

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

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April 11, 2022

Cheryl Kuta, Director  
Community Development Department  
City of Rancho Santa Margarita  
22112 El Paseo  
Rancho Santa Margarita, CA 92688

Dear Cheryl Kuta:

**RE: City of Rancho Santa Margarita's 6<sup>th</sup> Cycle (2021-2029) Adopted Housing Element**

Thank you for submitting the City of Rancho Santa Margarita's (City) housing element adopted February 9, 2022 and received for review on February 14, 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 most statutory requirements described in HCD's December 21, 2021 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code) as follows:

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))*

*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).)*

**Disproportionate Housing Needs, Including Displacement:** While the element addresses overcrowding and substandard housing, it must also provide additional information for homelessness. The element should describe the local patterns and trends of the homeless by race and disability, describe available services, and indicate past programs created to address the needs.

Sites Inventory and Affirmatively Furthering Fair Housing (AFFH): While the element discusses the concentration of the lower-income regional housing need allocation (RHNA) in Census Tract 320.53 and addresses the lack of access to transportation and services, the element should indicate whether the location of sites improve or exacerbate conditions. Please see HCD's previous letter for additional information.

Goals and Actions: As noted in the prior review, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. In addition, Goals and actions must go beyond status quo actions and 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 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).)*

*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. (Gov. Code, § 65583, subd. (c)(1).)*

Nonvacant Sites: The element was revised to include a list of factors used to determine the redevelopment potential of sites in the inventory; however, it remains unclear how these factors were used to demonstrate the residential development potential on the sites. For example, existing floor area is one factor that is used, but sites seem to have a range of existing floor area ratios to 90 percent of the site (e.g 22022 El Paseo, 22032 El Paseo, 30832 Santa Margarita). In addition, only a few sites are listed as having property owner or developer interest in potential residential development. Finally, the element seems to indicate that the existing uses are expected to remain on these sites and new development would be built on existing parking lots, however, several sites seem to be active commercial centers with limited areas for parking or have

lot coverages that would only allow a small portion of the sites to develop (e.g., 30021 Tomas, 22205 El Paseo). The element should detail how the workforce overlay would work on these sites to support new by-right residential development, and whether the need for parking for the existing retail on these sites would impede the development of new residential development. For example, will the overlay allow for ministerial approval of lot splits to allow for the residential development. To support this analysis, the element could relate the conditions of the sites in the provided examples that supported redevelopment to those of the sites identified in the inventory.

As you are aware absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the regional housing need allocation (RHNA). HCD is not aware that the City has made the appropriate finding in the resolution adopting the element. If applicable, any future re-adoption of the housing element must include the appropriate finding as part of the adoption resolution.

Programs: As noted above, 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. In addition, the element must be revised, as follows:

Program 1 (RHNA/Shortfall Program): As stated in the prior review, the element must include a program to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. While the program commits to the Workforce Housing Overlay and Mixed-Use Housing land use/zoning designation, it must meet all requirements outlined in Government Code 65583.2 (h) and (i).

- 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).)*

*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).)*

Land-Use Controls: As stated in the prior review, the element must analyze the height requirement in the RM and RH zones of 35 feet and 2 stories for multifamily (Table H-45, page HEBR-69) and the CUP parking requirement for senior apartments (Table H-47, page HEBR-71) as potential constraints on housing supply, affordability, and ability to achieve maximum allowable densities. The element indicated that standards were analyzed and were not determined to be a constraint but provided no analysis to support this conclusion. Based on the results of the completed analysis, programs may need to be added, or revised, to address and remove or mitigate identified constraints on the development of housing.

Program 14 (Zoning Code and General Plan Amendment): The element indicates that the Housing Plan directs the City to update the zoning code to ensure the zoning code provides objective standards for review and approval of permits for group homes for seven or more persons (p 69). However, the Program 14 does not specifically commit to the amendment to the zoning code. The Program must be revised to provide specific commitments to address this constraint.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted to comply with the above requirements.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation, including for lower-income households, shall 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.

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](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).

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 Jamillah Williams, of our staff, at [Jamillah.Williams@hcd.ca.gov](mailto:Jamillah.Williams@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager