

## 7 • DEVELOPMENT CONSTRAINTS

A number of factors affect the ability of the private sector to respond to the demand for housing, and constrain the development, maintenance and improvement of housing for all economic groups. Constraints, however, can generally be translated into increased costs to provide housing, and fall into two basic categories: governmental and non-governmental.

### GOVERNMENTAL CONSTRAINTS

Governmental constraints are potential and actual policies, standards, requirements, or actions imposed by the various levels of government on development. Although federal and state programs and agencies play a role in the imposition of governmental constraints, they are beyond the influence of local government and cannot be effectively addressed in this document. Analysis of potential local governmental constraints are as follows.

#### Land Use Controls

Land use controls are basically minimum standards included within the City's Zoning and Subdivision Ordinances. Zoning is essentially a means of ensuring that the land uses of a community are properly situated in relation to one another, providing adequate space for each type of development. Zoning regulations control such features as:

- height and bulk of buildings;
- lot area and dimensions;
- yard setbacks;
- population density; and
- building use

If zoning standards are too rigid and do not allow sufficient land use flexibility, then development costs could increase and development interest may decrease. Housing affordability could be jeopardized.

The Subdivision Ordinance governs the process of converting raw land into building sites. It allows the City to control the internal design of each new subdivision so that its pattern of streets, lots and public utilities will be safe, pleasant and economical to maintain.

Again, overly restrictive standards will result in greater land development costs and potentially a lack in development interest. Firebaugh's land use controls are generally consistent with those enforced by other cities in the region and are not considered to be overly restrictive. In fact, it has been the *lack* of controls in the past which has contributed to many of the housing quality problems plaguing Firebaugh today, including lack of curbs and gutters, improper storm drainage, or adjacent land uses that pose nuisance problems.

### Building Codes

Building codes regulate the physical construction of dwellings and include, for example, the plumbing, electrical, and mechanical codes. Firebaugh follows the 2007 Uniform Building Code as established by State law and as such, has little control over State standards.

Building codes are enforced by the Firebaugh Building Department through inspections. Inspections normally occur as a result of building permits for new construction, remodels or rehabilitations. Other inspections may result from requests from individuals for assessments of building quality or from enforcement complaints or when the inspector notices construction occurring without permits. The City has its own in-house building department processing and inspection staff – a switch from recent years when the City contracted for building services. However, the City still contracts for plan checking services.

### Site Improvements

Public improvement requirements for housing projects in Firebaugh are consistent with most other cities in the region. For single family residential subdivisions, Firebaugh requires the subdivider to install curbs, gutter, sidewalks and roadways (58-60-foot right-of-way with 36 feet of paving); extend sewer and water lines; and provide for storm drainage and park facilities. Multi-family housing projects, in addition to providing the above improvements, are required to provide on-site parking, landscaping and irrigation, and trash enclosures.

For single family subdivision projects, the City's off-site public improvements are reasonably consistent with neighboring communities – based on interviews with developers and city planners who are building in other cities in the region. While materials costs have fluctuated significantly in recent years, the installation of these off-site improvements are considered a "cost of doing business". From the vantage point of the City, these required improvements are necessary to ensure that the City is built in a manner that benefits residents of the subdivision and the City.

Zoning Standards

Development standards for Firebaugh's residential zone districts are outlined below. The residential zones for Firebaugh are similar to most San Joaquin Valley cities.

**Table 7-1**  
**Zoning Standards**

Zone Districts (1)

Standard	R-1-4.25	R-1-5	R-1	R-2	R-3	M-U-C	T-P
<b>Minimum lot size or unit density</b>	4,250 square feet	5,000 square feet	6,500 square feet	6,500 square feet	7,500 square feet	6,500 square feet	1.5 acres
<b>Maximum density</b>	one unit	one unit	one unit (1)	one unit per 3,250 s.f.	one unit per 3,250 s.f.	one unit per 3,250 s.f.	2,400 s.f. required for each unit
<b>Minimum lot width:</b>	40 feet	50 feet	60 feet	60 feet	60 feet	60 feet	N.A.
<b>Max Lot Coverage:</b>	40%	30%	30%	50%	60%	60%	50%
<b>Front yard setback:</b>	10 feet	20 feet	20 feet	20 feet	15 feet	15 feet	15 feet
<b>Rear yard setback (min.)</b>	15 feet	20 feet	20 feet	20 feet	15 feet	15 feet	10 feet
<b>Side yard setback (min.)</b>	5 feet(2)	5 feet(2)	5 feet(2)	5 feet(2)	5 feet (2)	5 feet (2)	5 feet
<b>Height (maximum)</b>	25 feet/2 stories	25 feet/2 stories	25 feet/2 stories	25 feet/2 stories	25 feet/2 stories	25 feet/2 stories	20 feet/2 stories
<b>Parking:</b>	1 space per unit	2 spaces per unit	2 spaces per unit	1.5 spaces per unit	1.5 spaces per unit	1.5 spaces per unit	1 space per unit
<b>Other</b>			Second units permitted consistent with Second Unit ordinance	Minimum 300 s.f. of open space required per unit	Minimum 250 s.f. of open space required per unit	Parcels can be developed consistent with R-3, R-2 or R-1 standards	One guest parking space required for every ten units

Notes: (1) Zone districts are defined as follows:

R-1-4.25: Single Family Residential zone, 4,250 square foot minimum lot size

R-1-5: Single Family Residential zone, 5,000 square foot minimum lot size

R-1: (Single Family Residential zone, 6,500 square foot minimum lot size

R-2: Low Density Multi-Family Residential zone

R-3: High Density Multi-Family Residential zone

M-U-C: Mixed Use Commercial zone

T-P: Trailer Park zone

The Firebaugh Zoning Ordinance also provides for R-2-A and R-3-A zones. These are multiple family zones comparable to the R-2 and R-3 zones, except that they limit structures to one story in height. These zones have never been utilized and are proposed to be eliminated by the 2030 General Plan update.

Source: Firebaugh Zoning Ordinance

A review of zoning standards shown in Table 7-1 indicates that Firebaugh's standards are fairly consistent with requirements of other cities in the region. Actually Firebaugh is the only area city that has a zone (the R-1-4.25 zone) allowing single family homes on 4,250 square foot lots (and which are not part of a planned unit development). Most of the zoning standards (minimum lot size, yards, height, coverage, density and parking) are

considered to be consistent with other jurisdictions in the region and are serving the community well.

However, during the writing of this Element, a preliminary plan has been submitted for an apartment complex with three-story structures. This would violate the height standard of the R-3 (High Density Residential) zone, which limits buildings to 25 feet/two stories. The City has identified this standard as a potential constraint to the production of affordable housing, and an action plan has been included in Chapter 8 for the City to consider revising this standard.

For the most part, developers of recent projects in Firebaugh have not voiced concerns that any of the City's standards are constraining their ability to develop. However, where a developer desires greater flexibility, the City offers the PD (Planned Development) zone. This zone allows developers to propose flexibility with zoning standards as long as the overall density of the project does not exceed the density allowed by the underlying zone district. The City has approved three P-D projects in the past three years. These projects allowed flexibility with respect to yard setbacks.

Developers also have the option of requesting a density bonus for projects. As stipulated by State law, a density bonus allows an increase in density over that allowed by the zoning of the site, provided that the project is restricted to certain groups – low income and/or elderly residents. The City must also provide at least one concession in development standards – such as reduced setbacks, parking, or an increase in building height, for example. Firebaugh has not received any requests for density bonuses in the past five years, but remains ready to facilitate this type of project in the event one is proposed.

#### Annexation Process

Lands outside Firebaugh City limits but within the Sphere of Influence are typically designated for future development by the Land Use Element of the Firebaugh General Plan. This includes residential development. At an appropriate time these lands may be considered for annexation into the City. Annexations involve several levels of government review, including the City, the County, and Fresno Local Agency Formation Commission (LAFCo).

In Fresno County, cities have a Memorandum of Understanding with the County (and LAFCo) that includes standards for annexation. One of the key standards for annexation approval is that a site proposed to be annexed must have an approved project on at least half of the acreage. For example, a forty acre site proposed for annexation must have a development project that has received approval from the City on at least twenty acres of the site – such as a tentative subdivision map, site plan review or conditional use permit.

This requirement has been thought to pose a constraint to development in the past, however negotiations among the cities and County have not resulted in any amendments to the policy. The policy actually has a number of benefits, including that it precludes the premature consumption of agricultural lands. The City of Firebaugh has not experienced difficulties with the annexation process, as evidenced by the recent annexation of approximately 212 acres – the largest-ever annexation of land into Firebaugh.

Processing Fees

Although planning processing fees contribute to the total cost of housing development, and therefore the cost of housing, they generally are not considered a significant cost factor. The City of Firebaugh collects processing fees for several different types of planning permits, including subdivision maps, annexations, conditional use permits, site plan review, environmental review, general plan amendments, zone changes, variances, and others. The fees have been calculated so as to reimburse the City for its actual processing costs, and have also been evaluated in comparison to fees charged by neighboring jurisdictions. The fees were most recently updated in 2006, after not having been updated in over ten years.

Analysis shows that Firebaugh's planning fees are comparable with neighboring cities. Firebaugh's current planning fees are detailed in Table 7-2.

**Table 7-2**  
***Firebaugh Planning Fees - 2009***

Site Plan Review	\$890
Conditional Use Permit	\$960
Variance	\$700
Classification of use	\$490
Minor Deviation	\$150
Tentative Subdivision Map	\$2,250
Final Subdivision Map	\$1,100
Tentative Parcel Map	\$950
Final Parcel Map	\$550
Lot Line Adjustment	\$500
Lot Merger	\$400
Zone Change (Map)	\$1,025
Zone Change (Text)	\$1,050
Planned Unit Development	\$1,760
General Plan Amendment	\$1,250
Annexation	\$2,015
Development Agreement	\$1,475
Negative Declaration	\$1,060
EIR	Actual cost
Categorical Exemption	\$75

Development Impact Fees

Development impact and building permit fees typically constitute a larger percentage of housing costs than do the planning permit fees discussed above. These fees pay the capital costs of public facilities which serve a project, such as:

- water;
- sanitary sewer;
- storm drainage;
- parks;
- public safety

In addition, impact fees are assessed by the Firebaugh-Las Deltas Unified School District, to provide for the construction of new educational facilities.

Firebaugh most recently updated its fees in 2004. The current fee list is shown in Table 7-3 and displays fees for both single and multi-family development.

**Table 7-3**  
***Development Impact Fees for Single and Multi-Family Residential Development***

	Single Family Residential	Multi-Family Residential
Sewer	\$2,362/unit	\$2,358/unit
Water	\$769/unit	\$568/unit
Storm Drain	\$1,069/unit	\$1,069/unit
Traffic	\$936/unit	\$573/unit
Parks & Recreation	\$1,590/unit	\$1,478/unit
Admin/Public Safety	\$827/unit	\$825/unit
 TOTAL	 \$7,553/unit	 \$6,871/unit

**Table 7-4**  
*Comparison of Impact Fees for Single Family Homes for Area Cities*

<u>City</u>	<u>Fee Total</u>
Firebaugh	\$7,553
Kerman	\$13,461
Mendota	\$10,901
Huron	\$5,819
San Joaquin	\$11,982

Source: Yamabe & Horn Engineers, 2009

Comparing Firebaugh's development impact fees to the fees outlined above shows that Firebaugh is toward the lower end of the list. As mentioned previously, developers are also required to pay impacts fees to the Firebaugh Las Deltas Unified School District, for the construction of educational facilities. The District's fee is current \$4.56 per square foot.

#### Permit Processing

Firebaugh provides in-house building inspection services, and contracts with consultants for planning and engineering services. The City also retains a consultant for grant writing services, assisting with the pursuit of critical funding for housing and public works projects.

Because of the limited number of planning and development requests that are typically submitted to Firebaugh, processing of these applications usually begins within a week of receiving the application. A typical single family residential subdivision will require about six months to process, from submittal of application to filing of final subdivision map with the Fresno County Records Office. Each processing phase of a typical residential subdivision is listed below along with the amount of time required to process each phase. Subdivision applications that require an annexation typically add three months to the processing time.

<u>Step</u>	<u>Task</u>
1.	Applicant submits residential subdivision with processing fee and forms filled out, including environmental assessment form.
2.	Review application for completeness - two weeks
3.	Prepare and circulate environmental analysis (if necessary) – 5 - 7 weeks*
4.	Prepare report to Planning Commission on subdivision and environmental document - 1 week*
5.	Prepare and publish public hearing notices - 2 weeks*
6.	Planning Commission meeting on subdivision
7.	Prepare City Council staff report/resolutions/environmental document – 1 week.
8.	Schedule for City Council for approval of subdivision and environmental document (including publishing public hearing notices) - 3 weeks*)
9.	City Council meeting on subdivision
10.	Applicant's engineer prepares improvement plans and final subdivision map - 4 weeks
11.	City Engineer reviews improvement plans and final subdivision map - 4 weeks
12.	Prepare final subdivision staff report for City Council - 2 weeks*
13.	City Council approves final subdivision map.
14.	City records final subdivision map with county recorder's office - 1 week

\* *Items marked with an asterisk denote tasks that typically overlap with other tasks.*

Multi-family residential developments proposed in Firebaugh requires Site Plan Review in the R-2, R-3 and M-U-C zones. This typically involves action by the Planning Commission: a public hearing is not required.

For a Site Plan Review the following processing procedures and time lines are usually required.

1. Applicant submits application with processing fee and forms filled out,
2. Review application for completeness - one week
3. Prepare staff report - two weeks.
4. Planning Commission holds meeting for Site Plan Review.
5. Decision of Planning Commission is subject to appeal to the City Council.

Firebaugh's Site Plan Review process for multi-family residential development is very straight forward and is not considered a constraint to new development. The City reviews applications to ensure that projects meet basic zoning standards (listed in Table 7-1), including setbacks, parking and landscaping, in addition to right-of-way improvements (including curb, gutters, sidewalks and lighting) and that infrastructure (water, sewer and storm drainage improvements) is available. If a project does not meet

basic standards, the applicant is informed and instructed to revise plans accordingly (or where applicable, to apply for a Variance to reduce the subject standard).

### **Environmental Review Process**

Certain types of projects must be reviewed for environmental impacts under the California Environmental Quality Act (CEQA). The environmental review process is mandated by state law, and thus, Firebaugh has little control over processing. Review times will vary depending on the complexity of the project and environmental issues being evaluated. In general, an Initial Environmental Study and Negative Declaration take about five to seven weeks to process – including the required public review/comment period. A full Environmental Impact Report (E.I.R.) may take two to four months to process. No residential projects proposed in at least the last ten years in Firebaugh have required an EIR. Most projects qualify for a Negative Declaration; some are exempt from environmental review.

### **Governmental Constraints on Housing for Persons with Disabilities**

Senate Bill 520-Cebro (effective January 1, 2002) amended housing element law to require localities to include the definition of "disability" into the housing element. Further, it states that housing should be designed for occupancy by, or with supportive services for persons with disabilities, which includes persons with mobility impairments, AIDS/HIV, Alzheimer's, and the homeless, to name a few. The bill's requirements include:

1. As part of a governmental constraints analysis, the housing element must analyze potential and actual constraints upon the development, maintenance and improvement of housing for persons with disabilities and demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for housing for persons with disabilities.
2. As part of the required constraints program, the element must include programs that remove constraints or provide reasonable accommodations for housing designed for persons with disabilities.

Persons with disabilities wishing to request reductions in zoning standards (e.g. reduced setbacks for ramps, etc.) are currently required to undergo the Minor Deviation process, as stipulated by Section 25-4.7 of the Firebaugh Zoning Ordinance. This process allows relaxation of various zoning standards (such as setbacks) by up to 20% and is approved or denied ministerially - by the City Manager or his designee.

Reductions greater than 20% require a Variance, which includes a public hearing before the Firebaugh Planning Commission. This must be preceded by publication of a public hearing notice at least ten days before the hearing, and mailing of this notice to property owners within 300 feet of the subject site. Approval by the Planning Commission is discretionary - the Commission must make five findings as listed in Section 25-4.4 - a legally defensible list of requirements that is common in most zoning ordinances.

The City has not received any requests for minor deviations or variances to accommodate disabled individuals in the past five years. However, in order to comply with Housing Element law, the element will be amended to add a program that requires Firebaugh to adopt a Reasonable Accommodations Ordinance to persons with disabilities. Such an ordinance allows requests for items encroaching into setbacks such as ramps and other disability aids to be made with only a building permit.

### **Redevelopment Agency Overview**

Housing Elements are required by law to summarize activities of the city's redevelopment agency (RDA) – as it pertains to housing activities – in particular use of the agency's "Low to Moderate Income Fund". By law, redevelopment agencies are required to deposit twenty percent of their revenues into this fund for the purpose of increasing, improving and preserving the housing stock for low- and moderate-income households. The City of Firebaugh has four redevelopment project areas, shown on Map 7-1.

The RDA is required to prepare an Implementation Plan every five years that details goals of the agency for the upcoming five years, including activities involving the Low to Moderate Housing Fund. The current Implementation Plan covers the years 2004 through 2009. The Agency's primary commitment at the current time is the San Joaquin Villas project – a 21 unit affordable income condominium project, currently under construction. The Agency has provided a \$200,000 loan for this project, in addition to a \$240,000 grant.

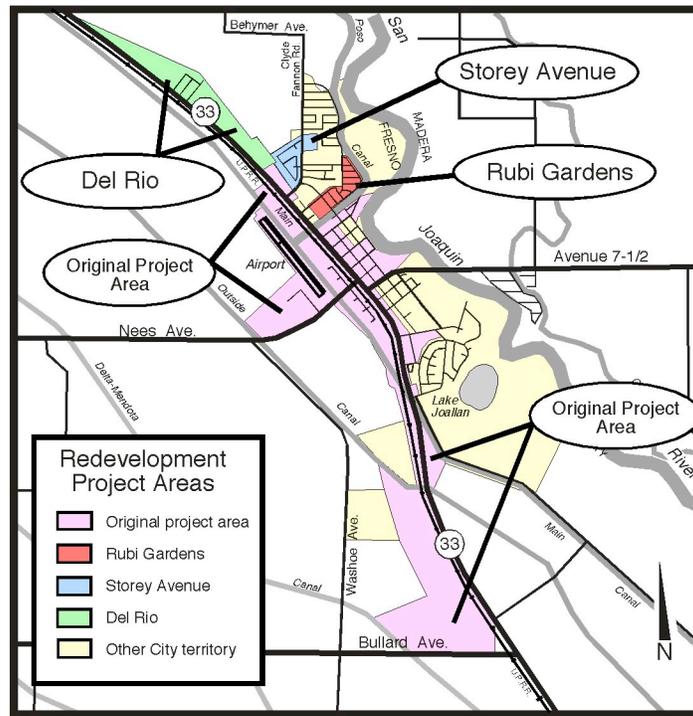
Prior to that the Agency assisted with funding for the Circa Del Rio subdivision – subsidizing the purchase of single family homes for low-income buyers. The Agency provided \$285,000 in grants for this project.

Projected revenues in the Agency's Low to Moderate Income Fund through the 2014 fiscal year are as follows:

2009-10	\$208,876
2010-11	\$213,805
2011-12	\$218,833
2012-13	\$223,961
2013-14	\$229,192
2014-15	\$234,528

These funds will be applied to programs outlined in Chapter 8 of this Housing Element.

**Map 7-1**  
***Firebaugh Redevelopment Project Areas***



**Governmental Constraints Conclusions**

Firebaugh's land use controls, building codes, site improvements, development impact fees, and permit processing procedures for the most part do not pose substantial constraints to the city's efforts to provide affordable housing. Firebaugh's development impact fees are in line with fees charged by other cities in the area and its processing time for subdivisions is about as expeditious as State planning laws will allow.

The foregoing analysis (as well as analysis in Chapter 5) did identify several issues that the City will need to address in the action programs of Chapter 8 of this Housing Element, including:

- Amendments to the Zoning Ordinance to allow Emergency Shelters, Transitional Housing, and Supportive Housing as permitted uses, along with development standards for these uses;
- Adoption of a Reasonable Accommodations ordinance, which would allow requests for encroachments into setbacks (and similar requests) for disabled individuals, without the requirement for a Minor Deviation or Variance;
- Amendment of height standards in the multi-family zones to allow three-story structures;
- Amendment to the Zoning Ordinance to clearly specify farmworker housing as a permitted use, along with development standards

## **NON-GOVERNMENTAL CONSTRAINTS**

Non-governmental constraints are those that are generated by the private sector and that are generally beyond the control of local governments. A few of the impacts of non-governmental constraints can be mitigated to a minimal extent by local governmental actions, but usually the effects are very localized and have little influence on the total housing need within the jurisdiction or market area.

### Cost of Financing

Interest rates for the purchase of a single family home are presently between five and six percent for 20-year and 30-year loans. Rates have remained fairly consistent, even dropping lower in recent years. These low interest rates are one of the few “bright spots” in a housing market that has seen new residential development come to a near halt in recent years – with the effects of a recession and significant number of home foreclosures severely impacting the market. Despite these circumstances, the low interest rates have caused home ownership to remain much more affordable than it would otherwise be. In a market like Firebaugh, the interest rate is probably the single most important factor influencing the affordability of homes.

Individuals purchasing a single family home can typically qualify for financing if the monthly cost of the home does not exceed 30 percent of their gross monthly income. Costs would include principal and interest, property tax and insurance.

To reduce the cost of financing, local jurisdictions can often apply for state and federal funds that provide a lower interest rate or they can reduce the amount of the mortgage by

providing down-payment assistance (HOME funds). Funding shall not exceed 50% of the home purchase price and shall never exceed the subsidy limits per unit as outlined in Section 221 (d) (3) established by HUD and updated annually.

#### Price of Land

The cost of vacant land designated for residential development has fluctuated significantly during the past five years. During the height of the housing “boom” in the first part of the decade, land was being purchased for upwards of \$40,000 per acre. In more recent years the cost has settled down to about \$25,000 per acre. These values are consistent with other area cities.

Mitigation measures dealing with land costs that are available to local governments include the use of Community Development Block Grant funds to write down land costs, utilization of government-owned surplus land for housing projects, and use of tax increment from redevelopment agencies for construction of low - to moderate income housing.

#### Cost of Construction

Volatile and rising costs of labor and materials have contributed to the non-governmental constraints on housing development and improvement. These costs were a substantial part of the increased housing costs during the past decade. Builders must pass those increases along to the home buyer or renter. In the last several years, construction costs for materials, land and labor have dropped, as the demand for housing has decreased.

One of the most significant results of Proposition 13, passed by the voters of California in 1978, was the severe limitation imposed on the development of infrastructure. These costs can no longer be passed on to the taxpayer by the local jurisdiction and must be borne by the developer, who then must pass them along by increasing the cost of housing or rents.

Where appropriate, local governments can utilize Community Development Block Grant funds to write down the cost of construction, the preferred method being the financing of infrastructure improvements, (ie; water and sewer lines, streets, etc.), or they can utilize the redevelopment agency's low- to moderate-income housing fund, to underwrite, in whole or in part, these and/or other development costs, so long as the developer agrees to long-term use of the housing for households of low and moderate incomes.

Unfortunately, State law requires the payment of prevailing wage to workers on projects that use redevelopment funds (unless the project is intended for occupancy for low and

moderate incomes households). There are, however, other actions that can be implemented that can reduce the cost of housing. These actions are detailed in Table 7-8.

**Table 7-8**  
***Mitigation of Housing Cost Components***

<u>Cost</u>	<u>Mitigation</u>
Land	Allow smaller lots using Smart Growth principals, increasing densities
Improvements	Reduce level of improvements required (e.g. narrower streets, combined park/pond basins, fewer street lamps, etc.)
Impact Fees	Secure state and federal funds to pay for fees instead of requiring the developer to pay fees
Labor	Self Help Housing
Materials	Generally cannot mitigate. Consider use of "green" and/or recycled building materials and components
Administrative/costs and profit	Reduced if developed by non-profit agency. Streamline the planning process

### Lifestyle

Part of the increase in housing costs from the late 1990s to the present was due to consumer preference and life style expectations. The size of the typical single family house increased and other amenities included in the housing package changed, such as the number of bedrooms. All of these life style choices have costs associated with them. The trends emerging now, due to governmental and non-governmental constraints and the resulting increase in housing costs, are expected to be towards smaller units, smaller lots, and alternatives to the single family detached dwelling.

Although the consumer preference may still tend toward the desire to own a single family home, past surveys have shown that some households are now more willing to accept alternatives to that lifestyle mostly out of necessity. Local government can assist this change by permitting higher densities, and innovative approaches such as zero-lot-line housing and smaller lots. Good design is a vital part of this equation - to ensure that compact neighborhoods maintain their value over time.

Non-Governmental Constraints Conclusions

Despite the increasing costs of housing in California and the San Joaquin Valley, Firebaugh continues to provide relatively affordable housing. Land values are low, interest rates are hovering around 6 percent and cost of construction is low compared to other regions in California.

Although the median family income in Firebaugh in 2000 was one of the State's lowest, a family with a moderate income who can take advantage of special housing programs like first-time homebuyer funds, can purchase a moderately-priced home.