



MEMORANDUM

TO: PLANNING COMMISSION

FROM: ANDREW PEREZ, ASSOCIATE PLANNER

**SUBJECT: SUPPLEMENTAL INFORMATION FOR AGENDA ITEM 8.a. – JANUARY 5, 2021 PLANNING COMMISSION MEETING:
CONSIDERATION OF GENERAL PLAN AMENDMENT 19-002;
HOUSING ELEMENT UPDATE AND ADDENDUM TO THE GENERAL
PLAN ENVIRONMENTAL IMPACT REPORT; LOCATION – CITYWIDE**

DATE: JANUARY 5, 2021

Attached are comments received after agenda preparation regarding the proposed project.

cc: City Manager/ Acting Community Development Director
Public Review Binder

From: [Kevin Buchanan](#)
To: [Andrew Perez](#)
Subject: Draft Housing Element Update Feedback
Date: Monday, January 04, 2021 12:17:42 PM

I'm writing to provide further feedback on the draft housing element update.

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u=http://www.arroyogrande.org/DocumentCenter/View/8394](https://link.edgepilot.com/s/eb54921f/WggES9RALU6KA2m7io8Mcw?u=http://www.arroyogrande.org/DocumentCenter/View/8394)

Missing Middle Housing

Policy A.15 is not tied to any program. There is no timeline nor desired outcome for any of the specific tactics for encouraging missing middle housing in this policy. Ostensibly the desired outcome would be to make some changes that actually do allow development of missing middle housing.

A.15. The City shall encourage the development of "missing middle" housing, including an evaluation of the zoning, design standards, and policies necessary to enable the types of housing that best serve "missing middle" households.

Please provide a program and/or some specific timeline or expected outcomes for this policy.

The current revision also points out that no action was taken on the following feedback:

The Land Use Element of the General Plan designates a significant portion of land for single- family uses which is inconsistent with the draft housing element's assertion that the element has goals consistent with providing housing affordable to a wide range of incomes.

One can then assume either A) the assertion is false (it's not) and the statement in the housing element is accurate (it's not) or B) the city approves of zoning and land use that doesn't actually aim to provide housing affordable to a wide range of incomes and is providing this unfounded statement as a foundation of the housing element. If B is the case, then we should just remove the statement in the housing element and make this discussion a lot easier.

Site Inventory and Overestimation of Potential Units

Table 4-6 appears to imply a probability of development of 1 for all sites. A recent HCD memo clarifies that cities need to take into account the probability of a specific site being developed for housing in their site inventory.

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u=https://www.hcd.ca.gov/community-development/housing-
element/docs/Sites_inventory_memo_final06102020.pdf](https://link.edgepilot.com/s/7ded74a2/LXEuDCLPkk6bmMZccSBFcg?u=https://www.hcd.ca.gov/community-development/housing-element/docs/Sites_inventory_memo_final06102020.pdf)

Current statistics and research illustrate that the rate of development has only been around 25% for the median city in California. Alternatively, the memo states:

This estimate may be based on the rate at which similar parcels were developed during the previous planning period

The housing element update needs to provide more potential sites for additional housing in order to realistically meet the RHNA. If adequate vacant or underutilized sites don't currently exist, the housing element needs to provide more specific and actionable policies and programs to reduce constraints (zoning, height requirements) in other potential sites.

Profit Motive, Constraints, and Affordable Housing

Finally, a comment was made in the study session about the need to incentivize the "profit motive" of the private sector in building affordable housing. I think it's necessary to clarify that new affordable housing has never been built without both removing constraints and government subsidizing and/or underwriting the project. New housing is expensive. Privately built affordable housing today would have been new housing built by the private sector 40 years ago, but due to artificial constraints that the housing element should address (zoning, height restrictions, parking minimums), much of that housing was never built or is now still unaffordable due to market conditions arising from said constraints.

The solution for new low income housing today as it stands in California is to build new market rate housing that subsidizes new affordable housing. To get both of those done, we need to make more effort in reducing constraints that hinder housing being built today out of profit motive, which can help subsidize affordable housing being built today, and also provide that privately built affordable housing 40 years from now once new housing filters down to affordable levels.

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u=https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3426103](https://link.edgepilot.com/s/9dfea912/EoEws2uk50ybSqKmZlShHw?u=https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3426103)

I don't believe this housing element update is yet satisfactory for meeting the housing needs in Arroyo Grande over the next 8 years. More potential sites need to be identified, and constraints need to be eased in a less piecemeal fashion in order for this housing element to meet its stated and required goals.

Kevin Buchanan

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YIMBY LAW

YIMBY Law
1260 Mission St
San Francisco, CA 94103
hello@yimbylaw.org

01/04/2021

David Navarrette
California Department of Housing & Community Development
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833

[REDACTED];

Via Email

Re: Arroyo Grande 6th Cycle RHNA Adopted Housing Element

Dear Mr. Navarrette:

Please find enclosed with this letter a detailed analysis of the City of Arroyo Grande's 2020-2028 adopted housing element for the 6th Cycle RHNA. So you are aware, I have sent a copy of this letter and its enclosure to Associate Planner Andrew Perez, as well as to the Arroyo Grande Planning Commission via the city clerk. I apologize for these comments arriving so late in the process; I began working in this position at the start of December after Arroyo Grande adopted this housing element. Nevertheless, I believe this housing element contains serious deficiencies and fails to comply with state law, which would preclude it from being certified by your agency.

Sincerely,

Jon Wizard
Housing Elements Coordinator
YIMBY Law

[REDACTED]

Enclosure

Public Participation

1. The housing element relies on the effects of the pandemic as the rationale for the city's minimal public outreach efforts, but the extent of the public outreach conducted thus far is limited to a single study session during a city planning commission meeting on October 6, 2020, an email to 10 organizations identified as stakeholders, and the draft housing element being posted to the city's website on September 21, 2020.
 - a. SLOCOG inquired with the City of Arroyo Grande about "what additional outreach was occurring on the housing element," reinforcing and validating that the public outreach for this housing element was lacking the statutorily required diligent effort and, therefore, insufficient (p. 12).
2. It appears as though no disability advocates were considered stakeholders or personally invited to comment on the draft housing element, nor were individuals or groups who represent the Black, Asian, or Indigenous communities.
3. The city reports that only "[f]ive Planning Commissioners, one City Councilmember, and at least three members of the public attended the meeting" (p. 3).
4. "In addition to feedback received at the study session, five organizations or members of the public also submitted comment letters before the meeting. Some of those who wrote letters also commented during the study session" (p. 4).
5. The city took no action nor offered a rebuttal after a comment from the public rightfully identified that "[t]he Land Use Element of the General Plan designates a significant portion of land for single-family uses which is inconsistent with the draft housing element's assertion that the element has goals consistent with providing housing affordable to a wide range of incomes" (p. 8).
6. A comment from the public identifies that the city's estimate of \$134 per square foot for construction costs is too low. The city increased that amount to \$140 per square foot "based on City records from a recent housing development project" (p. 8).
 - a. Was the original cost of \$134 based on more than speculation, what type of project was this recent housing development project, is it the typical type of project for this type of development, were there any constraints or special considerations, what was the build quality, was the cost of this project close to similar projects in nearby jurisdictions, was any public or private subsidy used in this project, etc.? On its face, \$140 per square foot seems unbelievably low.

Programs

1. In response to a comment from the public, the city created Policy A.15, establishing their desire to "encourage the development of 'missing middle' housing;" however, the city

failed to link this policy to any of its programs, and there is neither a timeline nor desired outcome for completing “an evaluation of the zoning, design standards, and policies necessary to enable the types of housing that best serve ‘missing middle’ households” (p. 14).

2. In the quantified objective of Program A.1-1, the city anticipates developers will produce “98 lower income units;” however, in the site inventory on Table 4-6 on Page 73, the four sites described in the narrative of this program are projected to yield 108 realistic dwelling units (p. 14). Additionally, the timeframe for this program is listed as “[a]mend zoning by December 31, 2023,” but there is no discussion about whether the by-right development would be allowed before the zoning for these parcels was amended, whether an applicant would be charged for a zoning code amendment, whether a public hearing to consider a zoning code amendment would be required, or whether a proposed project would be acted upon as though the zoning code had been amended already.
3. In the quantified objective of Program A.2-1, the city outlines how many ADUs it expects will be permitted, and to what household income those ADUs will be affordable, during the planning period. There is no information outlining how the city will require the various levels of affordability, i.e., deed restrictions, covenants, subsidy, etc., so assigning ADUs to various income levels is premature and inappropriate. Additionally, several of the city’s responses to different public comments describe how the city’s projected number of ADUs that will be permitted during the planning period was reduced from 350 to 236; however, the quantified objective describes an ADU production scenario of 350 ADUs being permitted instead of 236 ADUs being permitted. Furthermore, on Page 16, the city estimates it will permit 14 low-income ADUs per year for each year of the planning period, which it calculates as 130 low-income ADUs in total. Multiplying 14 ADUs per year across the eight years of the planning period equals 112 ADUs, not 130. Oddly, on Page 33, the city reports that Program A.2-1 will yield 131 – not 112 or 130 – low-income household-serving ADUs.
 - a. As reported in *Table 3-18 Market Rental Rates by Unit Type*, according to a March 5, 2020 search on Zillow.com, the median rent for a 1-bedroom dwelling unit in Arroyo Grande was \$1,600 per month (p. 50).
 - b. According to Footnotes 3 and 4 of *Table 3-19 San Luis Obispo County Housing Affordability*, “[s]tudio assumes one person occupies the unit,” and “[o]ne bedroom assumes two people occupy the unit,” respectively (p. 51).
 - c. According to Footnote 1 of *Table 3-19 San Luis Obispo County Housing Affordability*, “[t]hese rent limits are assumed to be 30 percent of the monthly total household income” (p. 51).
 - d. According to HCD’s *State Income Limits for 2020* memorandum (2020), the upper threshold for a low-income household of two people is \$62,100 per year, and, with a rent limit of 30% of monthly income, that household can afford to spend no more than \$1,552.50 per month for a 1-bedroom apartment.

- e. If the maximum affordable rent for a low-income household of two people is \$1,552.50 per month, and the median rent for a 1-bedroom apartment in Arroyo Grande is \$1,600, low-income households of two people cannot afford to live in a 1-bedroom dwelling unit in Arroyo Grande.
- f. Since the median monthly rent of a studio in Arroyo Grande is not listed in *Table 3-18 Market Rental Rates by Unit Type* and the city did not complete an analysis that estimated the median rent for a studio in Arroyo Grande, the monthly rent for a studio should be assumed to be the same as a 1-bedroom apartment.
 - i. The city makes reference to “a countywide market study of accessory dwelling units that included all of the cities and unincorporated areas within the county,” which recorded the range of rents charged for ADUs throughout San Luis Obispo County (p. 68). This study was completed in 2019, and by virtue of surveying the entire county, includes areas of lower median income, such as Paso Robles, Atascadero, Nipomo, Guadalupe, and Santa Maria, to name but a few. Without attaching the countywide ADU survey as an appendix or otherwise making the source material available, the public is forced to assume whatever is reported in the housing element. This circumstance is neither scientifically valid nor a function of transparent and accessible government. Said plainly, without the ability to scrutinize, inspect, and verify the conclusions made in the referenced countywide study, it is inappropriate to rely on that document for a nearly decade-long planning period that will affect the lives of tens of thousands of people from all walks of life.
 - ii. Like the point made in the text immediately above, a 2017 study in a wholly different part of the state, with different market forces, median incomes, median rents, and housing trends, cannot reliably be used to justify any position asserted by the City of Arroyo Grande. Moreover, a study completed in 2017 has neither the benefit of examining the current status of ADU median rents, availability, accessibility, or affordability, nor the benefit of evaluating ADUs as a unique and scrutable resource following the passage of ABs 587, 670, and 671 (2019, Friedman); AB 68 (2019, Ting); AB 881 (2019, Bloom); and SB 13 (2019, Wieckowski).
- g. According to HCD’s *State Income Limits for 2020* memorandum (2020), the upper threshold for a low-income household of one person is \$54,350 per year, and, with a rent limit of 30% of monthly income, that household can afford to spend no more than \$1,358.75 per month on housing.
- h. If, based on the 30% housing cost maximum and median rents, a low-income household of one person cannot afford a studio or 1-bedroom apartment in Arroyo Grande and it is possible but unlikely that a low-income household of two-people can afford a studio or 1-bedroom apartment in Arroyo Grande, the city’s assertion that any of the ADUs it permits in the 2020-2028 planning period will be affordable to low-income households of one or two people is unsupported by the facts, and, thus, those dwelling units should not be counted toward the city’s fulfillment of its RHNA targets absent a covenant or deed restriction.

7. In Program F.1-1, the city commits to working “with non-profit organizations to maintain a list of persons interested in development projects containing affordable housing” (p. 22). This is not a serious goal, because even a temporary clerical employee could make phone calls to nearby local agencies and housing-centered local nonprofits to determine what organizations build affordable housing in the region. Basic research and data entry are not a serious program in the furtherance of mitigating governmental constraints. Furthermore, the city, in this same program, commits to posting its agendas to the city website. Compliance with the minimum requirements of established state law is not a legitimate program to mitigate governmental constraints.
8. Program F.1-2 describes the city’s intent to “address and remove, replace or modify the use permit requirements for multifamily development in multifamily zones to promote certainty in the approval process, increase objectivity and address the CUP and MUP requirements as a constraint” (p. 23). Chiefly, why is a use permit required to build multifamily in a multifamily zone? Additionally, Program G.1-3 from the adopted 2014-2019 housing element reads as follows:

The City shall amend the Development Code to allow development of up to 15 multiple-family attached units in the MF and MFA zoning districts with a Minor Use Permit (MUP) subject to design review through the Architectural Review Committee. Development of over 15 multiple-family attached units in the MF and MFA zoning districts shall require a Conditional Use Permit (CUP). p.127

The timeframe for completing Program G.1-3 from the 2014-2019 housing element was within two years of Housing Element adoption; however, the report on the status of this program reads as follows:

The City has not amended the Development Code. (p. 127)

This program was not completed in the last housing element, and it is reasonable to expect that a similar level of effort will be given to the program in this cycle’s housing element. HCD should reject this program and require more definitive and aggressive actions and timeframes.

9. In Program F.1-3, the city desires to “[e]stablish a written policy or procedure and other guidance as appropriate to specify the SB 35 (2017) streamlining approval process and standards for eligible projects, as set forth under California Government Code, Section 65913.4” (p. 23). The timeframe for this program is listed as “December 2021,” but there is no discussion about whether or how the city will accommodate SB 35 projects before its written policy or procedure is developed, adopted, and implemented (ibid.).
10. In Program F.1-4, the city commits to conducting “a comprehensive review of the Development Code and the General Plan and replace any subjective standards that may apply to housing projects with objective design standards in compliance with applicable

State law” (p. 23). The timeframe for this program is listed as “December 2025,” but there is no discussion about whether or how the city will comply with current state law requiring the use of objective standards identified in the zoning code, development code, and general plan, which it is currently required to do regardless of this program and this program’s surprisingly long timeline (ibid.).

11. In Program F.1-5, the city desires to “[e]stablish a written process to comply with Senate Bill 1087 and identify ways to move forward with improvements to water and wastewater infrastructure as needed in order to maintain sufficient infrastructure and capacity to serve the City’s housing need” (p. 23). What is the definition of *move forward*, and how does *moving forward* either help the city comply with SB 1087 or accomplish the policy of mitigating governmental constraints?

12. Program G.1-2 is a carryover from Program H.1-2 from the 2014-2019 adopted housing element. The timeframe for completion of Program H.1-2 from the 2014-2019 element was within two years of the adoption of that element; however, the the status of this program reads as follows:

Opportunities are evaluated on a case-by-case basis. This program will be continued. (p. 128)

Not only was this program not completed on time, but the current iteration of this program will also supposedly be completed within two years of the adoption of this cycle’s housing element, despite the city admitting that they consider each project on a case-by-case basis, the very definition of a governmental constraint.

13. In Program G.2-1, the city “shall continue to consider abatement of unsafe or unsanitary structures, including buildings or rooms inappropriately used for housing contrary to adopted health and safety codes” (p. 24). There is no mention in this program of SB 13 (2019, Wieckowski) and the amnesty program described in California Health and Safety Code § 17980.12 et seq., nor is there a description in this program of what steps the city will take to comply with relevant laws.

14. In Program I.1-1, the city commits to adding single-room occupancy “to the use tables in the Development Code as allowed in all mixed-use zoning districts with a CUP” (p. 27). A conditional use permit is a discretionary permit, which creates uncertainty in the permitting process and project scoping (see item 2 under **Constraints**). By creating a discretionary permitting process for SROs, the city is deviating from established fair housing laws and doing the opposite of affirmatively furthering fair housing. Furthermore, this program is a continuation of Program J.1-1 from the 2014-2019 adopted housing element. Despite the existence of Program J.1-1 in the 2014-2019 adopted housing element, and despite the city committing to implementing Program J.1-1 within one year of adoption of the housing element, the phrases *single-room occupancy* and *single room*

occupancy do not exist in the city's development code or elsewhere in the city's municipal code.

15. In Program I.5-1, the city commits to adding farmworker housing to “the zoning ordinance to identify farmworker housing as a residential use in the use tables” (p. 27). This program is a continuation of Program J.5-1 from the 2014-2019 adopted housing element. Despite the existence of Program J.5-1 in the 2014-2019 adopted housing element, and despite the city committing to implementing Program J.5-1 within one year of adoption of the housing element, the phrase *farmworker housing* does not exist in the city's development code or elsewhere in the city's municipal code.
16. According to Program J.2-1, “[t]he City shall consider implementing an overnight parking program, or a similar program, for the homeless in appropriate zoning districts” (p. 28). This program is a continuation of Program K.2-3 from the 2014-2019 adopted housing element. Despite the existence of Program K.2-3 in the 2014-2019 adopted housing element, and despite a timeframe to implement Program K.2-3 of within one year of adoption of the housing element, “[a]n overnight parking program has not yet been established” (p. 134). Program J.2-1 has a timeframe for completion of within two years of housing element adoption; however, this program is currently four years overdue, and it is unreasonable for the city to claim it needs two additional years to merely “consider implementing an overnight parking program” (ibid.). (emphasis added)
17. According to Program J.2-2, “[t]he City will review its Development Code to ensure compliance with AB 2162 related to allowing supportive housing. The Development Code will be reviewed to assess whether supportive housing is allowed without discretionary review in all zoning districts that allow multifamily housing or mixed-use development, including nonresidential zoning districts, as applicable. If it is determined that the allowed uses in the Development Code are not in compliance with AB 2162, the City will revise the allowed uses along with corresponding development standards, as detailed in AB 2162” (p. 28). Program J.2-2 is a carryover from Program K.2-2 from the 2014-2019 adopted housing element; however, the 6th Cycle housing element identifies its predecessor's Program K.2-2 as “[t]his program has been implemented” (p.134).

There is no mention by the city of this program being continued or otherwise incomplete; however, Program J.2-2 sets the city on a course to “review [the] Development Code by 2021 [and] [m]ake revisions by 2022” (p. 29). While the city adopted Ordinance No. 677 in 2016, which is most likely why Program K.2-2's status is listed as implemented, the current Development Code does not reflect the language of that ordinance. Specifically, according to Ordinance No. 677, emergency shelters are permitted uses in the HMU (Highway Mixed Use) and IMU (Industrial Mixed Use) zones, but according to *Table 16.36.030(A) Uses Permitted Within Mixed Use and Commercial Districts*, as published, emergency shelters require minor use permits. While a minor use permit is a significantly lower bar than a conditional use permit, minor use permits are still issued based on interpretation(s) made by the zoning official. In comparison to a permitted use, which

requires only ministerial review of application completeness, the requirement to obtain a minor use permit creates an unnecessary governmental constraint. Therefore, the City of Arroyo Grande has not fully implemented Program K.2-2 from the 2014-2019 housing element, nor has it complied with AB 2162 (2018, Chiu). There is no discussion about whether or how the city will comply with current state law requiring the zoning of parcels for use as supportive housing before the work described in this program is completed, and there is no mention of how AB 2162 (2018, Chiu) or the city's obligation to zone for supportive housing correlate with AB 686 (2018, Santiago) and the obligation to affirmatively furthering fair housing, the latter of which was a companion bill to and designed to work in tandem with AB 2162 (2018, Chiu).

18. According to Program J.2-3, “[t]he City will review its Development Code and make revisions, if necessary, to allow low-barrier navigation centers for the homeless pursuant to Government Code Sections 65660–65668 [AB 101 (2019, Committee on Budget)]” (p. 29). AB 101 became effective on January 1, 2019; however, the City of Arroyo Grande did not amend either its adopted housing element or local laws during the duration of the 5th Cycle planning period. This program sets the city on a course to “review Development Code by 2021 [and] [m]ake revisions by 2022” (ibid.). There is no discussion about whether or how the city will comply with current state law requiring the permitting of a low-barrier navigation center before the work described in this program is completed.
19. Programs K.1-1 and K.2-1 describe the city's efforts to create a more accessible and inclusive community that does not directly or indirectly exclude people with disabilities. In Program K.1-1, “[t]he City shall explore models to encourage the creation of housing for persons with disabilities,” and in Program K.2-1, “The City shall create a policy or amend the Development Code to provide persons with disabilities seeking equal access to housing an opportunity to request reasonable accommodation in the application of City building and zoning laws” (pp. 29-30). While, on their face and individually, these policies are benign and potentially even useful, it is nearly inconceivable that these two programs are the only programs the city has developed to address the unique challenges and historical discrimination against persons with disabilities. Moreover, it is truly offensive that both Programs K.1-1 and K.2-1 are a continuation of Programs L.1-1 and L.2-1 of the 2014-2019 adopted housing element, respectively, and are exact matches of each other. 2014-2019 housing element Program L.1-1 had a timeframe for completion of within two years of housing element adoption, and Program L.2-1 had a timeframe for completion of within one year of housing element adoption. 2020-2028 housing element Programs K.1-1 and K.2-1 have exactly the same timeframes, verbatim.
20. According to Program L.1-2, “[c]onsistent with Measure E-5 of the City's Climate Action Plan, the City shall establish a program to allow residential projects to receive minor exceptions if they meet 25 percent of items on the Tier 1 list of the California Green Building Code (Title 24) or 15 percent of items on the Tier 2 list of that code” (p. 30). This program sets the city on a course to “[e]stablish [the] program within two years of

Housing Element adoption” (ibid.). This program is a continuation of Program M.1-2 from the 2014-2019 adopted housing element, except Program M.1-2 incorrectly identified *Incentives for Exceeding Title 24 Energy Efficiency Building Standards* in the city’s climate action plan, adopted in 2013, as Measure E-4 when it is actually Measure E-5. Program M.1-2 from the adopted 2014-2019 housing element set the city on a course to “[e]stablish [the] program within 1 year of Housing Element adoption;” however, this program is currently four years overdue, and it is unreasonable for the city to claim it needs two additional years to comply with its own adopted climate action plan (ibid.).

21. According to Program M.1-1, “[t]he City will continue to promote the enforcement of policies of the State Fair Employment and Housing Commission and shall resolve housing discrimination complaints through assistance from HUD, and/or local, regional private fair-housing organizations” (p. 31). However, barring nonsubstantive formatting and punctuation changes, this program is an exact, verbatim match of Program N.1-1 from the 2014-2019 adopted housing element. Program N.1-1 had no defined timeframe for completion; however, Program M.1-1 commits to a one-year deadline to produce the referenced brochure. It is difficult to imagine why the city needs six years to produce a brochure. Additionally, in Program M.1-1, the city commits to a “strategy to implement [the] Urban County Team fair housing program within one year of County Fair Housing Plan adoption” (ibid.). The SLO County Fair Housing Plan was adopted in December 2019, but no such strategy -- in draft or final form -- is readily accessible or available.
22. Program M.1-2 describes the city’s efforts to affirmatively further fair housing. While AB 686 (2019, Santiago) does not become operative until January 1, 2021, Program M.1-2 has a timeframe for completion of no later than January 2022. There is no discussion about whether or how the city will comply with AB 686 once it becomes operative. Furthermore, while the city should be commended for an element of their AFFH program that “[a]ctively recruit[s] residents from neighborhoods of concentrated poverty (if applicable) to serve or participate on boards, committees, and other local government bodies,” there is no provision or mechanism described to hold seats on those aforementioned boards, committees, and other local government bodies exclusively for members of protected classes, not unlike SB 826 (2018, Jackson), which requires California-based domestic corporations to have at least two (or three, depending on the size of the board) female board members (p.32).
23. According to Program N.1-1, “[p]rior to any public hearing where the City is considering amending or updating its Housing Element or housing policies, the City will notify all local housing organizations, as well as social service agencies, and post notices at locations frequented by the public” (p. 32). This program is a continuation of Program O.1-1 from the 2014-2019 adopted housing element; however, there is no proof offered by the city that it has complied with its own program, either as an appendix or otherwise, which complements the city’s lackluster public outreach efforts for this housing element.

Constraints

1. Program A.10-2 describes how “[t]o encourage higher densities and reduce constraints to multifamily housing production, the City shall amend the Development Code to allow densities up to 20 du/ac in the OMU District and up to 25 du/ac in the FOMU and GMU districts for 100% multifamily housing projects;” however, project proposals in those districts will still require a minor use permit instead of being a permitted use (p. 18). Requiring a minor use permit forces an administrative determination by the community development director, instead of otherwise being a ministerially allowable, permitted use. This creates an additional and unnecessary governmental constraint.
2. In Program D.1-2, the city writes that it “shall review the parking standards for affordable and senior housing projects and reduce them to the greatest extent possible” (p. 21). This program is a component of a city goal to encourage a diverse housing stock; however, there is no mention of single room occupancy, permanent supportive housing, or housing for people with disabilities, the latter of which often needs little or no on-site parking. A diverse housing stock is more than just single-family and small apartment buildings, and this goal falls short of removing governmental constraints.
3. See also items 7, 8, 9, 10, 11, 17, and 19 under **Programs** and most items under **Sites**.
4. The city’s residential parking requirements, as described in *Table 5-12 Residential Parking Standards* are onerous and constitute a constraint (p. 101). For instance, a single-family home requires parking for two spaces within an enclosed garage, but a similarly sized duplex requires four enclosed spaces within two separate garages, plus two additional uncovered spaces, for a total of six parking spaces. Additionally, ADUs are not specifically identified in this table; however, there is a parking requirement for *second residential units*, which mandates one uncovered parking space per unit. If second residential units are ADUs, and assuming an ADU is within a half-mile of a transit stop, this requirement does not comply with state law.

Furthermore, the city requires 2.5 uncovered parking spaces per dwelling unit in mobile home parks. While this requirement is somewhat relaxed in that these parking spaces are not required to be covered, requiring more parking on smaller mobile home lots or stalls than is required for single-family homes on larger lots is definitively constraining.

Pursuant to HCD’s authority under state law, local agencies are required to produce “an analysis of the jurisdiction’s parking standards by zone. The analysis should examine whether parking standards impede a developer’s ability to achieve maximum densities, and if there are provisions in place to provide parking reductions where less need is demonstrated, particularly for persons with disabilities, the elderly, affordable housing, and infill and transit-oriented development. In addition, the jurisdiction should verify that the density bonus ordinance complies with parking requirements per Government Code Section 65915.” No such analysis exists in this adopted housing element.

5. Pursuant to HCD's authority to promulgate standards, forms, and definitions, local agencies that restrict multifamily residential development to "two stories or less in multifamily districts" create an arbitrary governmental constraint. According to *Table 5-5 Residential Site Development Standards Multiple-Family and Other Zoning Districts*, the maximum height of a residential development in **all** of the City of Arroyo Grande's multifamily zones is limited to "30 ft. or 2 stories, whichever is less" (p. 90). In *Table 5-6 Residential Site Development Standards Mixed-Use Zoning Districts* the maximum height of a residential development in the IMU zone is "30 ft. or 2 stories" (pp. 90-91). These restrictions constitute a governmental development constraint.
6. According to *Table 5-2 Housing Types Permitted by Zoning District – Residential Zoning District*, duplexes, triplexes, and fourplexes are forbidden in single-family zones. By forcing all residential uses that are not exclusively a single-family home to be located outside of single-family zones, the city is effectively outlawing the missing middle housing that is desperately needed throughout the state. This results in a de facto exclusionary housing policy in which only wealthy households and lower-income households have access to housing, and, subsequently, is an onerous and arbitrary governmental constraint.
7. According to *Table 5-5 Residential Site Development Standards Multiple-Family and Other Zoning Districts*, the maximum height for all buildings and structures in the city's multifamily zones is two stories. Many affordable housing developers utilize three-story construction to increase density and project feasibility, since elevators are not required for building less than four stories. Additionally, in these zones, maximum density can be as low as 9 du/ac and maximum lot coverage ranges from 40% to 60%, restricting the buildable area and density of what is often the parcels the city holds out for lower-income residential development. Restricting multifamily construction to two stories, low densities, and limited lot usage is an onerous and arbitrary governmental constraint.

Sites

1. Pursuant to HCD's *Site Inventory Guidebook (2020)*, site inventories must include specific information about each site the local agency relies upon to meet its RHNA goals. A site inventory must include "a description of the existing use of each parcel (for nonvacant parcels)," "[w]hether the site is publicly owned or leased (for all parcels)," and whether "the parcel was identified in a previous planning period site inventory (for all parcels)" (p. 7). For many of the nonvacant sites, there is no identification of the current use of the parcel, and the entire site inventory lacks information about whether any site is publicly owned or leased, or if a site was identified in a previous planning period.
2. In addition to the above-identified deficiencies in the site inventory, the City of Arroyo Grande's adopted housing element falls short of the standards, forms, and definitions promulgated by HCD through its statutory authority. According to research published jointly in May 2020 by researchers at UC Berkeley, UC Davis, and UCLA, the median

rate of development of a local agency in California has historically been just 21% of the sites they identified in their site inventory (Elmendorf, Biber, Monkkonen, & O'Neill). Given that the site inventory presented as *Table 4-6 Land Inventory* does not include the probability of development of any of the inventoried sites, a reasonable and prudent person would conclude that the city has calculated the probability of development of each site as 1. Therefore, this site inventory is overestimating the number of realistic sites that will be permitted in the 6th Cycle by nearly a factor of five. Instead, the city should actually zone for 3,295 dwelling units, less the dwelling units permitted since January 1, 2019, pursuant to regulations related to the length of planning periods and when permitted dwelling units can be counted. Of those 3,295 dwelling units, 405 would be allocated to the extremely low-income category, another 405 would be allocated to the very low-income category, and 509 would be allocated to the low-income category, for an aggregate of 1,319 dwelling units for lower-income households. Barring some analysis demonstrating a higher development probability in the City of Arroyo Grande than the 501 surveyed local agencies that resulted in a median development probability of 0.21, HCD should reject this adopted housing element.

3. The 6th Cycle RHNA for the City of Arroyo Grande requires the city to plan for 523 more dwelling units – 692 dwelling units less the 169 dwelling units already permitted since January 1, 2019 – and the site inventory for the city's 2020-2028 adopted housing element identifies sites for 566 dwelling units. This results in a difference of 43 more dwelling units zoned for than required (pp. 65-66). However, planning for just 43 dwelling units above the required 523 remaining dwelling units creates a buffer of slightly more than 8%. As is HCD's past practice and precedent, a RHNA buffer of between 30% and 50% is customary and would require the city to plan for between 679 and 784 total dwelling units, a number far greater than 566. This calculation should act as a second, less statistically valid estimate of the true planning need, since the above calculation is more scientifically valid and defensible. Regardless, the additional dwelling units zoned for in the city's adopted housing element is inadequate to account for the myriad constraints and obstacles that have necessitated the need for HCD to routinely, historically, and ubiquitously require local agencies to plan for more dwelling units than assigned through the RHNA process.
4. APN 077-163-001 is a vacant site that was used in both the 5th Cycle certified and 6th Cycle adopted housing elements; however, because the 2020-2028 adopted housing element does not identify which sites have been carried over from previous planning periods, members of the public are unable to determine whether this APN was included in any other previous housing elements' site inventories. The City of Arroyo Grande's 2008-2014 adopted housing element was not readily available online.
5. Many of the nonvacant sites listed in *Table 4-6 Land Inventory* have been carried over from the 2014-2019 adopted housing element. Subsequently, and according to HCD's *Site Inventory Guidebook* (2020), these recycled sites are subject to "a program in the housing element requiring rezoning within three years of the beginning of the planning

period to allow residential use by right at specified densities...for housing developments in which at least 20 percent of the units are affordable to lower income households" (p.12). However, no such program exists, and, therefore, the *Mullin Densities* of 20 dwelling units per acre (suburban jurisdiction) should apply barring an analysis demonstrating adequate zoning already exists. Those sites are included in the table on pages 15 through 19 of these comments, and the headings for that table are copied verbatim from *Table 4-6 Land Inventory*.

6. For many of the sites listed in *Table 4-6 Land Inventory*, the realistic dwelling units (expected yield), which is calculated at 80% of the maximum dwelling units (theoretical yield), are not accurately calculated. For example, APN 077-221-037 is 0.82 acres and zoned at 15 dwelling units per acre. This creates a theoretical and expected yield of 12.3 dwelling units and 9.84 dwelling units, respectively (p. 72). However, the city lists this site's realistic dwelling units as only 2, a substantial decrease in the number of units that this site could support. This occurs throughout all zones.
 - a. If the city effectively downzones parcels by way of arbitrarily reducing their expected yield, pursuant to the No Net Loss Law, the city must identify where that diminished capacity will be accounted for and reallocated elsewhere in its site inventory.
 - b. The FOMU zoning district includes 27 sites totaling 25 realistic dwelling units; however, that zone's subtotal of aggregate realistic dwelling unit yield is actually 26 dwelling units (pp 71-72).
 - c. Some of the city's sites identified in Table 4-6 Land Inventory have a realistic dwelling unit capacity of 0 dwelling units (p. 72). If a site is expected to yield 0 dwelling units, should it be counted as a site at all?
 - d. All of the FOMU-zoned sites are recycled sites from the 5th Cycle RHNA, and each site is zoned for 15 dwelling units per acre instead of the appropriate Mullin Density of 20 dwelling units per acre (pp. 71-72). Additionally, the expected yield of these 27 sites averages just one dwelling unit per site, with three sites each expected to yield zero dwelling units and two sites each expected to yield two dwelling units.
7. APNs 077-011-010 through -013, 077-204-028, 077-211-022, and 077-221-031, all of which are included in the *High Density Sites* category of *Table 4-6 Land Inventory*, have incorrect maximum dwelling unit calculations (p. 73). For instance, APN 077-204-028 is 0.83 acres in size and has a maximum density of 20 dwelling units per acre. The maximum yield is, therefore, 16.6 dwelling units, but the maximum dwelling units column identifies this site as being able to accommodate only 15.8 dwelling units. The notes for these sites indicate that a factor of 95% density was applied; however, no analysis was completed to derive that number or demonstrate its relationship to evidence or trends.
8. Both APNs 007-781-055 and 007-781-056 are sites larger than ten acres, are currently vacant, and are zoned as a planned development. Pursuant to Government Code § 65583.2(c)(2)(B), these sites must be rezoned. If the city believes these sites are

adequate to accommodate affordable housing, they must provide an analysis, evidence, or a project proposal that would demonstrate the feasibility of such a project. However, no such analysis, evidence, or project proposal is included in the adopted housing element. If, instead, the city expects affordable housing at these sites to be a part of a larger subdivision, specific plan, or other area plan, the *Site Inventory Guidebook* (2020, HCD) obligates the city to “identify specific sites by parcel number and demonstrate that the sites are available and suitable for development within the planning period” (p. 18).

9. Nearly 60% of the inventoried sites are smaller than 0.5 acres, and, pursuant to Government Code § 65583.2(c)(2)(A), must be rezoned to accommodate by-right affordable housing. Of these identified sites, APNs 077-203-009, 077-203-019, 077-111-009, 077-111-012, 077-111-014, 077-112-001, 077-112-002, 077-112-003, 077-112-004, 077-112-005, 077-112-006, 077-113-015, 077-211-010, 077-211-023, 077-211-024, 077-211-035, 077-211-036, 077-221-002, 077-221-026, 077-221-027, and 077-221-036 are nonvacant sites carried over from the previous housing element.

APN	Address	Site Size (Acres)	Land Use	Zoning District	Maximum Density	Maximum Dwelling Units	Realistic Dwelling Units - 80% of Maximum Units Unless Noted
007-571-007 ¹	795 E CHERRY AVE	0.36	SFR-MD w/ NP overlay	SF	4.5	1.6	1
007-571-010 ¹	NO ADDRESS ASSIGNED	0.02	SFR-MD w/ NP overlay	SF	4.5	1.0	1
007-571-011 ¹	444 LIERLY LN	1.47	SFR-MD w/ NP overlay	SF	4.5	6.6	2
007-571-012 ¹	404 LIERLY LN	0.29	SFR-MD w/ NP overlay	SF	4.5	1.3	1
007-571-013 ¹	447 LIERLY LN	2.74	SFR-MD w/ NP overlay	SF	4.5	12.3	6
07-571-015 ¹	841 E CHERRY AVE	1.98	SFR-MD w/ NP overlay	SF	4.5	8.9	4
007-571-016 ¹	441 LIERLY LN	0.32	SFR-MD w/ NP overlay	SF	4.5	1.4	1
07-571-017 ¹	811 E CHERRY AVE	0.93	SFR-MD w/ NP overlay	SF	4.5	4.2	1
007-571-018 ¹	835 E CHERRY AVE	3.92	SFR-MD w/ NP overlay	SF	4.5	17.6	7
007-571-019 ¹	831 E CHERRY AVE	0.64	SFR-MD w/ NP overlay	SF	4.5	2.9	1
007-501-012	513 Ide Street	1.63	C/OS	SF/PF	4.5	7.3	5

APN	Address	Site Size (Acres)	Land Use	Zoning District	Maximum Density	Maximum Dwelling Units	Realistic Dwelling Units - 80% of Maximum Units Unless Noted
077-203-009	991 Dodson Way	0.25	VHD	SF	4.5	1.0	1
077-203-019	279 Alder	0.19	VHD	SF	4.5	1.0	1
006-095-025	Valley Road	7.32	SFR LD	RH	0.67	4.9	4
007-531-002 ²	1010 Huasna Rd.	0.25	AG	AG	Determined through discretionary review for farmworker housing	Determined through discretionary review for farmworker housing	4
007-531-005 ²	980 Huasna Rd.	1.61	AG	AG	Determined through discretionary review for farmworker housing	Determined through discretionary review for farmworker housing	10
077-241-013 ³	406 S. Elm St	0.82	MFR-HD	MFA	14	11.5	6
077-241-035 ³	1212 Farroll Ave.	3.94	O	OMU	15	59.1	25
077-241-062 ³	1220 Farroll Ave.	5.08	CF/SF	PF	Determined through discretionary review	Determined through discretionary review	29
077-111-009 ⁴	1126 Grand Ave	0.49	MU	FOMU	15	7.4	1
077-111-011 ⁴	1106 Grand Ave	0.64	MU	FOMU	15	9.6	1

APN	Address	Site Size (Acres)	Land Use	Zoning District	Maximum Density	Maximum Dwelling Units	Realistic Dwelling Units - 80% of Maximum Units Unless Noted
077-111-012 ⁴	1092 Grand Ave	0.48	MU	FOMU	15	7.2	1
077-111-014 ⁴	No Address Assigned	0.44	MU	FOMU	15	6.6	1
077-111-057 ⁴	Multiple Addresses	0.52	MU	FOMU	15	7.8	1
077-112-001 ⁴	1108 Grand Ave	0.02	MU	FOMU	15	1.0	0
077-112-002 ⁴	1112 Grand Ave.	0.02	MU	FOMU	15	1.0	0
077-112-003 ⁴	1116 Grand Ave	0.02	MU	FOMU	15	1.0	0
077-112-004 ⁴	1118 Grand Ave	0.06	MU	FOMU	15	1.0	1
077-112-006 ⁴	1118 Grand Ave	0.34	MU	FOMU	15	5.1	1
077-112-005 ⁴	1124 Grand Ave	0.06	MU	FOMU	15	1.0	1
077-113-015 ⁴	1140 Grand Ave	0.46	MU	FOMU	15	6.9	1
077-211-010 ⁴	1151 Grand Ave	0.19	MU	FOMU	15	2.9	1
077-211-015 ⁴	1147 E Grand Ave	0.63	MU	FOMU	15	9.5	1
077-211-018 ⁴	1139 Grand Ave	0.63	MU	FOMU	15	9.5	1
077-211-023 ⁴	1119 E Grand Ave	0.21	MU	FOMU	15	3.2	1
077-211-024 ⁴	1105 Grand Ave	0.25	MU	FOMU	15	3.8	1
077-211-035 ⁴	1105 E Grand Ave	0.14	MU	FOMU	15	2.1	1
077-211-036 ⁴	No Address Assigned	0.03	MU	FOMU	15	1.0	1

APN	Address	Site Size (Acres)	Land Use	Zoning District	Maximum Density	Maximum Dwelling Units	Realistic Dwelling Units - 80% of Maximum Units Unless Noted
077-211-037 ⁴	1069 E Grand Ave	0.84	MU	FOMU	15	12.6	2
077-221-002 ⁴	1045 Grand Ave	0.22	MU	FOMU	15	3.3	1
077-221-003 ⁴	1031 E Grand Ave	0.64	MU	FOMU	15	9.6	1
077-221-026 ⁴	1023 Grand Ave	0.22	MU	FOMU	15	3.3	1
077-221-027 ⁴	1017 Grand Ave	0.27	MU	FOMU	15	4.1	1
077-221-028 ⁴	1013 E Grand Ave	0.55	MU	FOMU	15	8.3	1
077-221-036 ⁴	1025 Grand Ave	0.22	MU	FOMU	15	3.3	1
077-221-037 ⁴	1053 Grand Ave	0.82	MU	FOMU	15	12.3	2
077-011-010 through -13 ⁵	700 Oak Park Boulevard	2.26	MU	OMU	20	42.9	66
077-204-028 ⁶	280 S Halcyon	0.83	Office Professional	OMU	20	15.8	12
077-211-022 ⁷	1125 E Grand	0.85	Mixed Use	FOMU	25	20.2	16
077-221-031 ⁸	1019 E Grand	0.75	Mixed Use	FOMU	25	17.8	14

1. These 10 parcels are adjacent and considered one potential site. This site is subject to Neighborhood Plan requirements to coordinate infrastructure improvements and circulation. Existing use is low density single-family development under multiple ownerships. Surrounding uses include single-family residences and active agricultural land. Site constraints include creek setback and agricultural buffer.

2. These two parcels are adjacent and considered one potential site. Possible Farm Working Housing: Farm worker housing is allowed on this site. Density of farm worker housing is determined through discretionary review. Another option is to rezone to MF (9 du/ac). Surrounding uses include a mobile home park and agricultural uses. Owners are Dunn Douglass Family Trust and Charles Cabassi.
3. These three parcels are adjacent and considered one potential site. Special needs or high density. Current uses include single family residence, residential care facility (Arroyo Grande Care Center owned by Compass Health, Inc.) and Coastal Christian School (grades K-12). Property owners are Mathias Family Trust, McMullen Juanita Living Trust, and Landmark Missionary Baptist Church. Estimated 25% of property developed at maximum density.
4. Assume back lot and infill development. Multiple parcels along Grand Avenue. Existing use is strip mall development. Surrounding uses are primarily other similar commercial uses. The subject properties are under multiple ownerships. Parcels without units assigned to them would be combined with other larger parcels if development occurred.
5. This site is made up of 4 adjacent parcels, one vacant and 3 non-vacant with the same owner. Multi-family allowed with CUP in a mixed use project. HASLO is in the process of purchasing these parcels to build affordable housing. They are planning to build 66 units (through a density bonus).
6. Multi-family allowed with CUP in a mixed use project. The property is developed with a small single-family residence and therefore underutilized. The surrounding uses include commercial and high density residential development. The owner has expressed interest in developing housing on the parcel. Realistic capacity on this parcel is calculated as 80% of 95% of maximum density to account for an estimated 5% of the project on this site being commercial uses.
7. Multi-family allowed with CUP in a mixed use project. This parcel is nearly vacant with a few very small, abandoned structures. The surrounding uses are primarily other similar commercial uses. Realistic capacity on this parcel is calculated as 80% of 95% of maximum density to account for an estimated 5% of the project on this site being commercial uses.
8. Multi-family allowed with CUP in a mixed use project. This parcel has one single-family house on it with about half the parcel not built on. The surrounding uses are primarily commercial uses. Realistic capacity on this parcel is calculated as 80% of 95% of maximum density to account for an estimated 5% of the project on this site being commercial uses.

Source: City of Arroyo Grande 2020-2028 Housing Element Update, pp. 70-73

10. APNs 007-571-008, -010, -011, -012, -013, -015, -016, -017, and -018 are nine of ten parcels the City of Arroyo Grande considers to be one site:

These 10 parcels are adjacent and considered one potential site. This site is subject to Neighborhood Plan requirements to coordinate infrastructure improvements and circulation. (City of Arroyo Grande 2020-2028 Housing Element Update, p. 70)

Together, these nine nonvacant parcels, which the city used in the 2014-2019 adopted housing element, combine to equal 12.03 acres. Pursuant to Government Code § 65583.2(c)(2)(B), if these parcels should be considered by a potential developer as one site, Part B, Step 3B of the *Site Inventory Guidebook* (2020, HCD) should apply:

Parcels larger than 10 acres are considered inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on such sites was successful during the prior planning period, or there is other evidence that the site is realistic and feasible for lower income housing. (p.17)

If the city instead prefers these sites be evaluated individually, Part B, Step 3A of the *Site Inventory Guidebook* (2020, HCD) should apply, as these parcels are functionally “inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on these sites is realistic or feasible” (p. 16). No analysis, evidence, or project proposal that would demonstrate the feasibility of developing affordable housing on these sites was presented in the adopted housing element.

11. APNs 077-011-010 through -013 are located at 700 Oak Park Boulevard. These parcels, which the city considers one site, combine to equal 2.26 acres, and the zoning for these parcels is 20 dwelling units per acre. The maximum yield is, therefore, 45.2 dwelling units, but the maximum dwelling units column identifies this site as being able to accommodate only 42.9 dwelling units. Additionally, the city reports that this site can support 66 realistic dwelling units, which it substantiates with a note about the Housing Authority of the City of San Luis Obispo being “in the process of purchasing these parcels to build affordable housing. They are planning to build 66 units (through a density bonus)” (p. 73). However, according to *HCD’s Site Inventory Guidebook*, “[a] site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been **proposed and approved** for development on the site” (p. 16; emphasis added). If HASLO has not gotten their 66-unit project approved, let alone even acquired the site, the city may not count all 66 of these dwelling units toward its lower-income RHNA obligation.
12. Depending on HCD’s analysis and subsequent adjudication of the matter of affordability of the ADUs the city anticipates permitting during the 6th Cycle RHNA and the number of

ADUs the city may then count toward lower-income housing, the city may come to rely upon nonvacant sites to accommodate more than 50% of the RHNA for lower-income households. If that should happen, the city must develop and implement a program in their adopted housing element to rezone a sufficient number of sites to overcome the presumptive impediment to the creation of additional residential development.

13. Pursuant to Government Code § 65583.2(g)(3), the city must develop and implement a program and policy requiring replacement of existing affordable units. No such program or policy exists.