair housing laws and regulations. However, the element must also address findings, lawsuits, enforcement actions, settlements, or judgements related to fair housing or civil rights.

Integration and Segregation: While the element includes local and regional data for income, race/ethnic concentrations, disability and familial status, it must also analyze trends and patterns at the local and regional basis for income and persons with disabilities.

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): While the element includes some R/ECAP data and analysis, it should also analyze regional data for trends and patterns. For example, the element discusses that Orange County has R/ECAPS, therefore the element should analyze whether R/ECAPS has increased or decreased over time. In addition, the element includes limited data and analysis on racial concentrated areas of affluence (RCAAS). For example, the element mentions there is no RCAAs in Westminster, but should also analyze regional data for trends and patterns.

Access to Opportunity: The element includes local and regional analysis on disparities of the educational, environmental, transportation, and economic scores. The element should also include analysis on socio-economic characteristics (e.g., race, income, familial status, disability, income, poverty) for each area to highlight disparities in accessing opportunity. For example, the element states economic scores in northern Westminster are slightly higher than the rest of Westminster," therefore does other sections of the City outside this northern area of Westminster correlate with higher presence of minorities, lower income

residents, and/or people living with disabilities, and lead to any possible disparities in accessing economic opportunity. The analysis should also be updated to discuss patterns, policies, practices, and investments that affect access to opportunity where appropriate.

Site Inventory: While the element includes analysis and programs to support sites, it must include description of how the sites improve conditions. See HCD's prior review.

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. While the element includes Table 73: Fair Housing Issues and Contributing Factors (p. 247), programs are not sufficient to facilitate meaningful change and address affirmatively furthering fair housing (AFFH) requirements. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

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 9,759 housing units, of which 3,354 are for lower-income households. To address this need, the element relies on nonvacant sites, including sites in Specific Plan Areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Suitability of Nonvacant Sites: While the element includes additional analysis on suitability of nonvacant sites (p.127) and describes the existing uses for lower income RHNA (Appendix A p. 1), it must describe the existing uses for all identified nonvacant sites in each income group and support the potential for residential development on sites to accommodate the moderate and above moderate income in addition to those sites to accommodate lower-income RHNA. Furthermore, the element must discuss redevelopment factors in relationship to how they support the residential development of the sites identified in the inventory. For example, one of the factors used to determine redevelopment potential is unique site characteristics (utilization, and blighted conditions). However, while the element generally describes considerations it does not relate these considerations to the sites. . The element can do this by listing each factor value in the actual sites inventory or including a narrative on how these factors relate to the sites identified in the inventory. In addition, only a general description of market conditions and

some development trends in nearby communities that support redevelopment is included. Finally, the element now includes Table 6, which shows examples of projects that have been redeveloped between 2013-2021. However, the element should connect the factors that led to redevelopment on these sites to those conditions identified in the sites inventory to demonstrate redevelopment potential. For example, the element could describe the previous condition of the site, zoning for the parcel, and other factors that are similar to residential sites identified in the inventory.

In addition, as stated in the previous review specific analysis and actions are necessary because the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households and any candidate sites for rezone. 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. Any future re-adoption of the housing element must include the appropriate finding as part of the adoption resolution. To address this finding, the element could further describe the site characteristics that lead to residential development as stated above. The inventory could describe whether the use is operating, marginal or discontinued, the condition of the structure, land improvement value ratio, age of structure, any expressed interest in redevelopment, the presence of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and any specific incentives to encourage or facilitate development on these sites.

Accessory Dwelling Units (ADU): The element did not address this finding. While the element included an updated Program 5 Accessory Dwelling Units, it did not provide any additional analysis supporting the 66 per year projection. The element should reconcile City and annual progress report data to update projections. See HCD's prior review.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: While the element includes a description of land use standards it must analyze those standards for potential constraints on a variety of housing types (e.g., multifamily rental housing, mobilehomes, transitional housing) and evaluate the cumulative impacts of land use controls on the cost and supply of housing. While the element includes general statements related to the cumulative impacts of land use controls, it does not support this statement with analysis. Furthermore, as stated in the prior review, the element should also analyze constraints to multifamily residential development such as two-story height limits.

The analysis should also describe past or current efforts to remove identified governmental constraints and the element should include programs to address or remove the identified constraints. While the element states that the City recognizes that its current Zoning Code must be updated to implement the land use designations identified in the General Plan and provide more clear direction to the development community regarding development in the City's new mixed-use areas and includes a commitment to completing these updates pursuant to Program 14 (Zoning Code Review and Update) to reduce potential impacts related to land use controls (Page BR-110). However, this commitment is not included in program language.

Local Processing and Permit Procedures: The element generally describes development review process for residential housing, it must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability including impacts on timing, certainty, and transparency in the process. In addition, the element includes details on development review and that City found "no evidence that its process and permit procedures (p. BR-98) act as constraints to development", it should also evaluate the impact on development. The element should add or modify programs to mitigate or remove identified constraints.

Constraints on Housing for Persons with Disabilities: While the element includes that all residential uses require conditional use permits (CUP), the element should analyze the CUP for group home facilities serving seven or more for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

4. *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 identifies two affordable housing projects at risk of converting to market-rate units in the planning period. If multifamily units are identified as at-risk within a ten-year period (2021–2031), the analysis of "at-risk" units must include the following (Gov. Code, § 65583, subd. (a)(9).):

- Identification of public and private nonprofit corporations known to the City to have the legal and managerial capacity to acquire and manage at-risk units.

For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml> and for more information on identifying units at-risk, see the California Housing Partnership Corporation at <http://www.chpc.net>.

B. Housing Programs

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

As noted in Finding A2 the element does not include a complete site analysis, 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.

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households.* (Gov. Code, § 65583, subd. (c)(2).)
3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.* (Gov. Code, § 65583, subd. (c)(3).)

As noted in Finding A3 the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised as follows:

Program 14 (Zoning Code Review and Update): Table 48: Permitted Residential Uses by Zone (p. BR-83) notes that the City does not have set standards for residential development in commercial zones and “will amend their requirements to better align standards for development of residential projects in commercial zones to match the new standards created for residential development in mixed-use zones.” The City should update the program to include this action.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs.

C. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

While the element includes updated information on public participation (Appendix B: Public Engagement Survey), the element should further describe how the element achieved public participation for all economic segments, specifically lower-income households and special needs group. 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.