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December 21, 2021

Patty Nevins, Director
Planning Department
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Dear Patty Nevins:

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

Thank you for submitting the City of Fontana's (City) revised 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 20, 2021 with you, DiTanyon Johnson, Principal Planner, and consultant Molly Mendoza.

The draft element addresses many statutory requirements described in HCD's August 24, 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 revisions needed to comply with State Housing Element Law.

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

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-

income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

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

HCD appreciates the dedication and hard work of the housing element update 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 additional technical assistance, please contact Divya Sen, of our staff, at Divya.Sen@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX
CITY OF FONTANA

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).)

Special Needs Populations: The element generally was not revised to address this requirement. Please see HCD's prior review.

B. Housing Needs, Resources, and Constraints

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

   Enforcement: While the element describes the total number of complaints in the City are greater than those of neighboring cities (p. 4-20) it should include data and evaluation (e.g., characteristics of complaints) of any past or current fair housing lawsuits, findings, settlements, judgements, and complaints. The analysis could also evaluate data and the results from any fair housing testing.

   Integration and Segregation: While the element includes analysis and maps for disability and familial status, it must also evaluate trends and patterns for income within the City.

   Racially/Ethnically Concentrated Areas of Poverty and Affluence (R/ECAP): The element identifies a R/ECAP and addresses concentrated areas of affluence but should also, as noted in the prior review, analyze the R/ECAP, such as evaluating trends, conditions, comparisons to other neighborhoods and effectiveness or absence of past strategies related to equitable quality of life. The element must add or modify programs based on the outcomes of this analysis.

Disparities in Access to Opportunity: While the element includes local information on transportation and environmental quality, it must also analyze for trends and patterns for education and economic opportunities.

Displacement: While the element generically mentions displacement, (p. 3-87) it must provide displacement data, analyze and conclusions. The element could utilize information from the Urban Displacement Project mapping neighborhood change projects available at https://www.urbandisplacement.org/maps/los-angeles-gentrification-and-displacement/.

Local Data and Knowledge, and Other Relevant Factors: The element was note revised to address this requirement. Please see HCD's prior review.

Sites: While the element discusses components of the assessment of fair housing (pp. 3-9 to 3-18), it should also analyze the impact on existing patterns and any isolation of the regional housing needs allocation (RHNA) as noted in the prior review.

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Currently, programs are not sufficient to facilitate meaningful change and address 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).)*

   Realistic Capacity: While the element provides assumptions for calculating residential capacity, it must also support these assumptions. For example, the element should list and evaluate recent projects by zoning, allowable density, number of units built, and affordability to support assumptions. The revised element also generally does not address HCD's prior finding regarding assuming residential developments that allow 100 percent nonresidential uses. Please see HCD's prior review for additional information.

   Suitability of Nonvacant Sites: The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element needs to also analyze the extent that existing uses may impede additional residential development (e.g., single family). The element can summarize past experiences converting existing uses to higher density residential

development, including current information on development trends and relationship of those trends to existing uses on identified sites.

Replacement Housing Requirements: While the element states the site inventory does not identify any parcels which include low income or deed restricted housing (p. B-24), it does appear to identify sites with existing residential uses that are intended to accommodate the lower-income RHNA. As a result, the element should either include additional analysis to demonstrate these existing uses do not include housing for lower-income households or add or modify programs as described in the prior review.

Environmental Constraints: While the element indicates a majority of the sites are not in flood zones, it must still discuss whether there are any known conditions that could impact housing development on identified sites in the planning period.

Accessory Dwelling Units (ADU): The element assumes 82 ADUs per year for a potential buildout of 656 units within the planning period. While the element now provides information on past performance, it does not include sufficient analysis to justify doubling past trends. For example, 2020 trends were not reported to HCD, 2021 data is based on approvals and the conversion of approvals to permits is not apparent. The element should be revised with a complete analysis, including adjusting assumptions downward and add or modify programs as appropriate.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

   Local Processing and Permit Procedures: While the element includes local processing and permit procedures (p. 3-35), it must also evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single- and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures.

   Constraints on Housing for Persons with Disabilities: The element includes Policy Action 1P: Group Homes for 7 more persons (p. 4-10) but should also analyze the conditional use permit as a constraint on housing for persons with disabilities and modify Policy Action 1P to amend procedures to promote approval certainty and objectivity for 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… …requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building*

permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)

Approval Time and Requests for Lesser Densities: The element must include the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially. The element must address any hinderance on the development of housing and include programs as appropriate.

C. 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 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.

   - *Shortfall of Sites*: The element describes a shortfall of sites and indicates rezoning will occur to accommodate the RHNA. As noted in the prior review, while the element includes Programs 1B, 1C and 1D, the programs must specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i).

   - *Replacement Housing Requirements:* As noted in Finding B2, if utilizing sites with existing residential uses, the housing element must include a program to provide replacement housing. The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

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

   The element generally was not revised to address this requirement. Please see HCD's prior review for additional information.

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 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. Based on the outcomes of that analysis, the element must add or modify programs.

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).)*

   Policy Action 2A (Monitoring At-risk Housing Units) should be revised to also commit to assist with funding, including support for funding application and provide education and assistance to tenants upon any notification of potential conversion of at-risk developments.

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).)*

   While Policy Action 1M (ADU Monitoring) now commits to annual tracking and exploring additional incentives if needed by 2024, the Policy Action should commit to alternative actions more than once in the planning period and should go beyond exploring incentives if ADUs are not permitted consistent with assumptions. As noted in the prior review, the Policy Action should specifically commit to track the production and affordability of ADUs

every other year and specifically commit to appropriate actions (e.g., rezone) within a specified time if assumptions are not realized.

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).)

Moving forward and up to adoption, the City should continue to employ additional methods for public outreach efforts, particularly including lower-income and special needs households and neighborhoods with higher concentrations of lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income and special needs households in future public outreach efforts.