

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

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April 8, 2022

Jill R. Ingram, City Manager
City of Seal Beach
211 Eighth Street
Seal Beach, CA, 90740

Dear Jill R. Ingram:

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

Thank you for submitting the City of Seal Beach's (City) housing element adopted February 7, 2022, and received for review on February 9, 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. Our review was facilitated by a telephone conversation on April 7, 2022, with Ms. Alexa Smittle, Community Development Director.

The adopted housing element addresses most statutory requirements described in HCD's November 19, 2021 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code), see enclosed Appendix.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), Program 1A (Provide Adequate Sites for Housing Through Updates to the General Plan and Zoning Ordinance) to rezone 1,150 units to accommodate the regional housing needs allocation (RHNA) must 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).

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. Additionally,

pursuant to Government Code section 65585, subdivision (b) (AB 215, Statutes of 2021), any subsequent draft revision, the local government must post the draft revisions on its website and email a link to all individuals and organizations that have previous requested notices related to local governments housing element at least seven days before resubmitting to HCD.

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 meets 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.

We are 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 Mashal Ayobi, of our staff, at Mashal.Ayobi@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul McDougall', with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SEAL BEACH

The following changes are necessary to bring the City's/County'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).)

While the element included an updated evaluation of past programs, it did not provide a cumulative evaluation of the effectiveness of past 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). Please see HCD's prior review.

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).)*

Enforcement and Outreach: While the element was revised to incorporate some information on fair housing enforcement and outreach capacity, it did not list local, regional, state agencies, and organizations active in the locality beyond the Fair Housing Council of Orange County (FHCO). Additionally, the element must describe the primary activities and capacity of fair housing entities or the city's capacity to take action such as providing dedicated resources. The element must also identify and discuss findings, lawsuits, or enforcement actions related to fair housing. Lastly, the element must also describe the City's compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity. For additional information, please see pages 28-30 on HCD's affirmatively furthering fair housing (AFFH) Guidance Memo at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Goals, Actions, Milestones and Metrics: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies programs to encourage and promote affordable housing; however, most of these programs do not appear to facilitate any meaningful change nor address affirmatively furthering fair housing requirements. Actions must have specific commitment, metrics and milestones as appropriate and must generally address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. Additionally, given that most of the City is considered a high resource community, the element could focus on programs that enhance housing mobility and encourage development of more housing choices and affordable housing.

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Housing Stock Condition: While the element was revised to state that “very few homes are in need of any significant repair, based on staff observations”, it still does not address this finding. As stated in HCD’s prior review, the element must estimate the number of housing units in need of major rehabilitation or replacement during the planning period. The analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers/property managers, including nonprofit housing developers or organizations.

3. *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 need allocation (RHNA) of 1,243 housing units, of which 459 are for lower-income households. To address this need, the element relies on rezoning nonvacant sites. To demonstrate the adequacy of these sites and strategies to accommodate the City’s RHNA, the element must include a complete analysis:

Electronic Sites Inventory: While the element submitted an electronic sites inventory, the inventory did not include the required information. For example, several sites do not include affordability levels. Additionally, under columns “O” and “P,” the minimum and maximum allowable densities are listed as “N/A.” Lastly, the element states that several of these sites are made up of individual parcels that will be lot consolidated. The sites inventory should use the “optional information” column to indicate which sites will be consolidated.

Lot Consolidation: The revised element now includes a parcel specific inventory which shows several sites with small parcels that would require consolidation. The element must demonstrate the potential for lot consolidation by providing analysis describing 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 redevelopment, recent trends of lot consolidation, and information on the owners of each aggregated site. Additionally, the analysis should discuss whether the City will be rezoning each individual parcel identified in the sites inventory or rezoning sites after lot consolidation.

Realistic Capacity: While the element was revised to adjust capacity assumptions based on the net acreage of a site that will be developed as residential, the element still must provide support for these assumptions. As stated in HCD's prior review, the estimate of the number of units for each site must be adjusted as necessary, based on the land-use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Additionally, the element did not address HCD's prior review regarding demonstrating the likelihood of residential in zones that allow 100 percent nonresidential uses. As stated in HCD's prior review, the element must account for the likelihood of 100 percent nonresidential uses. The element should include analysis based on factors such as development trends, performance standards or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

Suitability of Nonvacant Sites: While the element was revised to include a list of factors that were considered when identifying redevelopment potential on nonvacant sites including existing uses, improvement-land value (ILV) of less than 1.0 and property owner interest, the analysis should describe why and how these factors demonstrate that these sites are suitable for development. For example, the element listed regional examples in figure B-1. To better relate these examples to the factors identified, the element could include information on the site characteristics of each regional project such as ILV and existing uses. Additionally, the element should clearly indicate which factors were considered on a site-by-site basis. For example, the element provides an individual analysis of each site but does not reference each factor for each site. The element should clearly describe the methodology for identifying sites. While the revised element now includes a site-by-site analysis, there were several discrepancies between the analysis and the electronic sites inventory.

- 1011 Seal Beach—The element lists this site in both the current inventory and as a candidate site for rezoning. The element should either describe why this site has been identified as both inventories or should remove this site from one of the inventories.

- Old Ranch Town Center–The element identified this site as a candidate site for rezoning to accommodate a portion of the City’s lower-income shortfall. The analysis states that the owner is considering a proposal for 120 units; however did not indicate if that proposal including affordable units as the inventory is assuming. Additionally, the element lists the minimum and maximum densities as “N/A.” The element must state the proposed allowable densities for the site. HCD also received public comment that this site is across the street from active air base runways. The element should discuss whether any airport noise ordinance or other restriction is applicable to this site or would affect its development potential. Lastly, the analysis stated that the site is made up of several parcels that equate to 26 acres. However, the inventory includes only ten parcels equating to 22 acres.
- Leisure World–The element identified redeveloping a portion of this site for 150 units; however provided no analysis on why this site is likely to redevelop.
- Seal Beach Plaza–The analysis stated that this is a seven acre site where 2.5 acres will redevelop into residential. However, the sites inventory does not contain any sites or parcels that equate to seven acres.
- Sunset Aquatic Marina–The analysis states that a portion of this site is a shipyard for boats; however the inventory lists this site as a County Regional Park.
- 99 Marina Drive–The analysis states that the existing uses on this site consist of a handball court; however the inventory lists this site’s existing uses as an abandoned oil separation facility.

In addition, for your information, the element relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, which triggers requirements to make findings based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period. While the resolution of adoption includes the appropriate findings, any changes to the analysis should be reflected in future re-adoption of the element.

Military Sites: The element identified a Navy owned site titled the Naval Weapons Station (parcel number 043-150-23) to accommodate 150 units of the City’s RHNA. The element indicated that the Navy has solicited information from interested developers and is generally expecting a mixed-use project where development will commence in 2024. Additionally, the element stated that the City does not have land use authority over the site (IV-41). The element must have additional analysis about the site including what agency (City or military) will be facilitating zoning and permitting, which agency has control over the site, whether the site is in the City’s limits, and a contingency plan if the Navy chooses to not develop the site for housing. Lastly, the element should include a program committing to coordinating with the Navy to encourage and facilitate development on this site.

Availability of Infrastructure: While the revised element stated that all necessary infrastructure is in place, the element must describe sufficient water, sewer, and infrastructure capacity to meet the RHNA.

4. *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).)*

Land-Use Controls: The element was not revised to address this finding. Please see HCD's prior review.

Local Processing and Permit Procedures: While the revised element included some information regarding conventional uses, the element did not address this finding. Please see HCD's prior review.

Constraints on Housing for Persons with Disabilities:

- *Residential Care Facilities of Seven or More Persons:* HCD's prior review stated that it is unclear how and where the city permits residential care facilities for seven or more. The element was revised to state that due to the "potential for neighborhood impacts" these uses are directed to nonresidential districts and subject to findings related to compatibility with surrounding neighborhood uses. Excluding these uses from residential zones and/or subjecting these uses to subjective findings is generally considered a constraint and the element should include programs committing to approval of these uses with objectivity and certainty.
- *Residential Care Facilities of Six or Fewer:* While the element was revised to clarify that residential care facilities of 6 or fewer are allowed in all residential zones and subject to the same restrictions as other residential uses, the element indicated that group homes of six or fewer are only permitted in the RHD district and subject to a minor use permit. Excluding group homes from residential zones and subjecting them to a different process from similar residential uses is a constraint. The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.
- *Reasonable Accommodation:* The revised element states that reasonable accommodation requests are subject to notice, review, and approval by planning commission and similar findings that are prescribed for a conditional use permit (IV -19). Additionally, the City's conditional use permit findings includes impacts

on surrounding uses (pg. IV-29). Granting a reasonable accommodation is a unique exception process from a conditional use permit. Given its importance in addressing barriers to housing for persons with disabilities, the element should include a program committing to removing constraints, namely the “potential impact on surrounding uses” approval finding. See sample RA ordinance.

5. *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).)*

Approval Time: While the element was revised to include analysis of requests to develop housing at densities below those anticipated, it must still analyze the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality’s share of the regional housing need.

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).)*

Program 2B (Affordable Housing Resources): While the element added additional actions, it did not include information on implementation or timeline. Specifically, while the revised program commits to “exploring opportunities for affordable housing development when development opportunities arise, the element should commit to proactively outreach with developers on an annual basis.

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, 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 or zoning available to encourage a variety of housing types.

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.

4. *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).)*

As stated in HCD's prior review and noted in Finding B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, and milestones as appropriate and must generally address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. In addition, Program 5A should also describe how all the City's housing programs comply with and further the requirements and goals of Government Code section 8899.50, subdivision (b).

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).)

Program 1H (Accessory Dwelling Units(ADUs)): While the element now states that the City will consider revisions to the existing ADU ordinance, as stated in HCD’s prior review, the current ADU ordinance is not consistent with state law. As a result, the element should firmly commit to updating the ordinance to be compliant with state law. Additionally, as stated in HCD’s prior review, the element must include a program that incentivizes or promotes ADU development for lower and moderate-income households. While the element included a program updating the ADU ordinance, the City program should commit to actions that incentivize or promote ADU development beyond updating the City’s website. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department.

D. 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 finding. Please see HCD’s prior review. dated November 19, 2022.

E. 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)(9).)

While the element was revised to include two additional stakeholder organizations (C-3) and state that affordable housing developers were invited to participate, the element generally did not address HCD’s prior finding. In addition, the element should describe outreach relative to affirmatively furthering fair housing. This outreach is particularly important to informing fair housing issues, contributing factors and appropriate goals and actions. Please see HCD’s prior review.