

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

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March 16, 2020

Danial "Dino" Pick, City Manager  
City of Del Rey Oaks  
650 Canyon Del Rey Blvd  
Del Rey Oaks, CA 93940

Dear Dino Pick:

**RE: City of Del Rey Oak's 5<sup>th</sup> Cycle (2015-2023) Adopted Housing Element**

Thank you for submitting the City of Del Rey Oak's (City) housing element adopted December 17, 2019 and received for review on January 15, 2020. HCD considered comments from LandWatch, pursuant to Government Code section 65585, subdivision (c). 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 element is not substantially the same as the revised draft element received on September 19, 2019. Multiple revisions were made to the analysis, the site inventory, and the program sections of the element. Consequently, revisions are necessary to comply with State Housing Element Law (Article 10.6 of the Government Code).

- *Regional Housing Needs Allocation (RHNA)*
  - The housing element cannot be found in full compliance until the City has rezoned sites to address the unaccommodated need from the 4th cycle planning period. Pursuant to Government Code section 65584.09, a jurisdiction that failed to identify or make available adequate sites to accommodate all of the previous cycle's housing need must zone or rezone adequate sites to accommodate all of the previous cycle's unmet housing need within the first year of the next housing element cycle. However, as this year has passed and zoning to address the 59-unit shortfall has not been implemented, the housing element is out of compliance and will remain out of compliance until the actions have been completed. In addition, the City has an 11-unit shortfall for the 5<sup>th</sup> cycle planning period.
  - Program A.1 - Accommodate the City's RHNA, describes 5 candidate sites to accommodate its RHNA for lower-, moderate-, and above moderate RHNA. HCD's November 14, 2019 Findings Letter approved

Sites 1 and 1a for rezoning. Sites 2 and 3 are potentially inadequate due to the lack of water availability. While the element includes a description of planned water, there is insufficient analysis to establish water availability during the planning period. Additional analysis of the water plan, including actions, phasing, and timing is required to ensure Sites 2 and 3 can be developed within the planning period. Site 4 is the City’s Accessory Dwelling Unit (ADU) strategy. As such, it does not meet the requirements of Government Code section 65583.2, subdivisions (h) and (i), for rezoning. In addition, given the moratorium on water hook-ups for ADUs, HCD does not allow any credit toward RHNA for ADUs.

- Rezoned sites must meet the requirements of adequate sites pursuant to Government Code section 65583.2, subdivision (c). Complete analysis must be provided. For additional information, see HCD’s *Building Blocks’ webpage* at <https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml>
- Be advised timeframes imposed pursuant to Government Code section 65583, subdivision (c)(1)(A), have elapsed; therefore, the provisions of Government Code section 65583, subdivision (g), apply to Del Rey Oaks. All sites included in Table 3-3 are subject to these provisions. Specifically, Government Code section 65583, subdivision (g), states in the event a local government fails to complete rezoning by the deadline prescribed in Government Code section 65583, subdivision (c)(1)(A), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project:
  - is proposed to be located on a site required to be rezoned and
  - complies with applicable objective general plan and zoning standards and criteria, including design review standards, described in the rezone program action.

In addition, any subdivision of sites shall be subject to the Subdivision Map Act, and design review shall not constitute a “project”.

Noncompliance with these requirements and other requirements of state law creates the risk of the jurisdiction being subject to a lawsuit and court order to compel action and compliance.

### *Emergency Shelters*

- The housing element cannot be found in full compliance until the City has amended zoning to permit a year-round emergency shelter without discretionary action pursuant to Government Code section 65583, subdivision (a)(4)(A). Once the City adopts a zoning ordinance to allow emergency shelters by-right, a copy of the resolution or ordinance should be transmitted to HCD. HCD will review the documentation and issue correspondence identifying the updated status of the City’s housing element compliance.

*Four Year Update:*

- The City did not adopt its housing element within 120 days of the statutory due date, and the due date for the four-year update (December 31, 2019) has passed. Therefore, pursuant to Government Code section 65588, subdivision (e), prior to obtaining housing element compliance, the City must adopt a compliant four-year update.
  - Specifically, Government Code section 65588, subdivision (e)(4), requires a jurisdiction that failed to adopt its housing element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. The City did not meet the requirements of Government Code section 65588, subdivision (e)(4); therefore, it is subject to the four-year revision requirement.
  - In addition, the four-year update requires, among other things, standalone public outreach and participation, separate from the public outreach conducted for the initial 5<sup>th</sup> cycle housing element. The element must also demonstrate meaningful progress in implementation since adoption of the initial 5<sup>th</sup> cycle housing element.

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](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. Housing element compliance is a threshold criteria to receive SB 2 Planning Grant funding. HCD received the City’s SB 2 Planning Grant application and is placing the City’s application on hold pending determination of housing element compliance. To ensure the awarding of grant funding, in addition to other program requirements, the City’s housing element must be determined to be compliant with sufficient time to meet the encumbrance deadline of June 30, 2020. A determination of compliance after February 2020 puts the City’s award of SB 2 Planning Grant Program funding at risk of not meeting the encumbrance deadline. Additional guidance can be obtained from the SB 2 Planning Grant Team at [SB2PlanningGrant@hcd.ca.gov](mailto:SB2PlanningGrant@hcd.ca.gov).

HCD appreciates the efforts and dedication the City's consultants, Denise Duffy and Ashley Quackenbush provided in preparation and adoption of the housing element. HCD is committed to assisting the City of Del Rey Oaks in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Divya Ram, of our staff, at (916) 263-7442.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" written in a larger, more prominent script than the last name "West".

Shannan West  
Land Use & Planning Manager