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.