

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**Division of Housing Policy Development**

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November 2, 2006

Mr. Homer Bludau, City Manager
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Dear Mr. Bludau:

RE: Review of the City of Newport Beach's Revised Adopted Housing Element

Thank you for submitting Newport Beach's revised housing element, adopted by the City Council on July 25, 2006 as part of a comprehensive general plan update. The element was received for review on August 3, 2006. Pursuant to Government Code Section 65585(h), the Department is required to review adopted housing elements and report the findings to the locality. A series of telephone conversations with Mr. Gregg Ramirez, Senior Planner, facilitated the review.

As you know, the Department found Newport Beach's 2003 adopted housing element, along with a subsequent revision in April 2005, in conditional compliance. The Department's finding of compliance was contingent on the City's commitment to rezone the Avocado/MacArthur site and continuing to encourage and facilitate development on the Banning Ranch site. The revised element no longer proposes to rezone the MacArthur site as a means to address the adequate sites statutory requirement. Also, the element indicates the updated Land Use element is now prioritizing the retention of Banning Ranch as open space. This is an especially critical point as the previously adopted element relied on Banning Ranch to accommodate 406 multifamily units without the need for a zone change or general plan amendment.

Instead, the adopted element now includes a general land inventory which focuses on potential housing opportunities in the John Wayne Airport, Banning Ranch, Newport Center, Mariners' Mile, and Balboa Peninsula areas. The element, however, only contains general descriptions and potential dwelling unit capacity figures for those areas (described on pages 5-34 through 5-49). The element does not contain the necessary information and analysis to determine which specific sites are suitable and available to accommodate the City's remaining housing need within the current planning period. As a result, the element no longer identifies adequate sites, and further, requires revisions to analyze potential governmental constraints. As discussed with Mr. Ramirez, the following specific revisions are needed to bring the element into compliance with State housing element law (Article 10.6 of the Government Code).

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

The element must be expanded to include a complete land inventory with specific site descriptions and analysis. The inventory and analysis should include the following:

- A parcel specific listing of sites describing general plan designation, zoning, maximum density, and parcel size.
- A description of existing uses on the identified non-vacant sites.
- A description of the impact of parcel size on development feasibility, capacity, and affordability.
- An analysis that demonstrates how the City calculated its projected buildout capacities for the identified sites. This analysis should evaluate the impact of the City's land-use controls and site improvement requirements on buildout capacity estimates. For example, the City must consider the imposition of maximum lot coverage requirements, open space, parking, and floor area ratios (FARs), when establishing its realistic unit capacity, rather than relying on a theoretical number based on maximum buildout.
- A general analysis of the existing infrastructure capacity (i.e., water and sewer), including access to distribution facilities along with an indication of whether capacity is, or will be, sufficient to serve the identified sites within the planning period.
- A general description and analysis of known environmental constraints.
- Identification of which zones and densities can accommodate the City's lower-income housing need (see Item 2, page 2 of the Department's AB 2348 technical assistance paper).
- A map or other method for identifying specific sites in the inventory

For example, the Land Use element now prioritizes Banning Ranch as open space, yet the housing element continues to identify it as a potential housing site (1,375 units). Table H30 indicates the site will have both Open Space (OS) and Residential Village (RV) the General Plan designations, while zoned Planned Community (PC). Therefore, the element must clearly describe how much of the 465 acre site will be designated specifically for residential uses, including timing of adoption of the zoning that can accommodate residential development. The element should also explain how the future master plan/specific plan, including development standards, acres of the various residential components, density levels, and design guidelines will allow residential development this planning period.

Mixed-Use: Table H30 indicates several areas have mixed-use development potential. Based on the general land-use descriptions in the element, it appears a large percentage of the Airport, Newport Center, Mariners' Mile, and Balboa Peninsula, areas are builtout.

Therefore, the element must demonstrate that mixed-use development or stand alone residential uses are realistic and viable development strategies for those sites with active uses. For example, the element should describe the condition or age of existing development and describe the potential for such uses to be discontinued and replaced with housing, or provide a clear indication of whether housing could be added to the existing use (such as adding second story residential to ground floor retail).

Also, the analysis should evaluate whether the redevelopment or intensification of a site would require lot consolidation to allow additional residential development. The element should further describe the City's experience in facilitating mixed-use development of non-residentially zoned sites, including current market conditions, redevelopment trends (i.e., high land and construction costs in concert with limited supplies of available and developable land resources could promote the market conditions necessary to facilitate more compact and efficient residential development) and incentives and policies to encourage the development of underutilized and/or mixed-use sites.

To assist the City in addressing the adequate sites requirement, the Department has provided Mr. Ramirez the AB 2348 technical assistance memo (via the Department's website).

Given the City's reliance on mixed-use development to accommodate its remaining need, the element should also include strong programs and policies to facilitate such development.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels. 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 Section 65584 (Section 65583(a)(4)).*

Land-Use Controls: Table H30 lists several zoning designations that are not described or analyzed in the element's governmental controls section (Table H31). The element should describe/define the applicable development standards and permitted and conditional residential uses allowed in each of these zones (e.g., MU, RV PC, SP, RSC-MM, APF). The element should also describe and analyze how implementation of allowed density, building setbacks, height provisions, parking and open space requirements help to facilitate and encourage housing for all income groups. Should the requisite analysis determine the City's land-use controls are impeding residential development, the element should describe efforts to mitigate and/or remove any identified constraints.

Measure "S": The Measure, approved in November 2000, establishes threshold residential density and/or land-use intensity increases that trigger voter approval. According to the adopted element, this Measure will not impact the City's ability to accommodate its share of the regional housing need (pg 5-54). However, the element must be expanded to include a more detailed description and evaluation of Measure "S" impacts on the cost and supply of new residential development.

For example, the element should explain how Measure “S” is implemented, including how the “vested rights” provisions are applied and whether any exception provisions exist for affordable housing or housing needed to meet the City’s Regional Housing Needs Assessment (RHNA).

Requiring “major” general plan amendments to be decided on by the local electorate could be costly and result in significant fiscal impacts to individual development projects. The element should clarify if a project applicant is 100 percent responsible for election costs and explain the methodology for determining these costs.

Also, pursuant to Government Code Section 65583(c)(3) the element must include a program action that specifically addresses, and where appropriate, removes any identified residential development constraints associated with Measure S. This would be in addition to Program 2.3.1 as this action only commits the City to studying the impacts of major commercial and industrial projects on the existing housing supply.

The Department hopes these comments are helpful and would be glad to assist the City in addressing the above requirements. If you would like to schedule a technical assistance meeting or site visit, please contact Don Thomas, of our staff, at (916) 445-5854.

Sincerely,



Cathy E. Creswell
Deputy Director