

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

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January 13, 2023

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

Dear Ashley Jones:

**RE: City of Del Mar's 6<sup>th</sup> Cycle (2021-2029) Revised Draft Housing Element**

Thank you for submitting the City of Del Mar's (City) revised draft housing element update received for review on November 14, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Sheppard Mullin pursuant to Government Code section 65585, subdivision (c).

The draft housing element addresses most statutory requirements described in HCD's March 21, 2022 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

1. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

Goals, Actions, Metrics, and Milestones: The element clarifies some information regarding actions to affirmatively furthering fair housing (AFFH) but does not address this requirement. As noted in the December 17, 2020 and subsequent reviews, goals and actions must have a strong connection to the complete analysis and contributing factors and must not be limited to the regional housing need allocation (RHNA). In the fair housing analysis, the City cites a need for increased affordable housing several times as a contributing factor to fair housing in the City. However, the element generally limits programs to increase affordable housing opportunities to the lower-income RHNA, of which the rezone to accommodate sufficient sites does not take place until April 2024, three years into the planning period. The element includes some potential programs such as Programs 1C (Central Commercial Zoning), 2B (ADU Amnesty), 2F (Tiny Homes), 5A (Adaptive Reuse), 7A (Funding), 7B (Interfaith Partnerships), 7C

(Persons with Disabilities), 7D (Housing Choice Vouchers), 7G (Senior Housing) and 7H (Student Housing). However, these programs lack specific commitment to housing outcomes and metrics or numeric targets. To overcome contributing factors to fair housing and promote housing opportunities throughout the jurisdiction, the City must add programs, policies, and actions to increase housing mobility and housing opportunities (not limited to RHNA), particularly those affordable to lower-income households and modify programs with specific commitment, geographic targeting (e.g., throughout the City) and significant metrics or numeric targets.

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... (Gov. Code, § 65583, subd. (c)(1).)*

The element must add or modify actions to demonstrate adequate sites, as follows:

- *Program 1E (Rezone North Bluff and/or South Stratford Properties):* The Program serves as a backup program to accommodate the City's lower-income RHNA shortfall if Program 3A (Pursue a Binding Agreement with the State to Develop Housing on the Fairgrounds Property) deliverables are not met by April 2024. However, Program 1E language appears to add an additional 180 days to the statutorily permitted three-year period to rezone sites for a total of three years and 180 days, which exceeds the allowable timeframe for the City to accommodate the shortfall of sites. Therefore, the City must amend this program to provide adequate sites within the statutorily specified timeframe of three years from the beginning of the planning period (April 15, 2024).

Additionally, Program 1E states the failure to implement Program 3A would result in "no net loss", however as previously noted, this should be amended as a shortfall of sites and the Program should include clear commitment to meet by-right requirements for any sites necessary to accommodate the shortfall of adequate sites (e.g., City-Owned).

- *Program 1K (Infill Housing on Nonvacant Sites):* The Program should commit to actions beyond studying and identifying potential changes and specifically commit to modify, reduce and remove constraints. The Program should also evaluate the effectiveness of standards and

procedures to promote redevelopment at the mid-point of the planning period and commit to alternative actions by a specified date.

- *Program 3B (Publicly-Owned Sites)*: While the Program commits to studies, zoning assessments and concepts, it should also commit to a schedule of actions to facilitate development, including coordinating with developers, assisting with funding, supporting funding applications, facilitating entitlements and issuing permits. Each action should have a specified target date and alternative actions with a specified date if action do not occur in a timely manner.
  - *Program 6F (Vote Thresholds)*: The Program should go beyond exploring potential modifications and commit to complete modification to address the identified constraint.
3. *Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate.

In addition, HCD understands the City has not made these draft revisions available to the public prior to submittal to HCD. Please note, new public participation requirements pursuant to AB 215 (Chapter 342, Statutes of 2021) requires the City to post draft revisions on its internet website and email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public pursuant to Government Code section 65585 (b), prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted to comply with the above requirements.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c) (1) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed, if any future rezonings are necessary, the housing element will be out of compliance and will remain out of compliance until any necessary rezonings have been completed.

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. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication the City's housing element team provided throughout the housing element review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If HCD can provide assistance, please contact Jose Ayala, of our staff, at [Jose.Ayala@hcd.ca.gov](mailto:Jose.Ayala@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager