

## Communication from Public

**Name:** Anthony Dedousis

**Date Submitted:** 07/28/2021 09:55 AM

**Council File No:** 20-1042

**Comments for Public Posting:** Dear Councilmembers, Please see attached for a comment letter from Abundant Housing LA and YIMBY Law regarding the City's draft housing element. We are supportive of the draft housing element's sophisticated, data-driven site inventory analysis, the detailed and objective assessment of fair housing issues in Los Angeles, and the recognition that significant upzoning will be needed to achieve the RHNA target. However, we wish to draw your attention to issues in the draft housing element's site inventory methodology, and to the lack of specificity in the proposed zoning and land use reform plan. Thank you, Anthony Dedousis



July 27, 2021

Mr. Vince Bertoni  
Director of Planning  
Los Angeles Department of City Planning  
200 North Spring Street  
Los Angeles, CA 90012

Dear Mr. Bertoni,

Thank you for the opportunity to comment on the process of updating the housing element of the City of Los Angeles' general plan. We are writing on behalf of **Abundant Housing LA** and **YIMBY Law** regarding the 6th Cycle housing element update. **Abundant Housing LA** is a pro-housing, nonprofit advocacy organization working to help solve Southern California's housing crisis, and **YIMBY Law's** mission is to make housing in California more accessible and affordable through enforcement of state housing law. We support more housing at all levels of affordability and reforms to land use and zoning codes, which are needed in order to make housing more affordable, improve access to jobs and transit, promote greater environmental sustainability, and advance racial and economic equity.

**That's why we've called for a housing element update that distributes the citywide 456,000-home RHNA goal, including 184,000 that are affordable to lower-income households, to each of Los Angeles' community plan areas in a fair, equitable way.** This requires high-opportunity neighborhoods to accommodate more housing opportunities, including those that have historically blocked new housing through exclusionary zoning. Additionally, as we plan for housing growth, there must be no conversion of wildlife habitat to housing.

Our organizations, together with a broad coalition of groups representing the policy, academic, environmental, business, social justice, and affordable housing communities, have engaged with the City on the housing element update through the process' inception in early 2020:

- [In January 2021, we wrote to recommend that](#), as part of the housing element update process and RHNA rezoning, the City set housing growth targets for each CPA, based on objective, quantifiable criteria like housing costs, median income, access to transit, proximity to job centers, access to parks and schools, patterns of historical exclusion and segregation, and environmental quality.
- In February, [we wrote to express our concern](#) that early drafts of the housing element update did not incorporate an equitable distribution approach to promoting housing growth.
- In April, the California Department of Housing and Community Development (HCD) issued [detailed guidelines](#) that clearly require cities to promote lower-income housing opportunities in high-opportunity neighborhoods, and defines quantitative benchmarks for assessing cities' AFFH compliance. This indicates that HCD intends to set the bar

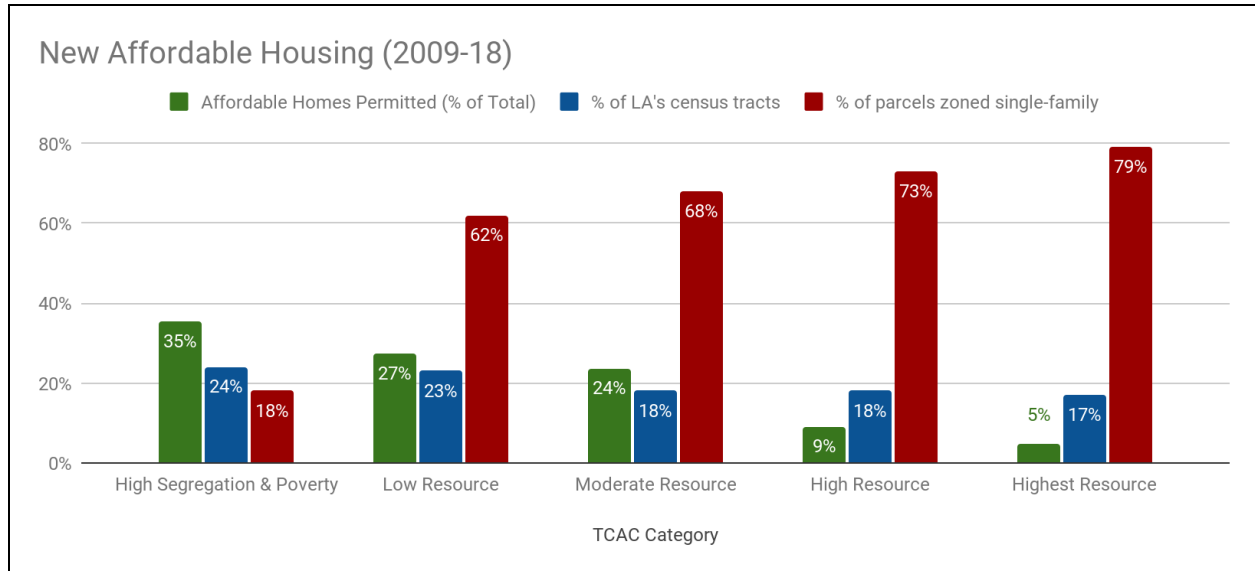
high on AFFH compliance in housing element updates, as required under Assembly Bill 686.

- In June, [we wrote to express support](#) for the Report Relative to Citywide Equitable Distribution of Affordable Housing (CF 19-0416) and the Report Relative to a City Zoning Code Update (CF 20-1042), and encouraged the City Council to incorporate major reforms into the housing element update.

We have reviewed the City's draft Housing Element, as well as the Citywide Equitable Distribution of Affordable Housing and City Zoning Code Update Reports ("Fair Share Reports"), and **we are encouraged that the City has incorporated a sophisticated, data-driven site inventory analysis in its draft housing element, as well as a detailed and objective assessment of fair housing issues in Los Angeles. In particular:**

- **The econometric approach to estimating the site capacity is outstanding.** The City's collaboration with Turner Center economists and subject matter experts resulted in a rigorous, high-quality quantitative model that predicts each parcel's likelihood of redevelopment, using a decade of parcel-level redevelopment data. This provides a fair estimate of the City's current realistic capacity for new housing, demonstrating that Los Angeles will only build 10% of its RHNA target, or about 45,000 homes, in a "business as usual" scenario. This also recognizes that Assembly Bill 1397 (2017) requires cities to discount sites' capacity by the sites' probability of development during the planning period, as argued by [experts in housing element law](#).
- **The draft housing element provides a thorough, data-driven AFFH analysis of the site inventory.** This analysis, undertaken at the census tract level, assessed the likely neighborhood-level impacts of the site inventory. This demonstrated that, due to the geographic patterns of where today's zoning allows (and forbids) multifamily housing, the site inventory's development potential would not reduce (and might even increase) the concentration of lower-income households in low-resource areas, a clear AFFH violation. This analysis strengthens the case for focusing zoning and land use reforms in high-resource areas, to ensure that the housing element update reduces the citywide concentration of lower-income households in disadvantaged neighborhoods.
- **The Fair Share Reports provide data-driven evidence that Los Angeles' zoning and land use regulations are a root cause of housing scarcity and high costs.** Using neighborhood and census tract level data, Planning and HCID illustrate that restrictive zoning, especially apartment bans, have discouraged housing production (both market-rate and subsidized) in Los Angeles' higher-cost, supply-constrained neighborhoods. This has worsened patterns of income and racial segregation, and pushed low- and moderate-income households out of Los Angeles, with an especially negative impact on Los Angeles' communities of color.
  - For example, between 2009 and 2018, just 14% of new affordable homes were permitted in high- and highest-resource census tracts, even though these areas make up 35% of the City's total census tracts. This is because apartments are banned on 76% of the residential parcels in these well-resourced areas, a

function of exclusionary zoning. By contrast, 35% of new affordable homes that were permitted during that time were located in census tracts with high segregation and poverty. These areas allow apartments on 82% of their residential parcels.<sup>1</sup>



- **The draft housing element proposes to accommodate 220,000 more homes (almost 50% of the total RHNA goal) by 2029 through rezoning and land use reform.** Both the draft housing element and Fair Share reports propose bold policy reforms that encourage equitable citywide housing supply growth, including:
  - An equitable distribution approach to the housing element's rezoning program, where the bulk of new housing opportunities, including affordable housing opportunities, would be promoted in high- and moderate-resource areas.
  - An expansion and possible merger of the City's Transit-Oriented Communities (TOC) and Density Bonus programs.
  - A Citywide Housing Needs Allocation Process/Targeted Fair Share Zoning Allocation formula that would guide a future Framework Element update and community plan updates.

**We thank the hardworking staff at Planning and HCID for taking these important steps towards a successful housing element update that provides long-awaited solutions to Los Angeles' housing shortage.**

**However, we still have serious concerns about the City's plan to meet its state-mandated RHNA targets.** Portions of the draft housing element contain major inconsistencies with HCD's instructions and the requirement that housing element updates affirmatively further fair housing under Assembly Bill 686, and does not provide a detailed, specific, and credible plan for

<sup>1</sup> [Report Relative to Citywide Equitable Distribution of Affordable Housing, May 2021, p. 12 and p. 14](#)

implementation of a successful rezoning and land use reform program, as required under Government Code Section 65583(c).

**The following issues are of particular concern to us:**

***1. Portions of the Adequate Sites Inventory methodology are over-optimistic about the City's likely housing development potential without rezoning or major land use reforms. As a result, the housing element only proposes to accommodate 220,000 homes through rezoning, which would likely leave the City short of its RHNA goal.***

The draft housing element's analysis of the Adequate Site Inventory finds that the City's total development potential during the 6th cycle is 266,647 homes.<sup>2</sup> While the forecasts for Expected Unit Potential (44,832 homes), Public Land (7,314 homes), Warner Center Specific Plan (10,491 homes), and Project Homekey (4,600 homes) are well-grounded, the forecasts for Private Development Project completion, ADU production, and Public Land Programs are over-optimistic and likely to fall short in reality. Additionally, the proposed No Net Loss buffer is insufficient, and the Adequate Site Inventory includes parcels containing rent-stabilized units as potential redevelopment sites.

The Adequate Site Inventory therefore forecasts that an annual average of 33,331 homes will be permitted throughout the 6th cycle, **almost double the average number of homes permitted between 2017 and 2020 (about 17,800 homes)**.<sup>3</sup> This suggests that many of the Adequate Site Inventory's assumptions are over-aggressive, and should be revised downwards.

**A. A buffer of at least 15-30% extra capacity for the lower-income RHNA targets is not included in the housing element site inventory.**

The No Net Loss law established by SB 166 (2017) requires adequate sites to be maintained at all times throughout the planning period to accommodate the remaining RHNA target **by each income category**.<sup>4</sup> If a jurisdiction approves a development on a parcel listed in the site inventory that will have fewer units (either in total or at a given income level) than the number of units (either in total or at a given income level) anticipated in the site inventory, then the jurisdiction must identify and make available enough sites to accommodate the remaining unmet RHNA target for each income category.<sup>5</sup>

If additional sites with adequate zoned capacity don't exist, then the jurisdiction must rezone enough sites to accommodate the remaining unmet RHNA target within 180 days. If the jurisdiction fails to accomplish this rezoning in the required period, then the consequences will include decertification of the housing element and potential state legal action. HCD

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<sup>2</sup> Draft Housing Element, City of Los Angeles, pg. 4-6

<sup>3</sup> [HCD APR Dashboard](#), Units Permitted by Structure per Year, 2017-20

<sup>4</sup> HCD [No Net Loss Law Memo](#), pg. 1

<sup>5</sup> [HCD Site Inventory Guidebook, pg. 22](#)

recommends that “the jurisdiction create a buffer in the housing element inventory of at least 15-30% more capacity than required, especially for capacity to accommodate the lower income RHNA.”<sup>6</sup> **This is important because it ensures that adequate affordable housing capacity exists in the housing element through the 6th Cycle.**

The draft housing element claims to identify capacity for 486,379 housing units, only 7% higher than the RHNA goal of 456,643 homes. While this includes a 15% moderate-income buffer, only a 10% buffer is provided for the very low- and low-income RHNA targets. **This does not fulfill HCD’s recommendation to maintain a 15-30% capacity buffer at each income level,** giving the City inadequate margin in the event that a site intended for subsidized housing is developed with market-rate housing.

**Draft Housing Element No Net Loss Buffers**

Income Category	RHNA Target	Target Capacity	Buffer
Very Low Income	115,978	127,576	10%
Low Income	68,743	75,617	10%
Moderate Income	75,091	86,355	15%
Above Moderate Income	196,831	196,831	0%
<b>Total</b>	<b>456,643</b>	<b>486,379</b>	<b>7%</b>

The January 2021 initial study **targeted a citywide capacity increase of 501,642 homes,** including an appropriate 25% buffer for the very low- and low-income RHNA targets (although no buffer was included for the moderate-income target). No explanation was provided for the draft housing element’s use of a 10% buffer for the very low- and low-income RHNA targets.

The housing element **should increase its very low- and low-income buffers back to 25%,** as provided for in the January initial study, while maintaining the proposed 15% moderate-income buffer. **This would result in a targeted citywide capacity increase of 514,088 homes, or a 13% overall buffer.** This is necessary to avoid violating the No Net Loss requirement and mid-cycle rezoning, a costly process in terms of time, money, and political will.

**Recommended No Net Loss Buffers**

Income Category	RHNA Target	Target Capacity	Buffer
Very Low Income	115,978	144,973	25%
Low Income	68,743	85,929	25%

<sup>6</sup> [HCD Site Inventory Guidebook, pg. 22](#)

Moderate Income	75,091	86,355	15%
Above Moderate Income	196,831	196,831	0%
<b>Total</b>	<b>456,643</b>	<b>514,088</b>	<b>13%</b>

**B. The housing element’s estimate of the likelihood that in-pipeline projects will be completed during the 6th cycle, based on historical data, is over-optimistic.**

HCD allows cities to count permitted or entitled units towards its 6th Cycle RHNA goals, on the grounds that some of these projects will be built during the 6th Cycle. However, the city must **realistically** estimate how many of these units will ultimately be built during the 6th Cycle, based on recent historical data. This is necessary because not every pending project gets approved, and not every approved project gets built.

The draft housing element forecasts that in-pipeline projects will **produce 144,070 homes during the 6th cycle**. This forecast multiplied the completion rates of pipeline development projects **since 2015** by the number of proposed units currently in-pipeline.<sup>7</sup>

**Draft Housing Element Pipeline Forecast**

<b>Category</b>	<b>Units Proposed</b>	<b>% Units Expected to be Completed (based on 2015-19 data)</b>	<b># Units Expected to be Completed</b>
Active Planning Entitlements	175,907	53%	93,231
Approved Planning Entitlements with No Building Permit	72,537	58%	42,071
By-Right Building Permit Applications (Permit not Issued)	3,713	95%	3,527
Approved Building Permits with No Certificate of Occupancy	5,516	95%	5,240
<b>Total</b>	<b>257,673</b>	<b>56%</b>	<b>144,070</b>

However, this reflects a more aggressive set of assumptions relative to the January 2021 initial study, which used the completion rates of pipeline development projects **during 2018-19**.<sup>8</sup> No

<sup>7</sup> Draft Housing Element, City of Los Angeles, pg. 4-20

<sup>8</sup> [Initial Study, City of Los Angeles, pg. 16](#)

clear justification was provided for using a five-year lookback period, rather than the initial approach of using the two-year lookback period, which likely better reflects current development conditions. Using the more current completion data, we forecast that 105,019 in-pipeline units, or 39,051 fewer than the housing element’s forecast, will be built during the 6th cycle.

**Recommended Housing Element Pipeline Forecast**

<b>Category</b>	<b>Units Proposed</b>	<b>% Units Expected to be Completed (based on 2018-19 data)</b>	<b># Units Expected to be Completed</b>
Active Planning Entitlements	175,907	37%	65,086
Approved Planning Entitlements with No Building Permit	72,537	45%	32,642
By-Right Building Permit Applications (Permit not Issued)	3,713	79%	2,933
Approved Building Permits with No Certificate of Occupancy	5,516	79%	4,358
<b>Total</b>	<b>257,673</b>	<b>41%</b>	<b>105,019</b>

**The City should explain its rationale for using more aggressive assumptions to forecast in-pipeline production, or should update its pipeline analysis to align with the methodology in the January 2021 Initial Study.**

**C. The housing element did not use an HCD-recommended safe harbor methodology for forecasting future ADU production, nor does it provide for mid-cycle adjustments if ADU production falls short of projections.**

HCD has established two safe harbors for forecasting ADU production during the 6th Cycle<sup>9</sup>. One option (“Option #1”) is to project forward the local trend in ADU construction since January 2018. The other, for use when no other data is available (“Option #2”), assumes ADU production at five times the local rate of production prior to 2018. This ensures that ADU development estimates reflect actual on-the-ground conditions, maximizing the likelihood that ADUs will be built to the level forecasted in the housing element update.

<sup>9</sup> [HCD Site Inventory Guidebook, pg. 31](#)

The City issued permits for 4,646 ADUs in 2018, 4,766 ADUs in 2019, and 4,190 ADUs in 2020. Under HCD’s “Option #1”, the City would take the average of the ADU permitting trend between 2018 and 2020, and forecast that 4,534 ADUs will be permitted per year during the 6th Cycle. **This would allow for a total 6th cycle forecast of 36,272 ADUs.**

**The draft housing element counts 45,344 ADUs, or 5,668 ADUs per year, towards the City’s RHNA target.** The City argues that “based on current interest and demand for ADUs, and ongoing and planned future programs to promote ADU development in the City”, ADU permitting will increase 25% above the current annual average throughout the 6th cycle.<sup>10</sup> However, this contention is not supported by real-world data or other convincing evidence, and it seems unlikely that providing these relatively minor incentives will yield the forecasted outcome.

**The City must correct its calculation of the ADU safe harbor, and simply apply the average of annual ADU permits issued between 2018 and 2020, per HCD’s guidelines.**

**D. The site inventory counts 10,000 units of “equitable housing on public land” to be built by 2026, without adequately identifying funding sources and public resources to maximize the likelihood that these projects are actually built.**

Under state law, a housing element must affirmatively “[a]ssist in the development of adequate housing to meet the needs of extremely low, very low, low, and moderate-income households” (Gov’t Code 65583(c)(2)). Additionally, HCD’s AFFH Guidance Memo states that “The schedule of actions generally must (1) enhance the mobility of low-income and minority communities, (2) encourage the development of new affordable housing in high-opportunity areas, (3) protect existing residents from displacement, and (4) invest in disadvantaged places.”

Housing elements should use available public resources, including real estate transfer taxes and publicly owned land, in order to fund and encourage the preservation of existing affordable housing, potentially through a local Tenant Opportunity to Purchase Act, community land trusts, land banks, or assisting mission-driven nonprofits with acquisition of housing whose affordability covenants are close to expiration. This is important to ensure that lower-income households are able to maintain access to quality affordable housing options.

The draft housing element counts 10,000 units of “equitable housing” on 300 acres of public land towards the city’s Adequate Sites Inventory, explaining that the City recently received a Local Early Action Planning grant to support a program that would “streamline and scale up the production of affordable housing on public land” by 2027.<sup>11</sup>

However, acquiring and/or building 10,000 units of subsidized housing is an ambitious and expensive effort, and the LEAP grant alone is unlikely to provide enough funding to achieve this goal by the end of the 6th cycle, let alone 2027. By the City’s own admission, “The program is

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<sup>10</sup> Draft Housing Element, City of Los Angeles, pg. 4-23

<sup>11</sup> Draft Housing Element, City of Los Angeles, pg. 4-25

currently in the planning process, and no sites have been secured at this time.”<sup>12</sup> Additionally, similar recent efforts by the City have not delivered affordable units quickly, on budget, and at scale. Proposition HHH, which generated \$1.2 billion for supportive housing production in 2016, has suffered from significant cost overruns and delays. As a result, it has only delivered a handful of completed housing units, nearly five years after the approval of the bond.

While it’s certainly possible that the City’s equitable housing initiative will succeed, this outcome should not be treated as a sure thing. **Therefore, the City must exclude these units from the Adequate Sites Inventory.**

**E. The analysis of expected unit potential appears to include parcels containing rent-stabilized housing units.**

The draft housing element’s econometric analysis of expected unit potential estimated the redevelopment potential of nearly all parcels in the City. “An indicator for existing structures subject to the Los Angeles’ Rent Stabilization Ordinance” was included as an independent variable in the model<sup>13</sup>, suggesting that parcels containing rent-stabilized housing units were included in the analysis of the City’s current redevelopment potential.

We are concerned that including parcels containing rent-stabilized housing units will lead to the demolition of rent-stabilized buildings, causing displacement of lower-income renters. The realistic capacity anticipated on these sites should instead be achieved through rezoning of parcels that do not host rent-stabilized buildings.

**The econometric analysis should be updated to omit parcels containing rent-restricted and de facto affordable housing units, and the new forecast of expected unit potential be reported in the final version of the housing element.** This would be in keeping with Planning’s modifications to the original econometric analysis, which removed vacant parcels located in a Very High Fire Hazard Severity Zone and parcels containing restricted affordable units that are subject to a land use covenant.<sup>14</sup>

**Recommendation:**

We urge the City to update the Adequate Sites Inventory methodology to include more realistic assumptions about the City’s likely housing development potential without major land use reforms. **This would reduce the Adequate Sites Inventory’s realistic capacity from about 267,000 homes to roughly 208,000 homes, necessitating a new rezoning target of roughly 306,000 homes, in order to achieve a citywide target capacity increase of 514,000 homes.**

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<sup>12</sup> Draft Housing Element, City of Los Angeles, pg. 4-25

<sup>13</sup> Draft Housing Element, Appendix 4.6, pg. 14

<sup>14</sup> Draft Housing Element, Appendix 4.6, pg. 29

## Recommended updates to ASI methodology

	ASI Capacity	Rezoning	Total Target Capacity
<b>Draft Housing Element Target Capacity</b>	<b>267,000</b>	<b>219,000</b>	<b>486,000</b>
Increase to NNL buffer		+28,000	+28,000
Adjustment to pipeline forecast	-40,000	+40,000	
Adjustment to ADU forecast	-9,000	+9,000	
Omission of equitable housing proposal	-10,000	+10,000	
<b>Recommended Target Capacity</b>	<b>208,000</b>	<b>306,000</b>	<b>514,000</b>

**2. The City’s proposal for zoning and land use reform lack specificity and detail, as well as a clear, rapid path to implementation. Without a firm, credible plan, the housing element will fail to adequately address the City’s housing shortage and fall short on AFFH compliance.**

AB 686 (2018) requires housing element updates to “affirmatively further fair housing”, which is defined as “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” The City must address the issue of residential segregation by accommodating the lower-income RHNA targets in a way that conforms with AFFH requirements.

In April 2021, HCD issued an [AFFH Guidance Memo](#), which establishes a number of important principles for promoting fair housing, including:

- A city’s AFFH analysis should reveal “current and historical spatial patterns of subsidized housing within and surrounding the jurisdiction, including emergency shelters, subsidized affordable housing, supportive housing, and usage of housing choice vouchers.”<sup>15</sup>
- The distribution of housing-element inventory sites with lower or moderate income capacity must not be skewed toward lower-income neighborhoods. To demonstrate that the site inventory furthers fair housing, the city must calculate the percentage of households at lower, moderate, and above-moderate income levels in each census tract or “block group” in the city, and then do the same for the lower, moderate, and above-moderate-income RHNA units assigned to the tract or block group. The share of lower-income RHNA units assigned to tracts (or block groups) with a higher-than-average share of lower-income households should be less than the current share of lower-income households in those tracts.<sup>16</sup>
- The housing element must benchmark the citywide distribution of household incomes against the distribution in the county or region, and state. The AFFH program of a city

<sup>15</sup> AFFH Guidance Memo, p. 46

<sup>16</sup> AFFH Guidance Memo, p. 47

with an above-average median income must break down barriers that keep lower income and minority households from accessing housing in the city.<sup>17</sup>

- “Goals, policies, and actions” to further fair housing must be “aggressively set to overcome ... contributing factors [to fair housing problems, and thus] to meet the ‘meaningful impact’ requirement in statute.”<sup>18</sup> The list of actions shall include concrete timeframes for implementation, measurable outcomes, explicit prioritization (“high,” “medium,” or “low”), and “must be created with the intention to have a significant impact, well beyond a continuation of past actions.”<sup>19</sup>
- “The schedule of actions generally must (1) enhance the mobility of low-income and minority communities, (2) encourage the development of new affordable housing in high-opportunity areas, (3) protect existing residents from displacement, and (4) invest in disadvantaged places.”<sup>20</sup>

**The draft housing element is therefore obligated to promote fair housing opportunities and undo patterns of segregation.** The City must follow HCD’s recommendation that cities distribute lower-income housing opportunities throughout the city, and recommends that cities first identify development potential for lower-income housing in high-opportunity neighborhoods.<sup>21</sup> **This would mean rezoning more parcels, including residential parcels currently zoned single-family only, to encourage enough housing growth to achieve the RHNA target.**

The City is also obligated to provide meaningful AFFH analysis, including evidence that its proposed distribution of lower-income housing opportunities would reduce the concentration of lower-income households in locations with an existing concentration of low- and moderate-income households. **HCD’s recent AFFH guidance makes it abundantly clear that this benchmark will be used to help determine AFFH compliance.**<sup>22</sup>

**Additionally, Government Code Section 65583(c) requires housing elements to include programs with concrete action steps to facilitate housing production.**<sup>23</sup> Per HCD’s [Housing Elements Building Blocks](#), “Programs must include specific action steps the locality will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the jurisdiction’s specific role in implementation, and (whenever possible) identify specific, measurable outcomes.” Building Blocks lists definite time frames for implementation, demonstration of a firm commitment to implement the program, description of the local government’s specific role in program implementation, description of the specific action

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<sup>17</sup> AFFH Guidance Memo, pp. 15, 32-34, 77

<sup>18</sup> AFFH Guidance Memo, p. 52

<sup>19</sup> AFFH Guidance Memo pp. 52, 71

<sup>20</sup> AFFH Guidance Memo, p. 54

<sup>21</sup> [HCD Site Inventory Guidebook, pg. 3](#)

<sup>22</sup> AFFH Guidance Memo, p. 47

<sup>23</sup> “The element shall contain all of the following: A program [or programs] that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that 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...”

steps to implement the program, and proposed measurable outcomes (e.g., the number of units created, completion of a study, development of a homeless shelter, initiation of a rezone program, preservation of at-risk units, etc.) as appropriate examples of concrete action steps.

The draft housing element and Fair Share Reports appropriately identify major governmental constraints that perpetuate housing scarcity, provide convincing evidence that restrictive zoning and land use rules are associated with a lack of affordable housing opportunities in high-resource neighborhoods, and propose a reasonable set of high-level policy solutions. **However, the draft housing element doesn't provide an appropriately specific rezoning, constraint removal, and overall land use reform program, nor is there a firm commitment to implementing specific policy measures to encourage strong housing growth citywide, particularly in high-resource neighborhoods.** The Goals section of the draft housing element frequently uses words like “plan”, “explore”, “consider”, “examine”, but contains very few firm commitments to action or implementation.

**Without a more detailed plan and a credible path to implementation by October 2024, the City will not achieve its RHNA target.** Additionally, the draft housing element's lack of specificity on a land use reform program makes it impossible to assess whether it, or the draft housing element altogether, complies with state AFFH law.

**We urge the City to provide a thorough, detailed plan for rezoning, constraint removal, and overall land use reform as part of the final version of the housing element update, including details on implementation.**

**A credible plan for equitably achieving the RHNA goal would include:**

**A. Committing to the creation of 306,000 new homes by 2029 through the housing element's rezoning and land use reform programs.**

The draft housing element's contention that the RHNA target can be achieved by only rezoning for 220,000 new homes is based on an overly optimistic assessment of the Adequate Sites Inventory. Committing to land use reforms that target the creation of 306,000 more homes by 2029 is necessary in order to meet the RHNA target.

This must include a firm commitment to increase Los Angeles' **realistic capacity** by 306,000 homes (i.e. increasing the city's zoned capacity enough to result in the production of 306,000 homes), not simply increasing the **theoretical zoned capacity** by 306,000 units. A parcel's maximum theoretical capacity is not the same as its realistic capacity. To draw a parallel to college admissions, when UCLA wants 2,000 students in its incoming class, they admit 4,000 students. Similarly, to achieve housing production targets, jurisdictions must increase zoned capacity well above the target number of new homes.

State housing element law requires cities to target realistic capacity growth, not theoretical zoned capacity, in its rezoning program, just as it does for assessment of the site inventory.<sup>24</sup> Similarly, HCD instructs cities to “accommodate 100 percent of the shortfall of sites necessary to accommodate the remaining housing need for housing for very low- and low-income households during the planning period...” and that “Those sites must meet the adequate sites requirements in terms of the suitability and availability outlined above.”<sup>25</sup> This also would be in keeping with the draft housing element’s excellent model for assessing the City’s Expected Unit Potential, which recognizes that parcel-level estimates of likelihood of redevelopment are critical for accurately forecasting future housing production.

## **B. Implementation of a comprehensive Fair Share approach to the RHNA rezoning program, which would define “opportunity” holistically.**

CPA and/or neighborhood-level RHNA targets, including affordable housing growth RHNA targets, should be based on a formula that includes the following objective, numerical criteria:

- Housing costs
- Median income
- Access to transit
- Proximity to job centers
- Access to public resources (e.g. parks, schools)
- Patterns of historical exclusion and segregation
- Environmental quality

This would essentially merge the proposed Equitable RHNA Rezoning Program and Citywide Housing Needs Allocation Process/Targeted Fair Share Zoning Allocations methodologies, ensuring that a consistent set of standards would guide RHNA rezoning, a Framework Element update, expansion of TOC and the city Density Bonus program, and all future community plan updates. This would also ensure that a majority of new lower-income housing opportunities are accommodated in moderate-, high-, and highest-resource census tracts.

## **C. Increase affordable housing opportunities in high-opportunity neighborhoods.**

In order to meet HCD’s AFFH standards, the City’s housing element must reverse historic patterns of socioeconomic segregation by dismantling the barriers to housing opportunities for low- and moderate-income households in high-income neighborhoods. **Policies that would promote this outcome include:**

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<sup>24</sup> [Gov’t Code 65583\(c\)\(1\)](#): “The housing element program “shall ... (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...” It is noteworthy that the same term, “accommodate,” is used in the statute to describe both what’s learned from the site capacity analysis, and what will be done through the rezoning.

<sup>25</sup> [HCD Site Inventory Guidebook, pg. 33](#)

- Rezoning parcels located near transit, job centers, schools, and parks in order to expand the supply of housing in the City’s highest-opportunity areas. This should include R1 zoned parcels where single-family detached homes are currently mandated by law.
- Significantly reducing the concentration of lower-income households in neighborhoods with high concentrations of low- and moderate-income households, in neighborhoods with high exposure to pollution, and in R/ECAPs.
- Identifying new funding sources and public resources to encourage the production of affordable housing, such a real estate transfer tax or congestion pricing.
- Exempting parcels containing rent-restricted and de facto affordable housing units from rezoning, in order to prevent lower-income renter displacement.
- Ensuring that “no net loss” provisions apply to parcels in the site inventory and rezoning program with a monitoring and implementation program.
- Prioritizing the production of affordable housing on publicly-owned land.
- Creating a 100% affordable housing zoning overlay that encompasses high-opportunity neighborhoods, including R1 zoned parcels.
- Implementation of stronger tenant protection policies, including expanded affordable unit replacement requirements (“no net loss”) for redevelopment of existing rental properties, a “right of return” after redevelopment at the same rent as before, and rental assistance during redevelopment.

**D. Avoid relying on Community Plan updates for implementation of the RHNA rezoning program.**

Program 121 in the draft Housing Element states that “The Rezoning Program is anticipated to be implemented through a number of work efforts including updates to up to 16 Community Plans (four West LA plans and six SE/SW Valley plans, two Downtown plans, Boyle Heights, Hollywood, Harbor-Gateway and Wilmington), two Specific Plans (CASP and Slauson TNP) as well as at least one citywide ordinance that will create additional zoning capacity through an expansion of affordable housing incentive programs (Density Bonus Update).”

It is concerning that the City proposes to rely on Community Plan updates to achieve a significant portion of the RHNA rezoning program, since the Community Plan update process has a very poor track record of delivering strong housing growth. Recent Community Plan updates have suffered from years-long delays to develop and implement, often due to nuisance lawsuits from housing opponents (the Hollywood Community Plan update is a particularly salient example). Additionally, these updates often reflect the policy preferences of vocal housing opponents (e.g. the Westside Community Plan), rather than the broader community, which is why they generally do not meaningfully increase new housing opportunities. **Relying on a fundamentally broken process to achieve a rezoning program that must be implemented by October 2024 is a recipe for failure.**

The final Housing Element should report the increase in realistic capacity for housing (see Recommendation A) that would be created via the Downtown and Hollywood Community Plan updates, and should commit to achieving the remainder of the rezoning target through policy reforms that apply citywide (see Recommendations B, C, E, and G for examples).

**E. Expand and merge TOC and the city Density Bonus program.**

The City's successful TOC program has led to the production or proposal of [over 30,000 housing units](#), of which 21% are affordable to lower-income households. Expanding it to cover more transit-rich locations and locations with access to high-quality resources, jobs, and amenities would create even more affordable housing units in high-income neighborhoods. We are encouraged by the Housing Element and Fair Share Reports' support for expanding TOC and combining it with the City's Density Bonus Program.

Crucially, this expansion must include locations where apartments are currently banned, since TOC incentives currently do not apply to parcels where fewer than five units may be built. This significantly limits the effectiveness of the TOC program, and helps to explain why relatively few TOC units have been produced in the Westside and San Fernando Valley, where R1 zoning is particularly widespread.

**F. Update the Framework Element by 2024, in parallel with the RHNA rezoning, or consider abolishing the Framework Element altogether.**

The Framework Element, a strategy for long-term growth that influences future community plan and citywide element updates, is decades out of date. By relying on flawed and outdated forecasts of future neighborhood population growth, it effectively sets artificial caps on housing production in many neighborhoods, acting as a significant barrier to an equitable distribution of new housing opportunities citywide.

While the Housing Element and Fair Share Reports recognize the need for an updated Framework Element, they don't commit to a date by which to achieve this effort. Updating the Framework Element by 2024 is a necessary step towards implementation of a high-quality, comprehensive Fair Share approach to the RHNA rezoning program. Alternatively, the City should consider abolishing the Framework Element altogether, since it is optional and not required under state law.

**G. Implement a strong constraint removal program that would apply citywide.**

While the Housing Element and Fair Share Reports discuss at length the many governmental constraints that restrict housing production and foster housing scarcity and unaffordability, they lack a detailed, credible plan for constraint removal that would apply citywide, as required under California housing element law. **Policies that would promote constraint removal, housing supply growth, and greater housing affordability include:**

- **End exclusionary zoning by legalizing 8 housing units on all residentially-zoned parcels, and by legalizing mid-rise and high-rise housing production on parcels near transit in high-resource areas where apartments are banned today.**
  - Legalizing denser housing on owner-occupied R1 parcels is especially important, given that the draft Housing Element’s rezoning program appears over-reliant on multifamily residential and commercial parcels that likely host rent-stabilized units (“More than 50% of lower income rezoning will occur on sites with exclusively residential uses or allowing 100% residential uses.”)<sup>26</sup> Senate Bill 10, if passed, would help to facilitate this local reform.
- **Eliminate on-site parking requirements, instead allowing property owners to decide how much on-site parking is necessary.**
- **Reduce restrictions on maximum height, floor-area ratio, unit size, and lot coverage.**
- **Raise the Site Plan Review threshold to 250 homes, and establish a fast by-right review process for all new multifamily and mixed-use buildings which meet the zoning law and the General Plan.**
- **Pre-approve standard ADU, small-scale “missing middle” multifamily and small lot subdivision housing plans, allowing developers to receive a permit quickly if they use a pre-approved design.**

**H. Include a full list of parcels where the rezoning program will apply in the final version of the Housing Element update.**

The City’s final Housing Element should provide a full parcel-level dataset explaining where the proposed rezoning program would and would not apply, as well as summary statistics breaking out the number of homes in each income bucket accommodated in each neighborhood and by TCAC category of census tracts. This level of transparency is necessary to demonstrate that the City’s rezoning program appropriately meets the state’s AFFH requirements. This would also be in keeping with Los Angeles County’s housing element, which provided a complete list of parcels that would be rezoned in order to implement its rezoning program.

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The City of Los Angeles has a legal obligation to sufficiently plan to meet current and future residents’ housing needs, in a way that guarantees access to opportunity for Californians of all racial and ethnic backgrounds. The issues that we’ve highlighted above suggest that the City has not yet offered a credible plan for fulfilling this legal obligation. We urge you to actively embrace this opportunity to provide a variety of attainable housing options for the residents and workers of Los Angeles.

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<sup>26</sup> Draft Housing Element, pg. 6-84 and 6-85

Finally, state law imposes penalties on jurisdictions that fail to adopt a compliant 6th Cycle housing element update by October 15, 2021. On that date, noncompliant jurisdictions will forfeit the right to deny residential projects on the basis of local zoning, so long as projects include at least a 20% set-aside for below market-rate units or are 100% moderate-rate projects.<sup>27</sup> Noncompliant jurisdictions may also lose the ability to issue building permits, including permits for kitchen and bath renovations. Jurisdictions that want to maintain local control over new development should therefore plan to adopt a compliant housing element update on time.

In May, HCD [declined to certify San Diego's 6th Cycle housing element](#), on the grounds that it did not adequately meet the legal requirements to affirmatively further fair housing, and to demonstrate the likelihood of redevelopment of non-vacant sites. If San Diego does not meet these requirements by June 16, 2021, HCD will find the housing element out of compliance. This suggests that HCD will be bold in enforcing housing element law, and that the City risks rejection of its 6th Cycle housing element and decertification if it continues down this path.

We request the opportunity to meet with you and your colleagues to address the concerns raised in this letter. Thank you for your time and consideration.

Sincerely,

Leonora Camner  
Executive Director  
Abundant Housing LA

Sonja Trauss  
Executive Director  
YIMBY Law

CC: Jason Elliott, Senior Counselor to Governor Gavin Newsom  
Megan Kirkeby, Deputy Director, Housing Policy Development, HCD  
Melinda Coy, Land Use and Planning Manager, HCD  
Tyrone Buckley, Assistant Deputy Director of Fair Housing, HCD  
Paul McDougall, Housing Policy Development Manager, HCD

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<sup>27</sup> [California Government Code 65589.5\(d\)\(5\)](#).