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DIVISION OF HOUSING POLICY DEVELOPMENT
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April 4, 2022

Belinda Deines, Principal Planner
Community Development Department
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Dear Belinda Deines:

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

Thank you for submitting the City of Dana Point's (City) housing element adopted February 1, 2022 and received for review on February 3, 2022. 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 many statutory requirements described in HCD's December 17, 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.

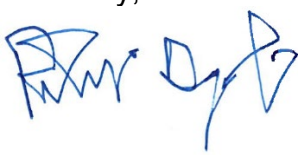
Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households,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

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.

HCD appreciates the hard work and dedication the housing element update team provided in preparation of the City's housing element. 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 Marisa Prasse, of our staff, at Marisa.Prasse@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX
CITY OF DANA POINT

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).)*

   Disproportionate Housing Needs, Including Displacement: The element was not revised to address this finding. Please see prior HCD review.

   Sites Inventory: The element was not revised to address this finding. Please see prior HCD review.

   Contributing Factors to Fair Housing Issues: The element was not revised to address this finding. Please see prior HCD review.

   Goals, Actions, Metrics, and Milestones: The element was not revised to address this finding. Please see prior HCD review.

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).)*

   Aggregated Sites–Multiple Parcels Comprising Sites: The element did not address this finding. The revised element must analyze whether prior projects that have been developed on sites comprised of multiple parcels are similar to the parcels for consolidation in the site inventory and. The element was not revised to address this finding. For example, while the element identifies several projects that used lot consolidation, it should analyze whether prior projects were developed at similar affordability levels to those proposed in the site inventory. To support this analysis, the element should also include policies or incentives offered or proposed to encourage and facilitate lot consolidation as stated in the review. Please see the August 16, 2021 and December 17, 2021 HCD review.

Realistic Capacity: While the element added information in Table H-A1 to demonstrate development capacity assumptions by site, the capacity analysis must still consider the likelihood of 100 percent nonresidential development on these sites. In addition, the analyses for the realistic site development capacity factor do not appear to be based on past redevelopment trends, and it is unclear how the element arrived at those assumed percentages. The element should be revised to account for these factors in its capacity assumptions.

Suitability of Nonvacant Sites: The element was not revised to address this finding. While the adopted element now cites two examples of grocery store redevelopment in Santa Ana and Hollywood, it is unclear how those examples relate to Dana Point. Please see the prior HCD review.

Electronic Sites Inventory: As a reminder, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. HCD records indicate that it has not received the electronic sites inventory. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element must analyze the 20-bed limit as a constraint for the development of emergency shelters. While the element added information regarding the per bed cost of operations for a few emergency shelters throughout southern and central California, it is unclear how those examples relate to Dana Point, as the only example provided in Orange County was of an emergency shelter with 32 beds. The City could reach out to emergency shelter providers as part of this analysis.

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).)*

   An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including… …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… (Gov. Code, § 65583, subd. (a)(6).)

Land Use Controls: While the element concludes that land use controls do not constrain development, it does not evaluate the cumulative impact of land use controls on the cost and supply of housing, including the ability to achieve maximum densities. For example, the element states that the two-story height limit does not constrain the ability for projects to achieve density of 30 units per acre but uses examples from throughout Orange County rather than projects within Dana Point. In addition, this analysis does consider the impact of other development standards in combination with the height limit to achieve maximum allowable densities. The analysis should also discuss whether 100 percent residential developments are allowed in mixed-use areas, Town Center District regulations, special use standards on manufactured homes, parking standards for studio and one-bedroom apartments and could also describe past or current efforts to remove identified governmental constraints. Please see the prior HCD review from August 16, 2021.

Fees and Exactions: While the adopted element states that development fees typically represent roughly five percent of a residential project's total valuation, it still largely did not address the previous finding to provide an analysis as a potential constraint on housing supply and affordability. Specifically, the analysis should analyze higher fees such as the Park In-Lieu fee and differences between the total amount of fees and their proportion for development costs for both single-family and multifamily projects. For example, the element could include examples used in its evaluation of completed projects mentioned on page H-24 to demonstrate recent trends. Please see the prior HCD review.

Local Processing and Permit Procedures: While the element was revised to include a statement about the average time between submittal and project approval for single-family and multifamily developments, it does not support this statement with examples or describe the process with typical timeframes. As stated in the previous review, The analysis should provide information on processing and approval procedures and time for recent single- and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures. In addition, the element should include a description of any specific standards for building design as part of the site development permit process and to analyze these as potential constraints. While the element includes Program 3.9 Site Development Permit Process to evaluate the permit process, the element must still include an analysis of permit processing procedures to identify potential constraints to the development of housing and appropriately modify Program 3.9.

Permit Times: The element continues to not address this finding relative to approval times. Please see the prior HCD review from August 16, 2021.

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... (Gov. Code, § 65583, subd. (c).)*

As noted in the prior review, the element must revise programs with specific commitment and definitive implementation timelines. Several programs were revised with timelines. However, programs must still be revised, as follows:

- *Program 2.1 (Rental Assistance)* should include a commitment to track the number of vouchers in the city over the 6th cycle planning period to determine success of program, given failure of program in the previous cycle and the lack of information regarding how the rates of voucher usage changed over time.
- *Program 2.2 (Mortgage Assistance),* based on the evaluation of past programs, should be revised to describe how the city will coordinate with the County to increase awareness of programs. Revisions still do not describe how or when the distribution of expanded marketing and promotional materials will occur.
- *Program 3.1 (Parking Implementation Plan),* based on the evaluation of past programs, should be revised to describe how and in what ways the parking implementation plan will be updated in 2024. The revised adopted element has deleted this Parking Implementation Plan program without accounting for this change in the review and revise section. The element should be revised to demonstrate how the parking implementation plan will be updated in 2024. See prior HCD review.
- *Program 6.5 (Housing for Persons with Disabilities),* based on the evaluation of past programs, should be revised to identify more proactive and/or establish regulatory incentives related to fee reductions and streamlined review, this modification was not included in the updated program.

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 A2, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. 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 to accommodate the regional housing needs allocation (RHNA) or zoning available to encourage a variety of housing types. In addition, the element must still be revised, as follows:

   Accessory Dwelling Units (ADUs): In October 2021 the City submitted its adopted ADU ordinance for review by HCD. After a review of the City's ordinance, HCD discovered several areas inconsistent with State ADU Law. While the element now includes program 3.8 (Accessory Dwelling Unit Ordinance), this program should be revised to

include the month by which this ordinance update will occur and include a commitment to submit the revised adopted ordinance to HCD for review within 60 days of adoption.

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 prior reviews found the element should include specific actions to assist in the development of housing for extremely low income (ELI) and special needs households. While Programs 1.4 (Alternative Sites for RHNA credit), 2.4 (Conversion to Affordable or Permanent Supportive Housing), and 2.5 (In-Lieu Fee Program) were revised since the initial draft element submittal to prioritize extremely low-income households, the element must still establish programs that have specific outcomes for the development of extremely low-income households. Please see HCD's prior review for additional 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 Findings A3, 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 must be revised, as follows:

   Program 6.7 (Residential Care Facilities, Seven or More persons): The element includes a program to evaluate the City's current CUP process for Residential Care Facilities of seven or more by removing unreasonable conditions of approval or other requirement that could constrain development. To ensure that the City is removing constraints to housing for persons with disabilities, the program could also specifically commit to modify existing standards to ensure that zoning and standards simply implement a barrier-free definition of family instead of subjecting unlicensed group homes or similar housing, and potentially persons with disabilities, to special regulations. For your information zoning code regulations that isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors may pose a constraint on housing choice for persons with disabilities.

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

   As noted in Finding A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. As noted in HCD's prior letter, the program to affirmatively furthering fair

housing (AFFH) should go beyond status quo actions, include quantifiable outcomes and concrete actions, and should generally address housing mobility, encourage new housing development in high resource areas, improve place-based strategies, and protect existing residents from displacement.