

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

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July 9, 2021

Ashley Jones, Interim City Manager
City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014

Dear Ashley Jones:

RE: Del Mar's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Del Mar's (City) housing element, which was adopted March 25, 2021, and received for review on April 9, 2021. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The adopted housing element addresses some statutory requirements described in HCD's December 17, 2020; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code). In particular, the adopted element requires additional special needs data analysis, analysis regarding Affirmatively Furthering Fair Housing, and additional deliverables for housing programs listed. The enclosed Appendix describes these, and other revisions needed to comply with State Housing Element Law.

The revisions must be adopted for the element to comply with State Housing Element Law (Article 10.6 of the Government Code). Therefore, the element will comply with State Housing Element Law when it is readopted to incorporate the revisions enclosed and submitted to HCD for review, pursuant to Government Code section 65585, subdivisions (b) and (g).

The housing element identifies sites smaller than one-half acre to accommodate housing for lower-income households. Absent the analysis required by Government Code section 65583.2, subdivisions (c)(2)(A) and (B), HCD did not consider these sites toward accommodating any portion of the Regional Housing Needs Allocation (RHNA) for lower-income households. Del Mar should not consider them adequate, available or additional sites pursuant to Government Code section 65863 (No-Net Loss Law).

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: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. When the element fully meets statutory requirements, the City will meet housing element requirements for these and other funding sources.

HCD appreciates the dedication and effort that the City's housing element team provided throughout the course of the housing element 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 Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name being more prominent.

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX City of Del Mar

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A).)*

While the element provides general analysis regarding affirmatively furthering fair housing, such as additional analysis regarding the location of sites in low-to-moderate income neighborhoods, additional analysis is required. For example, the element must look at trends and patterns at the local and regional level for segregation and integration regarding disability, familial status, and income. Additionally, the element must analyze trends and patterns regarding race at the regional level; currently, the element does not provide any direct analysis.

Furthermore, the element states that there are no Racially/Ethnicly Concentrated Areas of Poverty (RECAP) areas in the jurisdiction; however, similar analysis is missing at the regional level. Additionally, though the element states that Del Mar does not have any RECAP areas, the element must analyze Racially Concentrated Areas of Affluence (RCAA) and the effects that these concentrated areas have on fair housing issues throughout Del Mar and the region.

Detailing the access to opportunity in the jurisdiction, the element analyzes education, transit, and environmental health indicators at the local level, but does not provide similar analysis at the regional level. Moreover, the element must also analyze access to economic opportunity at both the local and regional level.

When detailing the disproportionate housing need, the element must analyze the effects of cost burdened households, overcrowded households, substandard housing, and homelessness at the local and regional level; the element must also provide additional displacement analysis at the local and regional level.

While the element relies on Regional Analysis to Impediments (AI) findings, the element must also include local data and knowledge and other relevant factors that contribute to fair housing issues in Del Mar. The element should rely on local expertise to relay

information and data not captured by analysis regarding fair housing issues in the jurisdiction.

Additionally, the element must fully analyze how the sites listed in the inventory affirmatively further fair housing. Currently, the analysis relies on racial analysis for lower-, moderate- and above moderate-income housing, but should also look at the proximity of lower-income sites to transit, schools, and other amenities. In addition, the element provides general contributing factors to fair housing issues based on AI findings, but must also rely on local knowledge and other known relevant contributors to fair housing issues to establish the contributing factors to fair housing issues. Once these have been established, the City should base their programs on the contributing factors and provide targeted actions with quantifiable outcomes to combat these fair housing issues in Del Mar. HCD encourages the City to utilize resources provided by HCD: <https://www.hcd.ca.gov/community-development/affh/index.shtml>. Please refer to the December 17, 2020 letter for additional information.

- 2. An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Electronic Sites Inventory: While the site inventory now includes most of the required information, it still does not sufficiently describe existing uses to facilitate an analysis of the potential for redevelopment. The site inventory must provide additional narrative regarding the existing uses of the sites listed. Moreover, the sites inventory does not identify all of the sites the City is relying on to accommodate the lower-income Regional Housing Needs Allocation (RHNA). For example, the Fairgrounds site identified on pages 3-46 and 3-47 is not included. The sites inventory must include all sites that have been identified to accommodate the RHNA at all income levels. Additionally, if sites are planning on being consolidated, this information must be made available and must be included in the electronic sites inventory. The full use of the electronic sites inventory will assist Del Mar in fully meeting the analysis requirements of Government Code 65583.2.

Realistic Capacity: The housing element did not address this finding. As noted in the December 17, 2020 HCD letter to the City, the element must include an analysis to support the number of units estimated on each site in the inventory and the likelihood of residential development in zones allowing non-residential uses (e.g., North Commercial and Professional Commercial zones). Currently, the element assumes full build-out of sites listed for very low- and low-income households but must also adequately support or correct this assumption based on factors such as land-use controls, overlay zone requirements, and other standards. While the element relies on the programs to support these assumptions, the programs does not make any commitments to incentives that will significantly support the development of residential uses on non-residentially zoned sites. Programs must be modified with quantifiable objectives, incentives to promote this development, and a timeline for these incentives to be available within the first portion of the planning period.

Suitability of Nonvacant Sites: While the element provides a statement that revised zoning standards will prompt new interest in the development of nonvacant sites, additional information and analysis is needed to demonstrate potential for additional residential development on these sites. For instance, the element cites general housing trends in the for the current market demand of units but does not relate how those trends relate to the sites listed in the inventory. Additionally, the element must further analyze the likelihood of redevelopment on these sites. Lastly, the element states that it does not have access to private party lease agreements or contractual agreements amongst private parties. However, the element does not relate any efforts made by Del Mar to contact property owners regarding potential residential redevelopment. As noted in the element, lease agreements constitute an impediment to redevelopment of nonvacant sites; Del Mar must explain the mechanisms through which these nonvacant sites were selected as viable sites for housing. Please see HCD's December 17, 2020 review for additional information.

Additionally, the housing element must re-evaluate the sites currently listed as vacant on Table B-3. Site 2991003000 is currently listed as vacant but according to San Diego Association of Government's (SANDAG) Parcel Lookup Tool, this site appears to have existing uses and improvements on the property. Del Mar should re-evaluate this site and appropriately distinguish whether the site is vacant or nonvacant. Depending on a complete site analysis, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2)). This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period.

Affirmatively Furthering Fair Housing: The element provides general information regarding race and the location of the sites listed in the inventory, but it does not provide any additional analysis. Specifically, Del Mar must analyze the impacts of accommodating a significant portion of the lower-income RHNA at the Fairgrounds site. Additionally, other factors such as access to transit, schools, and employment should be analyzed when identifying sites to foster inclusive communities.

Small Sites: The housing element identifies sites (807 Camino Del Mar, 28th Street, and 10th Street) below the one-half acre threshold for meeting the lower-income RHNA. The element must describe existing and proposed policies or incentives the City will offer to facilitate development of small sites. Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the element describes other evidence to HCD that the site is adequate to accommodate lower-income housing (Gov. Code, § 65583.2, subd. (c)(2)(A)). Currently, it is unclear by what means these sites will be made affordable, and absent any additional analysis, these sites will not be considered towards accommodating any portion of the lower-income RHNA. For example, the analysis could describe the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels

suitable and ready for lot consolidation such as common ownership, or information from the owners of each aggregated site. Based on conversations with City staff, the element should describe the role of small sites being City-owned and proposed processes to facilitate development of lower-income housing on these sites.

Accessory Dwelling Units (ADU): The element was not revised to address this requirement. The element must describe the incentives and policies the City will offer to ensure the affordability of ADUs to meet the lower-income RHNA. For example, the element can describe interest in the renewal of the ADU incentive program and provide a justification for the percentage increase in affordable ADUs from 5% to 15%. Please see HCD's December 17, 2020 review for more information.

Environmental Constraints: The element was not revised to address this requirement. The element must provide information regarding the impact of mitigative efforts on the cost and feasibility of development in areas that are environmentally constrained. Please see HCD's December 17, 2020 review for more information.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Housing for Persons with Disabilities: The element was not revised to address the reasonable accommodation procedure and approval findings. Please see HCD's December 17, 2020 review for more information.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Identified Densities and Approval Times: The element was not revised to address these requirements. The element must adequately identify these nongovernmental constraints. Please see HCD's December 17, 2020 review for more information.

5. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

The housing element was not revised to address the special housing needs of farmworkers and persons with developmental disabilities. The element should look at the special housing needs of farmworkers relative to the region and should include jurisdiction-specific data on the number of persons with a developmental disability. Please see HCD's December 17, 2020 review for more information.

B. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

While the element was revised to provide timelines for several programs, Programs 6B (Affirmatively Furthering Fair Housing), 7A (Housing Assistance Reserve), 7D (Housing Choice Voucher), and 7G (Non-profit Housing and Assistance Programs) are still in need of a discrete timeline for implementation.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. 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).)*

Program 1E: Pursuant to Government Code section 65583, subdivision (c)(1), rezones to accommodate a shortfall must occur within three years of adoption of the housing element. Program 1E states that, should the agreement for the Fairgrounds property not

occur within 36 months of the adoption of the 6th cycle housing element, the City would rezone within 6 months of the end of the 36-month progress period for Program 3A. This timing does not meet statutory requirements. Program 1E's timing must be amended to rezone within three years of adoption pursuant to Government Code section 65583, subdivision (c)(1).

3. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element was not revised to address this requirement. The element must establish programs that has specific outcomes for the development of extremely low-income households. Please see HCD's December 17, 2020 review for more information.

4. *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. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding B4, the element was not revised to address this requirement. Upon a complete analysis of nongovernmental constraints, the element must add or modify programs, as appropriate. Please see HCD's December 17, 2020 review for more information.

5. *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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

The element was not revised to fully address this requirement. Based on a complete analysis of fair housing issues in the jurisdiction, the element must create programs targeted at reducing impediments to fair housing in the jurisdiction. Please see HCD's December 17, 2020 review for more information.

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element was not revised to address this requirement. The element must quantify objectives for conservation, rehabilitation and other City-assisted programs. Please see HCD's December 17, 2020 review for more information.