September 22, 2023

Steve Leonardis, City Manager
City of Monte Sereno
18041 Saratoga-Los Gatos Road
Monte Sereno, CA, 95030

Dear Steve Leonardis:

RE: City of Monte Sereno’s 6th Cycle (2023-2031) Revised Draft Housing Element

Thank you for submitting the City of Monte Sereno’s revised draft housing element received for review on July 25, 2023. 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 revised draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows:

1. 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... 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).)

   Progress toward the Regional Housing Need Allocation (RHNA): The element now indicates (Table 4-3) that ten units that have been built or are under construction since the start of the projection period but should also demonstrate their affordability and availability in the planning period. For affordability, the element should assign these units to the various income groups based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed...
restrictions). For availability, the element should discuss status, remaining steps, and any known barriers to development in the planning period.

**Adequate Sites and Accessory Dwelling Units (ADU):** As noted in the prior review, the element must include robust analysis or utilize alternative strategies to fulfill the RHNA entirely with ADUs. While the element now discusses past trends and anticipated affordability, it should still address other relevant factors. Specifically, the element states that 93 percent of past ADUs were made available for rent but should incorporate this information into ADU assumptions for the planning period.

In addition, the element now assumes that 24 ADU amnesty units will occur in the planning period, largely, based on new construction trends for ADUs. Instead, the element should base assumptions on other relevant factors such as past trends or interest in amnesty ADUs or rescale assumptions.

Finally, if the above analyses necessitate identifying sites to accommodate the RHNA, including by income group, the identification of sites and analysis must meet all requirements pursuant to Government Code section 65583.2, including but not limited to parcel listing, map of identified sites, identified sites and Affirmatively Furthering Fair Housing (AFFH), environmental and other constraints, infrastructure, size of sites, nonvacant sites, calculation of realistic residential capacity and appropriate zoning to accommodate housing for lower-income households. For more information, please see the Building Blocks at [https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks](https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks).

**Zoning for a Variety of Housing Types (Emergency Shelters):** In response to the previous finding, the element has been updated to clarify that emergency shelters are permitted by-right in the “public” zoning designation and provided clarification on development standards. However, the element should analyze these standards as constraints on emergency shelters. Specifically, development standards such as a maximum number of three beds and clients are constraints and should be addressed by adding or modifying programs. Additionally, as noted in the prior review, the element should demonstrate compliance with Chapter 654, Statutes of 2022 (AB 2339) and add or modify programs as appropriate.

**Electronic Sites Inventory:** 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/planning-and-community-development/housing-elements](https://www.hcd.ca.gov/planning-and-community-development/housing-elements) for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.
Programs: As noted above, 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 Q (Implement Multifamily Housing):** The Program should include additional sites, commit to allowable densities (e.g., 20 units per acre), and appropriate development standards to encourage and facilitate multifamily development at maximum allowable densities. In addition, the Program should go beyond analyzing the potential application of SB 10 and commit to outcomes that result in housing opportunities such as amending zoning. Finally, the Program should include a significant and meaningful numeric objective for the planning period. This is particularly important considering the effectiveness of Program HE-2.5 (Multifamily Zoning) during the 5th cycle.

- **Program B (Site Development Permits):** The Program commits to amend the City’s design standards related to manufactured housing but should also commit to discrete timing (e.g., by 2025).

- **Program G (Development Incentives):** The Program commits to establish a tracking method for proactive outreach but should clearly commit to proactively reach out to developers at least annually to identify development opportunities. This is particularly important given the lack of implementation in prior planning periods.

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

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).)

Local Processing and Permit Procedures: The element now identifies approval findings for the Site Development Permit but should also analyze those findings
for impacts on approval certainty. For example, the permit requires compatibility with the character of the surrounding neighborhood. The element should explain the application of the finding, potential subjectivity and impacts on approval certainty.

Programs: As noted above, the element requires a complete analysis of potential 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.

In addition, as noted in prior reviews, the City lacks a variety of minimum lot sizes and densities and continues to lack sufficient programs to address this pattern. The element should expand upon programs, beyond complying with state laws, to create a variety of lot sizes, increased densities, and modified development standards to facilitate maximum densities.

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).)

Goals, Actions, Metrics, and Milestones: The element must be revised to include goals and actions that 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. As a reminder, the City is entirely the highest resource category in access opportunity, wholly a concentrated area of affluence, and predominantly consists of households with the highest median income, a stark contrast to the rest of the region. These conditions and circumstances warrant significant and robust actions (not limited to the RHNA) to promote housing mobility and increase housing choices and affordability throughout the City. Programs must include metrics or numeric objectives and timelines that target intended outcomes. For your information, metrics (where applicable), should be targeting beneficial impacts for people, households, and neighborhoods (e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed).

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted, if necessary, to substantially comply with the above requirements pursuant to Government Code section 65585.

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.

As a reminder, the City’s 6th cycle housing element was due January 31, 2023. 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), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation must 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). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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.

HCD appreciates the hard work and dedication provided throughout the housing element update and review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Brandon Yung, of our staff, at brandon.yung@hcd.ca.gov.

Sincerely,

Paul McDougall
Senior Program Manager