STATE OF CALIFORNIA -BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY EDMUND G. BROWN JR., Governor

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JUL - 6 2015
City of Encinitas

July 3, 2015

Mr. Jeff Murphy, Director
Planning and Building Department
City of Encinitas
505 South Vulcan Avenue
Encinitas, CA 92024

Dear Mr. Murphy:

RE: City of Encinitas' 5th Cycle (2013-2021) Draft Housing Element

Thank you for submitting the City of Encinitas' draft housing element received for review on May 5, 2015. Pursuant to Government Code (GC) Section 65585(b), the Department is reporting the results of its review. Our review was facilitated by a conversation on June 16, 2015 with you; Mr. Manjeet Ranu, Deputy Director; Mr. Michael Strong, Associate Planner; and the City's consultant, Ms. Veronica Tam.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (GC, Article 10.6). For example, the housing element must identify adequate sites to accommodate the City's regional housing needs allocation; analyze potential governmental constraints and include program actions to address and mitigate those constraints; and include programs that will provide a beneficial interest to the City within the planning period. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

As Encinitas has not yet adopted the housing element that was due April 30, 2013, the City is no longer on an eight-year housing element planning period. Pursuant to GC Section 65588(e)(4), the City must update its housing element every four years until adopting at least two consecutive revisions by applicable statutory due dates. For more information on housing element adoption requirements, see our website at: http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.pdf.

Please be aware, because the City of Encinitas intends to adopt its housing element after the general election in November 2016, it will be unable to meet the requirement to update its housing element by the April 30, 2017 due date for the first 4-year revision period. The timeframe between housing element adoption in 2016 and the first 4-year revision due date in April 2017 is insufficient to accommodate the requirements of GC Section 65588(e)(4) to review progress of the adopted housing element and make appropriate revisions to the updated housing element. Therefore, the City of Encinitas' first 4-year update will be due on the due date for the 6th cycle planning period. This date is based on the adoption date of San Diego's Regional Transportation Plan.

The Department commends the City for its public participation outreach, *At Home in Encinitas*. The City of Encinitas received awards from the California Association of Public Information Officials and the San Diego California Chapter of the American Planning Association for its outreach efforts. The Department also appreciates the hard work and dedication provided by you, Mr. Ranu, Mr. Strong and Ms. Tam during the course of our review. We are committed to assisting the City of Encinitas in addressing all statutory requirements of housing element law. If you have any questions or need technical assistance, please contact Robin Huntley, of our staff, at (916) 263-7422.

Sincerely,

Glen A. Campora

Glen A. Campora
Assistant Deputy Director

Enclosure

APPENDIX
CITY OF ENCINITAS

The following changes would bring Encinitas' 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 the Department's website at www.hcd.ca.gov/hpd. Among other resources, the Housing Element section contains the Department's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks),* available at www.hcd.ca.gov/hpd/housing_element2/index.php and includes the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

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).*

   Encinitas has a 5th cycle regional housing need allocation (RHNA) of 2,353 units, of which 1,033 are for lower-income households. The City also has a carryover of unaccommodated need from the 4th planning period cycle. To demonstrate the adequacy of sites and strategies to accommodate the City's total RHNA obligation the element must include complete analyses as follows:

   Previous 4th Planning Period Unmet Housing Need: The housing element acknowledges the statutory requirement that RHNA not accommodated by an adequate sites inventory and/or rezoning program is carried over to the next element update cycle. Total lower-income RHNA was 691. Table 3-60 on page 118 of Appendix B indicates site capacity available during the 4th cycle within the D-CM1 zone was sufficient to accommodate 359 units for lower-income households. However, the element fails to indicate the sites used to address 359 units. To determine the housing unit shortfall carryover, the housing element must be revised to identify the inventory of sufficient sites and how much of the total lower-income RHNA was addressed.

   Current 5th Planning Period Housing Need: The element indicates (page 115 of Appendix B) the City acquired four apartment units located at 726 and 732 Third Street. The units were acquired in partnership with the Encinitas Preservation Association. As you know, the City's RHNA may be reduced pursuant to Government Code (GC) Section 65583; however, the element must be revised to demonstrate compliance with statute. For example, the housing element could include the AB 428 Compliance Checklist. Additional information can be found on the Department's *Building Blocks'* website at: http://www.hcd.ca.gov/housing-policy-development/housing-element/sia_adeqsites.php

Zoning for Lower-Income Households: The housing element includes some information and concludes 25 units per acre as an appropriate density to accommodate the development of housing affordable to lower-income households. However, the analysis is inadequate to support the conclusion. Market rents are rarely affordable to low-income households and not affordable to very-low or extremely-low income households.

The housing element repeatedly refers to the City's parking standards as a barrier to affordability. The KMA referenced report admittedly applies more readily to inland areas with lower land costs. And while the Iris apartments are built at 18.5 units per acre, developer comments indicate it is an anomaly for the community. The element must provide analysis to support the use of 25 units per acre or utilize the default density of 30 units per acre.

Suitability of Non-Vacant Sites: Table A-1 "Sites Inventory in Preserved Communities" provides very general descriptions of existing uses on non-vacant and underutilized sites. The housing element must demonstrate the potential for redevelopment and evaluate the extent to which existing uses may impede additional residential development. For example, many sites include viable businesses with large parking lots and provide no additional information about the appropriateness of these sites or the potential for the uses to be discontinued. For non-residential sites, the inventory could generally describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. The inventory also includes large lots with single family uses. For sites with residential uses, the inventory could generally describe structural conditions, owner interest or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. The evaluation must consider development trends, market conditions, and regulatory and other incentives or standards to encourage additional residential development on these sites. Refer to our *Building Blocks'* website at:
http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#nonvancant

Second Units: The housing element " (page 112 Appendix B) indicates the City "reasonably expects a 40 percent increase in accessory unit production over the next 8-year period. The element describes developing informational packages, advertising second-unit opportunities on its website, and performing a comprehensive review of the City code to identify barriers. However, these actions appear unlikely to facilitate a 40 percent increase in production, particularly since the City has not yet adopted its housing element and more than 2 years of the 8-year timeframe have elapsed. The housing element needs revision to demonstrate the methodology supporting the estimate of 2nd unit production.

2. *Analyze 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 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) (Section 65583(a)(5)).*

   Land-Use Controls: Voters in Encinitas passed Proposition A in 2013. Proposition A requires voter approval for land use changes to increase allowed intensity or density of a development (page 58 Appendix B). While the housing element describes some consequences of the Proposition, it should be revised to analyze impacts on the cost, supply and certainty of higher density development and specifically describe how the proposition interacts with State density bonus law. For example, if a project qualifies for the State density bonus, could development standards be modified without voter approval? The housing element should also analyze the overall impact of constraining multifamily capacity which is particularly exacerbated by the proposed 25 unit per acre rezoning instead of a higher density.

B. 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 (Section 65583(c)).*

   To address the program requirements of GC Section 65583)(c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

Program 1C Promote the Development of Accessory Housing Units: The program must be revised to include specificity in program actions in support of the anticipated increase in unit production. Actions should be sufficiently aggressive to support the increase in production due to the delayed timeframes provided for implementation. Depending upon the results of analysis requested (Finding A-1), the City may consider reducing its production estimates.

Program 1E Promote and Streamline Lot Consolidation: The program should be revised to include timeframes for revision of development standards and incentives and frequency of meeting with developers. The program should also quantify the number of lot consolidations anticipated from program actions.

Program 2B Facilitate Affordable Housing: The program should be revised to quantify the number of affordable housing units or projects anticipated to be developed within the planning period as a result of program actions.

Program 2E Establish Infrastructure and Public Amenities Financing Tools: The program should be revised to provide an earlier timeframe for implementation or describe why the feasibility study won't be implemented until 2018.

Program 4A Pursue Opportunities to Create Safe and Healthy Housing: The program should be revised to quantify the number of amnesty units anticipated as a result of program actions.

Program 6A Monitor Publicly Assisted Housing Projects: As the program identifies the Regal Road Apartment (10 units) as converting in 2024, the element should be revised to provide timeframes for the specific actions identified. On-going timeframes are not appropriate.

Program 6B Extend Term of Affordability with In-Lieu Programs: The program should be revised to quantify the number of housing units anticipated to be converted from market rate to affordable and the number of housing units to have affordability covenants extended as a result of program actions.

2. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards to accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A-1, the element does not include a complete site analysis and 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 an unaccommodated need, a shortfall of sites or zoning available to encourage a variety of housing types.

Program 1A Accommodate the City's Regional Housing Needs Assessment Allocation: This program describes the City's actions to rezone sites to accommodate the shortfall of adequately zoned sites for the 5th planning cycle as well as the shortfall of adequately zoned sites from the 4th planning cycle. The program must be revised to address all of the statutory requirements pursuant to GC 65583.2 (h) and (i). The program must also be revised to indicate the amount of acreage and units to be accommodated. The total capacity needed is dependent upon the results of the analysis requested in section A1 of this letter. In addition, due to the constraints of Proposition A and development standards, the Department strongly recommends the City consider (1) allowing a range of density up to 30 units per acre in order to provide more flexibility in development; and (2) rezoning sites in excess of the minimum statutory requirement.

Please note, GC Sections 65584.09 and 65583(c)(1) (AB 1233) requires the City to zone sufficient sites to accommodate the unmet need from the previous planning period within the first year of the 2013-2021 planning period. As this timeframe has elapsed, the Department cannot find the element in compliance until the required rezoning is complete and it is amended to reflect that rezoning.

Program 3D Accommodate Specialized Housing Types: Pursuant to the requirements of SB 2, the City must amend its zoning code to allow emergency shelters without discretionary action within one year of adoption of the housing element. The program must be revised to reflect the statutorily required timeframe. Additional information can be found in the Department's technical assistance memo at: http://www.hcd.ca.gov/housing-policy-development/sb2_memo050708.pdf

Program 5A Provide Flexibility in Reasonably Accommodating Housing for the Disabled: Pursuant to SB 812, the program should be revised to include the newly-identified special needs group, persons with developmental disabilities. Additional information can be found in the Department's technical assistance memo at: http://www.hcd.ca.gov/housing-policy-development/noticecoverlttrsb812.pdf

3. *The housing element shall contain programs which address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing (Section 65583(c)(3)).*

   As noted in Finding A-2, the element requires a complete analysis of potential governmental 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.

   Program 1B Create New Design Standards and Guidelines as Part of Adoption of New Zoning Districts: The program describes the creation of new development standards that will apply to the sites rezoned to accommodate the City's RHNA for lower-income households. The program addresses height as a constraint in the new zone. The program should be revised to include parking as an identified constraint and ensure the new standards will accommodate the minimum density required in the zone.

   Proposition A: The element analyzes Proposition A and concludes it is not a constraint to development as long as voters approve the housing element in the November 2016 election. However, Proposition A, as approved by the voters in 2013 is a constraint to development in the City. The housing element must include a program to monitor the effects of Proposition A and address and remove or mitigate constraints to development. For example, a program could propose higher density than 25 units per acre to increase multifamily capacity well in excess of the RHNA and modify development standards without voter approval pursuant to State Density Bonus Law.

   Local Processing and Permit Procedures: The element describes the City having a Growth Management Plan and concludes the plan has not been a constraint on development in Encinitas. Furthermore, the City has discontinued calculation of the permit cap due to the allowed carryover of unallocated permits. As the Growth Management Plan is no longer enforced, the City should consider including a program in the housing element to eliminate the requirement.

C. Quantified Objectives

Establish the number of housing units, by income level that can be constructed, rehabilitated, and conserved and preserved over a five-year time frame (Section 65583(b)(1 & 2)).

The City's quantified objectives for the Conservation category are currently zero as the soonest affordable housing project at-risk of converting to market rate occurs in 2024. For this category, the City could consider quantifying units conserved/preserved due to energy efficiency improvements or rehabilitation.

D. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).

The housing element affects a locality's policies for growth and residential land uses. The goals, policies and objectives of an updated housing element may conflict with those of the land-use, circulation, and open space elements as well as zoning and redevelopment plans. The general plan is required to be "internally consistent." As part of the housing element update, Encinitas should review the general plan to ensure internal consistency is maintained. In addition, the City should consider an internal consistency review as part of its annual general plan implementation report required under GC Section 65400. The housing element should be revised to describe actions taken to ensure internal consistency of the City's general plan.