

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

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March 23, 2022

Suja Lowenthal, City Manager
City of Hermosa Beach
1315 Valley Drive
Hermosa Beach, CA 90254

Dear Suja Lowenthal:

RE: City of Hermosa Beach's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Hermosa Beach's (City) housing element adopted December 21, 2021 and received for review on December 22, 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. Our review was facilitated by a conversation on March 14, 2022 with Ken Robertson, Christy Teague, and Carlos Luis.

The adopted housing element addresses some statutory requirements described in HCD's October 4, 2021 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

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

HCD is committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Molivann Phlong, of our staff, at molivann.phlong@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall". The signature is stylized and somewhat cursive.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF HERMOSA BEACH

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. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The revised element provides (p. A-2) general information on the previous element's programs. However, this information does not provide further analysis other than implementation status of programs. A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As stated in the previous review, as part of this analysis, the element should describe the actual results of the prior element's programs with any metrics and numerical accomplishments, compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation for programs that are incorporated into the current cycle programs.

In addition, as part of the review of programs in the past cycle, the element must provide an evaluation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

B. 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))*

Fair Housing Enforcement and Outreach: The revised element includes (p. III-16) general information on fair housing enforcement and outreach and states that the City

held a series of public hearings for the element. However, the element did not address this finding. The element must provide further analysis and describe ongoing fair housing outreach throughout the planning period or include a program. Outreach should include more robust actions in addition to housing flyers on the City's website. Please refer to HCD's October 4, 2021 review for more information.

Integration and Segregation: The element was not revised to address this finding. The element should describe the population including factors behind the block groups with the highest percentage of nonwhite residents located in the southern and eastern portions of the City, and analyze whether this area overlaps with other areas of the analysis. This analysis must include both local and regional data and analyze segregation and integration based on race and ethnicity, income, familial status and persons with disabilities. Please see HCD's October 4, 2021 review for more information.

Disparities in Access to Opportunity: The element was not revised to address this finding. Please see HCD's October 4, 2021 review for more information.

Disproportionate Housing Needs and Displacement: While this section of the element was revised (p. III-18), additional information and analysis is needed to comply. The element must include both local (comparing areas within the City) and regional (comparing the City to the region) data to analyze cost burden by tenure, overcrowding by tenure, substandard housing, homelessness, and displacement throughout the community. The element must also analyze factors of displacement in addition to at-risk properties, such as displacement due to investment, disinvestment and disaster. The analysis must also address trends, patterns, and other local knowledge and conclude with a summary of fair housing issues.

Contributing Factors: The revised element utilizes (p. III-19) the 2018 Analysis of Impediments to Fair Housing Choice (AI) for the County of Los Angeles as the list of contributing factors to fair housing issues. However, the contributing factors are regional and many do not pertain to the fair housing analysis of the City (such as addressing R/ECAPs within the City). The element should include a prioritized list of contributing factors and analyze the factors specific to the City that create, contribute to, perpetuate, or increase the severity of fair housing issues. Contributing factors are fundamental to adequate goals and actions. The analysis should result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Sites Inventory Affirmatively Furthering Fair Housing (AFFH) Analysis: While the element was revised to state that the sites inventory includes underutilized sites that do not contribute to displacement risk (p. III-18), additional data and analysis is needed. The element must include an analysis that addresses how the sites inventory AFFH. Sites must be identified and evaluated relative to the full scope of the AFFH (e.g. segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, etc.). The site inventory and accompanying analysis must identify and analyze selected sites, map the location of the sites including

affordability level, and evaluate sites relative to socio-economic patterns. The analysis should incorporate the City's projected housing development at all income levels and assess the extent to which that development will either further entrench or ameliorate existing patterns of segregation and/or exclusion of members of protected categories.

AFFH Goals, Policies, and Actions: The element was not revised to address this finding. Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. Please see HCD's October 4, 2021 review letter for more 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).)*

The City has a regional housing needs allocation (RHNA) of 558 housing units, of which 359 are for lower-income households. To address this need, the element mainly relies on rezoning sites and accessory dwelling units (ADUs) to meet the City's housing needs. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses.

Sites Inventory: Tables B-3 and B-4 (p. B-4) included additional information of the existing uses. However, this is not adequate or sufficiently detailed to demonstrate the potential for redevelopment in the planning period. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period (e.g. are commercial buildings vacant or leased, the status of residential units and utility switching stations, etc.). In addition, Table B-1 states that the City will be rezoning candidate sites to accommodate a shortfall of 446 units, including shortfall of 56 above moderate units. However, Table B-4 (Candidate Sites for Rezoning) does not identify any sites to accommodate the above moderate RHNA allocation. The element must indicate how the City will identify sufficient capacity to accommodate the shortfall.

For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Small Sites: The revised Table B-4 (p. B-5) lists small sites for lower income units. However, the element was not revised to address this finding. The element must demonstrate the adequacy of small sites to accommodate the lower income RHNA

including examples of lot consolidation and demonstrate that small sites in the rezone will accommodate 16 units per site. Please see HCD's October 4, 2021 review letter for more information on how to address the finding.

Realistic Capacity: The element continues to not support the capacity assumptions assumed in the element. The element states (p. B-2) that there are no recent examples of large-scale housing or mixed-use development in the City to support the assumptions of buildout for sites included in the inventory. The element can analyze examples of large- and small-scale development throughout the City and in neighboring jurisdictions with typical densities of existing or approved residential developments at a similar affordability level. In addition, the element states that due to high land values, developers are likely to maximize yields on these properties. The element must provide further support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions, such as developers maximizing yields on the properties. While the element assumes 100 percent development capacity of each site, the estimated number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, and typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction or regionally.

The element must also analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses (e.g., mixed-use) and on underutilized nonresidential sites. If sites are rezoned to mixed-use, consider competing uses, the extent nonresidential uses are allowed, and environmental constraints limiting the usage. Also, there should be analysis on typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction or regionally. This analysis should consider the likelihood of 100 percent nonresidential development, performance standards, and development trends supporting residential development.

Suitability of Nonvacant Sites: While the element was revised to include a recent development of multifamily units developed in neighboring Redondo Beach on an existing commercial site as a comparable example for potential development within the City, this example alone does not demonstrate the potential for redevelopment and demonstrate the extent existing uses constitute an impediment to additional residential development. As stated in the previous review, the analysis shall consider factors including, but not limited to, the, recent developments, development trends, market conditions, the City's past experience converting existing uses to higher density residential development, analysis of existing leases or other contracts that would perpetuate the existing use or prevent additional residential development, and incentives or standards that encourage development. For example, the element could consider indicators such as age and condition of the existing structure, presence of expiring leases, expressed developer interest, low improvement to land value ratio, and other factors. Absent local development trends, the element can include trends from neighboring cities. However, those the element should indicate how those examples relate to characteristics of the sites in the inventory.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Accessory Dwelling Units: The revised element assumes (p. B-2) a build out of 104 ADUs in the planning period. It is not clear if this production level will be achievable in the planning period. As a result, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Specifically, in addition to other methods, HCD accepts the use of trends in ADU construction since January 2018 to estimate new production. Based on HCD's records of past production between 2018 to 2020, the City is averaging one unit per year. To support assumptions for ADUs in the planning period, the element could reduce the number of ADUs assumed per year or reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate.

Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). If necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Infrastructure: While the element was revised to include information on dry utilities, it must demonstrate sufficient existing or planned water and sewer supply capacity to accommodate the City's regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).)

Zoning for a Variety of Housing Types (Transitional and Supportive Housing): The revised element includes (p. III-6) a statement that current City definitions for transitional and supportive housing are in compliance with this requirement. However, a cursory review of the City's residential zoning code found limitations on the uses to just six or fewer residents. Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate consistency

with Government Code section 65583, subdivision (a)(5) or add or revise programs which comply with the statutory requirements.

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... (Gov. Code, § 65583, subd. (a)(5).)*

Local Processing and Permit Procedures: The element was not revised to address the analysis of the Precise Development Plan (PDP). While the element includes Program 11 to evaluate processing and permit procedures' impacts, an analysis must be completed to formulate an appropriate program to address identified constraints. For example, while the element provides a description (p. III-3) of the PDP required for housing developments, it must also analyze the PDP process, identify what is reviewed, list typical findings and approval procedures by zone and housing type. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability and should consider processing and approval procedures and time for typical single family and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures.

The revised element also includes a description of the City (p. III-11) within the Coastal Zone. However, the element should include an analysis of whether the City coastal preservation policies will potentially impact future or existing housing development within the designated coastal zone of the City especially for sites that require rezoning identified in Table B4. The element should also state when the City will receive approval for the Local Coastal Plan.

Constraints on Housing for Persons with Disabilities: The revised element states (p. III-11) that residential care facilities serving six or fewer persons are permitted in all residential zones and that large residential care facilities are conditionally permitted in most residential zones. However, residential care facilities serving seven or more persons are limited to the same zones with the approval of a conditional use permit. While the element states it will consider changing the review process, it must commit to revising the requirements to remove constraints on persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

In addition, while the element describes the City's reasonable accommodation process, it should evaluate impacts, including identifying and analyzing findings of approval. For example, Section (4)(b) of the City's Reasonable Accommodation (p. III-5) is a constraint to the provision of housing for persons with disabilities and the element must include a program to revise the reasonable accommodation procedure and specifically remove identified constraints.

- 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).)*

The element was not revised to address this requirement. Please see HCD's October 4, 2021 review letter for more information on how to address the finding. In addition, the element states (p. III-13) that the timeline of development projects from project approval to building permit application can vary from project to project. However, the element must include an estimate of the typical length of time between receiving approval for a housing development and the submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need. The element should also include an analysis of requests to develop housing at densities below those anticipated, including sites listed in the inventory. The element must also include a description of any program(s) that mitigate nongovernmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category.

- 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 element was not revised to address this finding. Please see HCD's October 4, 2021 review for more information.

C. 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).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- *Program 4 (Affordable Housing Development Outreach and Assistance)*: Provide an implementation timeline (e.g., month and year) for incentives in addition to the timeframe that was included to provide information to affordable housing developers.
- *Program 7 (Land Value Recapture)*: While the element included a date of the feasibility study, it must also provide an implementation timeline (e.g., month and year) to implement the results of the study.
- *Program 8 (Housing Trust Funds)*: Provide a definitive implementation action and timeline (e.g., month and year) beyond investigating Housing Trust Funds.
- *Program 11 (Streamline Housing Permit Processing)*: The Program must include specific implementation timelines to comply with SB 35.

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).)*

As noted in Finding B3, the element does not include a complete site analysis. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised, as follows;

- *Program 5 (Facilitate Efficient Use of Sites that Allow High-Density Residential Development)* should be strengthened to incentivize development of affordable units on small sites under 0.5 acres as the City relies on small sites to accommodate part of the lower income RHNA.
- *Program 9 (Adequate Sites to Accommodate Housing Needs)* identifies the rezoning necessary to accommodate the lower income RHNA. However, the program should be revised to also identify the number of acres specifically to be rezoned and identify the proposed zones for the rezoned sites. In addition, the program must identify and rezone to meet moderate and above moderate RHNA.

3. *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 Findings B4 and B5, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised, as follows:

- *Program 10 (Housing for Persons with Special Needs)* should be revised from “will be reviewed” and “may” to objective, specific actions that the City will take during the planning period to create a meaningful program.
 - *Parking Requirements:* While the revised element states (p. III-7) that the City will reevaluate the appropriateness of the City’s parking requirements based on current conditions as part of the comprehensive Zoning Ordinance update, it must include a program with implementation actions to address or remove any identified constraints.
4. *Promote AFFH 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 address this finding. Programs need to be based on identified contributing factors from localized AFFH analysis, include metrics and milestones, and be significant and meaningful. Please see HCD’s October 4, 2021 review letter for more information.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element’s ADU program (Program 6) should commit to additional incentives and strategies, frequent monitoring (every other year) of ADU production and affordability and specific commitment to adopt alternative measures such as rezoning or amending the element within a specific time (e.g., 6 months) if ADU assumptions for the number of units and affordability are not met.

D. Public Participation

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)(8).)

The element was revised to include a general summary of stakeholders outreach as part of the element update. However, these revisions are insufficient in demonstrating that all economic segments of the community, particularly low-and moderate-income households and organizations that represent them, were involved in the development of the housing element. In addition, the element did not include a summary of public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.