

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

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October 30, 2023

Alexa Smittle, Director
Community Development Department
City of Seal Beach
211 Eight Street
Seal Beach, CA 90740

Dear Alexa Smittle:

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

Thank you for submitting the City of Seal Beach's (City) draft housing element received for review on August 31, 2023. 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 Carol Churchill and David Kellogg pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes these and other revisions needed to comply with State Housing Element Law.

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 accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed and Program 1A (Provide Adequate Sites for Housing Through Updates to the General Plan and Zoning Ordinance) to rezone 1,150 units has not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.

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. Please be aware, any revisions to the element must be posted on the local government's website

and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting 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 program, 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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the assistance of the City's housing element team provided during the course of our review. 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 Reid Miller, of our staff, at Reid.Miller@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', followed by a long horizontal flourish.

Melinda Coy
Proactive Housing Accountability Chief

Enclosure

APPENDIX CITY OF SEAL 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 <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> 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 was revised to include a cumulative analysis on the housing needs of special needs populations in the previous cycle on page 1 and 2 of Appendix A, it must still provide further analysis detailing the effectiveness of specific past goals, policies and related actions. For example, the cumulative analysis for Large Households states that the "City continued to publicize programs and services that could meet the needs of this population," but it does not specify what these programs and services entail or evaluate their effectiveness.

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))*

Goals, Priorities, Metrics, and Milestones: While the element was revised to include Program Actions 5a-5g that claim to affirmatively further fair housing (AFFH), these actions do not appear to facilitate any meaningful change nor address AFFH requirements. As stated in HCD's prior review, 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.

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).)

Lot Consolidation: The element was not revised to meet this requirement. While Table B-2 provides some parcel-specific information, it does not provide the number of units broken down by income for each parcel number (APN) listed. Additionally, as stated in HCD's prior review, because many of these APNs are less than half an acre and it is unclear whether they are being used to accommodate the City's lower-income Regional Housing Needs Allocation (RHNA); 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. The analysis should also 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 provide additional analysis on a site-by-site basis for assumed development capacity, this analysis does not meet the requirements specified in HCD's prior review. The element must describe how the estimated number of units was adjusted for each site 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. Please see HCD's prior review.

Suitability of Nonvacant Sites: While the element was revised to include additional analysis for each site describing its "reason for selection," the analysis does not address all the requirements specified in HCD's April 8, 2022 review. Specifically, While the element was revised to provide additional examples of regional development in Figure B-1, the characteristics of these sites are not clearly linked to sites selection criteria on Page B-7, nor are they linked to sites in the City's inventory. The element must be revised to demonstrate that the site selection criteria was developed based on recent patterns and trends in the region, and clearly indicate which criteria were considered on a site-by-site basis.

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.

Finally, it has come to HCD's attention that a number of sites in the inventory (Shops at Rossmoor, Old Ranch Town Center, and Old Ranch Country Club) are under the jurisdiction of the Airport Land Use Commission (ALUC). While the element provides a

general analysis of ALUC requirements in the Governmental Constraints section, it should also provide analysis on a site-by-site basis demonstrating that these requirements do not affect the availability of the sites in the inventory during the planning period.

Military Sites: While the element was revised to include analysis demonstrating the Naval Weapons Station site is within the city limits and states that the City has “no zoning authority over the area,” Program 1s (Partner with the U.S. Navy and the Seal Beach Naval Weapons Station) also states that, “the City owns a small parcel of land within the fenced area of the Naval Weapons Station.” The element must be revised to clarify the process of development on this site, including what agency will be facilitating zoning and permitting, which agency has actual control over the site, and timing for development. In addition, if the City is not the permitting authority over the parcel, the element must demonstrate that there is an agreement with the entity controlling the land that grants the jurisdiction authority reporting new units to the California Department of Finance. Finally, while Program 1s was added to the element to encourage and facilitate development on the site, the program should be revised to include more definitive timelines for each program action and provide contingency actions if the site is ultimately not developed for housing. Alternatively, if plans for developing housing on the site are already being processed, the City should consider counting anticipated units on the site towards its existing RHNA progress. The City’s RHNA may be reduced by the number of new units built, approved, or pending since July 1, 2021; however, the element must demonstrate their availability and affordability in the planning period. The element must assign these units to the various income groups based on actual or anticipated sales price or rent level of the units or other mechanisms ensuring affordability (e.g., deed-restrictions) and demonstrate their availability in the planning period. To demonstrate availability, the element should address the status, anticipated completion dates, any barriers to development and other relevant factors such as build out horizons, phasing, and dropout rates.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD’s housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Additionally, as noted in HCD’s April 8, 2022 review, while the revised element now includes a site-by-site analysis, there were several discrepancies between the analysis and the electronic sites inventory. The City should ensure that any future submittals of the electronic sites inventory match the inventory in the housing element submitted to HCD for review.

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

Land-Use Controls: While the element was revised to provide sufficient analysis and program actions for two-story height limits in the RHD-20 zone, minimum unit sizes for multifamily units, it must still provide a complete analysis for flood zone heights and development standards for residential projects in commercial zones, including whether 100 percent residential developments are allowed in mixed use areas, parking standards for studio and one bedroom units, and maximum lot coverage of less than 50 percent for multifamily housing. See HCD's prior review.

Local Processing and Permit Procedures: While the element was revised to add additional information on permit processing and approval procedures by zone, and some housing types, it must still clarify processing and approval procedures for mobile homes, housing for agricultural employees, and supportive housing. Additionally, the element should be revised to clarify if there are any size or other limitations related to multifamily projects that can or cannot be approved at the directorate level. Finally, the analysis must still *evaluate* the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single family and multifamily developments, including type of permit, level of review, approval findings, any discretionary approval procedures, and number of hearings.

In addition, the element should address public comments on this revised draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

Residential Care Facilities of Seven or More Persons: While the element was revised to clarify that group homes of six or more persons are conditionally permitted in the RHD (High Density Residential) zone, it was largely not revised to meet this requirement. As stated in HCD's prior review, 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.

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).)*

Approval Time: The element was not revised to meet this requirement. Please see HCD's prior review.

C. Housing Programs

1. *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 B2, 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.

2. *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 B3 and B4, 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.

3. *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 noted in Finding B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs.

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)(9).)

The element was not revised to meet this requirement. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, solicitation efforts for survey responses, and participation in community workshops, and if translation services were provided. In addition, the element should describe when the element was made available to the public and summarize the public comments and describe how they were considered and incorporated into the element. Additionally, HCD received comments stating that residents of the community of Rossmoor were not properly notified that two sites bordering their community (The Shops and Rossmoor and Old Ranch sites) would be used in the City's 6th cycle housing element. While Rossmoor is outside of the City boundaries in unincorporated Orange County, The City should still make efforts to include all effected parties moving forward as part of its housing element update and ensure that their comments are incorporated as appropriate.