

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

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April 12, 2024

Robert Dalquest, Director
Development Services Department
City of Upland
460 N. Euclid Ave
Upland, CA 91786

Dear Robert Dalquest:

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

Thank you for submitting the City of Upland's (City) draft housing element received for review on February 13, 2024. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The following describes the revisions needed to comply with State Housing Element Law.

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))*

Integration and Segregation: While the revised draft element provides a general local and regional analysis for each element of the integration and segregation analysis, it must still provide a detailed regional analysis that includes neighboring jurisdictions (other than San Bernardino County), and a clearer analysis of how patterns and trends have changed over time.

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): While the revised draft element provides a general local and regional analysis, it must still provide a detailed regional analysis that includes neighboring jurisdictions (other than San Bernardino County), and a specific analysis of how patterns and trends have changed over time.

Disproportionate Housing Needs and Displacement Risk: While the draft element was revised to add additional useful analysis, it was not sufficiently revised to completely

address this finding. Specifically, the element must still provide a regional analysis of overpayment, a local analysis of substandard housing that includes any known concentrations of substandard housing within the City, a local analysis and contributing factors to overcrowding, and a local analysis of persons experiencing homelessness for any demographics or characteristics and impacts on protected characteristics.

Programs: As noted above, the element requires a complete Affirmatively Furthering Fair Housing (AFFH) analysis. Depending upon the results of that analysis, the City may need to revise or add programs.

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).)*

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.

Suitability of Nonvacant Sites: While the element was revised to provide a more thorough and detailed analysis and lists some recent projects in Table B-8, characteristics of these project sites should be more clearly linked to the criteria provided on Page H-105, and to the sites in the inventory in order to demonstrate that selected sites will develop at a similar capacity, and that similar existing uses have not posed constraints on past projects. Additionally, the criteria on page H-105 listed as "Similar Types of Non-Vacant Uses" should be further explained and linked to sites in the inventory based on enumerated similar uses.

In addition, the element states that some sites have an existing use of "public parking lot." The element should identify if there are any lease agreements or other regulatory agreements that would inhibit the development of housing on these lots during the planning period.

As noted in the housing element, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the Regional Housing Needs Allocation (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.

Finally, the element identifies sites with existing residential uses. Absent a replacement housing policy, these sites are not adequate sites to accommodate lower-income households. The replacement housing policy has the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

Publicly-Owned Sites: The element identified City-Owned sites to accommodate a portion of the RHNA. The element should include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of City-Owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.

Programs: 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.

Program 6 (Adequate Sites to Accommodate Regional Housing Needs): While this program has been revised to add more specificity as to the rezoning actions that will be taken, it must provide a timeline as to when these rezoning actions will be completed. The program must commit to acreage, allowable densities and anticipated units that will be rezoned to accommodate the City's shortfall. Please note, the element cannot be found in full compliance until these actions have been completed and submitted to HCD for review and approval.

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

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.

Design Review: While the draft element was revised to describe the evaluation process for certain projects in the City, it must still describe the design review criteria for non-ministerial projects and analyze the overall design review process as a potential constraint on housing development.

Programs: Depending upon the results of a complete analysis of potential governmental constraints, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

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 accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed and Programs 6 (Adequate Sites to Accommodate Regional Housing Needs) 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 Affordable Housing and Sustainable Communities program, 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.

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>.

Robert Dalquest, Director
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HCD appreciates the City's housing element team during the course of our review. 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 Reid Miller, of our staff, at Reid.Miller@cd.ca.gov.

Sincerely,

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

Melinda Coy
Proactive Housing Accountability Chief