

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

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December 3, 2021

Susan Koleda, Director of Community Development
Planning Division
City of La Canada Flintridge
One City Center Drive
La Canada Flintridge, CA 91011

Dear Susan Koleda:

RE: City of La Canada Flintridge's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of La Canada Flintridge's (City) draft housing element received for review on October 6, 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 November 29, 2021 with you and consultants Veronica Tam, Patricia Bluman, Claudia Tedford, and Katie Matchett. In addition, HCD considered comments from Adam Buchbinder from Campaign for Fair Housing Elements 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). For example, the Affirmatively Furthering Fair Housing (AFFH) analysis should provide local data and programs should have definitive timelines to provide a beneficial impact in the planning period. The enclosed Appendix describes these, and other 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).

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/community-development/housing-element/index.shtml> 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.

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.

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 John Buettner, of our staff, at john.buettner@hcd.ca.gov.

Sincerely,



Paul McDougall

Senior Program Manager

Enclosure

APPENDIX CITY OF LA CANADA FLINTRIDGE

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 Enforcement and Outreach: The element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. While the element provides basic information and data in this area, it should explain the types of outreach and educational efforts relative to furthering fair housing, including affecting groups with protected characteristics.

Racial/Ethnic Areas of Concentration of Poverty(R/ECAP): The element includes information relative to (R/ECAP) but should also address concentrated areas of affluence. The combination of the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. The analysis should evaluate the patterns and changes over time at a local (e.g., neighborhood to neighborhood) and regional level (e.g., city to region).

Local Data and Knowledge, and Other Relevant Factors: The element 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 and service providers. Also, 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: The element must include an analysis demonstrating whether sites identified to meet the RHNA are distributed throughout the community in a manner that affirmatively furthers fair housing. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income

groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Contributing Factors: While the Summary of Fair Housing Issues (p. D44) briefly summarizes fair housing issues, these issues do not appear to be rooted in the analysis and do not appear adequate to facilitate the formulation of meaningful action. The element must list and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

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).)*

While the element quantifies the projected extremely low-income households, it must also analyze the needs of extremely low-income (ELI) households. The analysis of ELI housing needs should consider tenure, rates and trends of overcrowding and overpayment.

3. *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).)*

The element identifies the approximate age of the housing stock (p. 31-32) and general information on code compliance but it must also estimate the number of units in need of rehabilitation and replacement.

4. *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 612 housing units, of which 387 are for lower-income households. To address this need, the element relies on vacant and underutilized 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:

Progress in Meeting the RHNA: As you know, the City's RHNA may be reduced by the number of new units pending, approved, permitted or built since July 1, 2021 by demonstrating availability and affordability based on rents, sale prices or other mechanisms ensuring affordability (e.g., deed restrictions). The element notes 64 units of which 23 units are affordable to lower-income households are pending approval. The element should indicate what remaining approvals are necessary for this process, expected timing for those approvals and demonstrate their availability in the planning period.

Sites Inventory: While the element provides an inventory of sites in Appendix C, the inventory does not describe existing uses for these sites nor indicate whether the sites are vacant or nonvacant. The inventory must be revised to include this information. Descriptions of existing uses should include sufficient detail to facilitate an analysis of the potential for addition development on nonvacant sites.

Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate the regional housing need for households of all incomes, stating that "a specific analysis was conducted on properties within the City to identify vacant and underutilized properties" (p. 77). This statement alone is not adequate to demonstrate the potential for additional development in the planning period. A complete analysis should describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g)). Development trends and market analysis should relate to the sites identified in the sites inventory. For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

Realistic Capacity: The element appears to assume residential development on sites with zoning that allow 100 percent non-residential uses, but to support this assumption, the element must analyze the likelihood of residential development in nonresidential zones. The element could describe any performance standards mandating a specified portion of residential and any factors increasing the potential for residential development such as incentives for residential use, and residential development trends in the same nonresidential zoning districts.

Small Sites and Lot Consolidation: The element identifies several sites consisting of aggregated small parcels less than half acre. For parcels anticipated to be consolidated, the element must demonstrate the potential for lot consolidation. For example, analysis describing the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for redevelopment, recent trends of lot consolidation, and information on the owners of each aggregated site. For parcels anticipated to develop individually, the element must describe existing and proposed policies or incentives the City will offer to facilitate development of small sites. Please be aware sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the housing element describes other evidence to HCD that sites are adequate to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(A).)

Accessory Dwelling Units (ADU): ADUs may be counted toward the RHNA based on past permitted units and other factors. In the element, the City projects 120 ADUs to be constructed over the planning period, averaging 15 units per year. This projection differs from past ADU annual permit figures of 5 in 2018, 2 in 2019, and 13 in 2020, averaging approximately 7 units per year. The element should be revised to reconcile these figures, adjust assumptions as necessary or include additional analysis and programs to demonstrate the increase over past trends.

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 RHNA.

Sites with Zoning for a Variety of Housing Types:

- *Accessory Dwelling Units (ADUs):* The element indicates the City modifies its zoning code to ease barriers to the development of ADU's. However, 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, zones where ADUs are allowed, conversion restrictions, among other factors. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance in order to comply with state law.

In addition, the element states that the City in the process of updating its Safety Element, which is proposing to "prohibit ADUs and junior accessory dwelling units (JADUs) in" twelve neighborhoods due to safety concerns (p. 48) and will be updating the City's zoning codes within two years of adoption of the housing element (Program 15, p. 111). However, the element must provide an analysis of whether this is a potential constraint.

- *Low Barrier Navigation Centers and Permanent Supportive Housing:* Low barrier navigation centers and permanent supportive housing shall be a use by-right in

zones where multifamily and mixed uses are permitted, including nonresidential zones. The element should either demonstrate compliance with these requirements or add or modify program as appropriate.

5. *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).*

Fees and Exaction: The element must describe all required fees for single family and multifamily housing development, including building and impact fees, and analyze their impact as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Codes and Enforcement: The element must describe the City's building and zoning code enforcement processes and procedures and analyze their impact as potential constraints on housing supply and affordability.

Constraints on Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures and states that Program 15 is to accommodate changes in the procedures and zoning code that make requests easier and time frames for approvals shorter. However, the element should also analyze any potential constraints on housing for persons with disabilities and revise programs, as appropriate, to address identified constraints.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1, subdivision (a)(1).

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program, if necessary, to address these requirements.

6. *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)).

Developed Densities and Permit Times: The element must be revised to include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

- 7. 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).)*

Farmworker Housing: The element indicates that there are no farmworkers employed in fulltime farming occupations in the City. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) 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 address the program requirements of Government Code section 65583, subd. (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.

Numerous programs indicate an "ongoing" implementation status or do not contain definitive implementation timelines (e.g., month and year) other than broad periods of time after adoption of the element. While this may be appropriate for some programs, programs

with specific implementation actions must include completion dates resulting in beneficial impacts within the planning period. All programs should be revisited and revised as necessary.

In addition, Program 8 (ADUs) commits to 1) monitoring changes in state law and updating zoning codes regularly, 2) facilitating the development of ADUs, 3) developing a monitoring program to ensure the City is on track for ADU production, and 4) providing information to the public regarding benefits and procedures for approval. Action 1 should be revised to clarify what is meant by “regularly” and offer a more definitive time frame for these updates. Action 2 states that the City will be “facilitating the development” of ADUs but should clarify how the City will facilitate development and if the City will offer incentives. Action 3 states that the City will develop a monitoring program to track goals within six months of adoption of the element and provides a date of April 2025 to review production and revise the program if the City is not meeting its goals. This Action should include monitoring of affordability assumptions in addition to production. The City should also consider more frequent reviews other than every four years and adjust the date of review accordingly.

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 A4, 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: Currently, the element identifies a shortfall of adequate sites with zoning to accommodate the RHNA within the planning period. In order to provide sufficient sites to accommodate the RHNA, Program 1 (Adequate Residential Sites to Accommodate the RHNA) and Program 4 (Downtown Village Specific Plan) should commit to, among other things, redesignate and amend the Zoning Map to rezone the properties identified in the Sites Inventory to accommodate the RHNA. In addition, these programs must specifically commit to acreage, allowable densities and anticipated units and, if necessary to accommodate the housing needs of lower-income households, commit to meeting all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). For example, Program 4 states that the City will amend the DVSP to increase the density in the MU-2 district to 15-25 dwelling units per acre. However, this range does not meet the minimum density standard of 20 units per acre for lower-income sites.

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).)*

While the element provides for assistance in the development of adequate housing to meet the needs of extremely low- and lower-income households in Programs 13, 15 and 16, these programs do not adequately meet the requirements. The programs must include specific actions and timelines to assist in the development of housing for (ELI) households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to (ELI) households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.

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 A5 and A6, 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. *The housing element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

Program 10: Residential Rehabilitation Program: Action 2 should commit to how the City will target lower-income, including ELI, and special needs populations, what types of outreach will be performed, and provide a definitive timeline as to when these actions will take place other than on an “ongoing” basis.

Program 13: Multi-Family Housing Acquisition and Rehabilitation: This Program should commit to provide more information on when the City will apply for funds and how the City intends on targeting lower-income households, including definitive timelines.

6. *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. The element must be revised to add goals and actions based on the outcomes of a

complete analysis. Currently the element only addresses AFFH in Program 22. The element could revise other program actions to address the City's obligation to AFFH including how programs address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. In addition, the element should describe how all the City's housing programs comply with and further the requirements and goals of Government Code section 8899.50, subdivision (b).

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)(8).)

While the element includes a summary of the public participation process (p. 4 and Appendix A), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

In addition, HCD understands the City made the element available to the public just prior to submittal to HCD, but the element is not clear as to when this took place. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City may not yet have 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 making revisions to 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.