

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

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February 12, 2024

John Guertin, City Manager
City of Del Rey Oaks
650 Canyon Del Rey Blvd.
Del Rey Oaks, CA 93940

Dear John Guertin:

RE: City of Del Rey Oaks' 6th Cycle (2023-2031) Adopted Housing Element

Thank you for submitting the City of Del Rey Oaks' (City) housing element adopted December 13, 2023 and received for review on December 14, 2023. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from the California Native Plant Society pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses some statutory requirements described in HCD's October 18, 2023 review; however, additional revisions are necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government does not adopt a compliant housing element within 120 days of the statutory deadline (December 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). 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). Please be aware, if the City does not adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly

available while 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 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 will meet housing element requirements for these and other funding sources.

We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Clare Blackwell, of our staff, at Clare.Blackwell@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF DEL REY OAKS

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. 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).)*

Local Data and Knowledge, and Other Relevant Factors: HCD's prior review found that the element should include local data, knowledge, and other relevant factors to better describe and analyze fair housing conditions throughout the City. The element was revised to state that there is no concentration of income types, race and ethnicity, or poverty within the jurisdiction, and there is no disparity in access to education, employment, transportation, or healthy environments (p. A-45). However, the element must also utilize local data and knowledge to better describe and analyze any concentrations of disability, familial status, and disproportionate housing needs, such as cost burden and overcrowding. Please refer to HCD's October 18, 2023 review for additional information.

2. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Special Need Households: HCD's prior review found that the element must be revised to include an analysis of the existing needs and resources for each special need group. While the element was revised to include analysis for some special need groups, the element must still include an analysis of resources and proposed programs to address the magnitude of need for persons with disabilities, large households, extremely low-income (ELI) households, and farmworkers.

3. *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).)

Parcel Listing: HCD's prior review found that the element must identify the anticipated affordability level of the units for each site identified in the sites inventory. While the element was revised to include Table A-24, it must resolve discrepancies between anticipated affordability levels and total anticipated capacity for each site. In addition, the element should reconcile information relating to realistic site capacity and anticipated affordability throughout the element, including but not limited to Tables 3-4 (Site Inventory), 3-6 (Quantified Objectives), A-24 (Affirmatively Furthering Fair Housing (AFFH) Sites Inventory), and the electronic sites inventory.

Shortfall of Sites: The element inconsistently discusses whether the City has a shortfall of sites. For example, the element occasionally notes that the City addressed its unaccommodated need from the last planning period and therefore does not have a shortfall. However, the element still includes Program A-1 (Accommodate the City's regional housing need allocation (RHNA)) committing to rezoning sites pursuant to required shortfall requirements under Government Code section 65583.2, subdivisions (h) and (i). The element must reconcile this information and clearly discuss whether the City has addressed its unaccommodated need from the prior planning period and has sites with adequate zoning to address the 6th cycle RHNA. Based on a complete analysis, the element may need to include or modify programs as necessary.

Availability of Infrastructure:

- *Water Capacity* – HCD's prior review found that the element should clarify total water and sewer capacity for sites to accommodate the RHNA, including any potential limitations. While the element stated that the City reasonably assumes that it can accommodate residential units to meet RHNA from the Marina Coast Water District (MCWD) groundwater sources within the 6,160 residential unit limit, this statement seems to be largely based on a calculation of remaining capacity as of May 2019. The element should include an updated calculation of remaining capacity as of the start of the planning period. The element must also clarify whether there is sufficient water set-aside to accommodate the projected number of Accessory Dwelling Units (ADU).

In addition, while Program C.4 was revised committing to secure water entitlements for development on Former Fort Ord sites, the program should commit to additional actions to support water augmentation efforts with discrete timelines for implementation throughout the planning period. The program should also commit the City to annually monitor the availability and supply of water within the MCWD service district and commit to identifying alternative sites and rezoning within six months if the City is not on track to provide adequate water supply for the identified sites.

Water and Sewer Access – The element clearly states that the water and sewer utility lines will need to be extended to provide access to the RHNA sites. However, the element inconsistently discusses the timing of these infrastructure improvements. The element must demonstrate available or planned capacity and

access for water and sewer during the planning period. The element should be revised to discuss the timing and any potential constraints with the implementation of infrastructure extensions. Additionally, the element must include or modify programs with firm commitments, timelines, and milestones to completing these infrastructure improvements.

Environmental Constraints: The element was revised to clarify that there is adequate land without residential restrictions on Site 1 to accommodate the RHNA. However, the element should discuss any additional steps needed to initiate development in these areas including whether Department of Toxic Substances Control (DTSC) approval and other mitigation efforts are needed. Based on a complete analysis, the element may need to include or modify programs to facilitating development on these sites such as assisting developers and applicants in obtaining the appropriate approvals. Additionally, the element was revised to include the Environmental Impact Report (EIR), which identified various mitigation actions to address biological constraints and hazards on former Fort Ord sites. However, the element should include programs and commitments to supporting and implementing the mitigation measures as identified in the EIR.

Accessory Dwelling Units:

- *Incentives* – HCD’s prior review found that given the City’s reliance on ADUs to address the RHNA, the element must include strong policies that commit to facilitating and incentivizing ADUs including affordability. While the element included Program C.2 (Encourage the Construction of ADUs), which commits the city to waive or reduce development fees and expedite permit processing, the element generally does not address this requirement. For example, the program commits to “explore” the availability of standardized plans for ADUs; however, it should commit to more specific and measurable actions to provide pre-approved plans. Other strategies could include providing additional homeowner/applicant assistance tools, developing information packets to market ADU construction, pursuing funding opportunities, and targeted advertising of ADU development opportunities. In addition, programs for ADUs should be revised with quantified metrics that also target affordability.
- *Monitoring* – Lastly, as found in HCD’s prior review, the element must commit to monitoring ADU production and affordability throughout the course of the planning period and implement additional actions if the City is not meeting target numbers anticipated in the housing element. If necessary, additional actions, should be taken in a timely manner (e.g., within six months). The degree of additional actions should be in stride with the degree of the gap in production and affordability. While the element included Program C.2 (Encourage the Construction of ADUs) to monitor the production and affordability of ADUs, this program should specifically commit to identifying alternative sites and rezoning within six months if the City is not meeting the anticipated target numbers for their RHNA.
- *ADU Ordinance* – While the element included a program committing to updating the City’s ADU ordinance to be compliant with state law, the program must be

revised with a timeline for implementation. Additionally, as found in HCD's prior review, the element must commit to revising the ordinance to allow ADUs in all zones that allow residential including nonresidential zones e.g., mixed-uses and commercial.

Zoning for a Variety of Housing Types (Emergency Shelters): HCD's prior review found that the element must address all requirements under AB 2339 (2022). The element was revised to include a program committing to addressing all the requirements. However, the element must still provide an analysis of how the City addresses these requirements. This includes demonstrating the appropriateness of sites, zoning, and capacity to accommodate emergency shelters, as follows:

- *Zoning* – The element states that emergency shelters are permitted with in the C-1 zone but must still indicate whether the City permits emergency shelters without discretionary action and whether the C-1 zone allows for residential uses.
- *Capacity* – The element must analyze the available capacity in the C-1 zone to adequately accommodate the city's most recent point-in-time count. For example, the element should discuss available acreage in the C-1 zone, including typical parcel sizes and the presence of reuse opportunities.
- *Suitability* – The element must demonstrate the suitability of sites and the identified zone. For example, to demonstrate the suitability of sites, the element should address whether sites are vacant or nonvacant. If sites are generally nonvacant, the analysis must address the extent existing uses impede additional development. For example, to demonstrate the potential for redevelopment, the analysis could evaluate a sample of representative sites, the existing uses and reuse opportunities. To demonstrate the suitability of the zone, the element should discuss the type of services and transit available, general uses in this zone and any conditions inappropriate for human habitability.
- *Definition of Emergency Shelters* – For your information, AB 2339 (2022) expanded the definition of "emergency shelters" to include other interim interventions, including but not limited to, navigation centers, bridge housing, and respite or recuperative care.

Based on a complete analysis, the element must add or modify programs to demonstrate compliance with these requirements.

4. *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).)*

Land Use Controls (Parking): The element indicates the City requires smaller bedroom units including studios and one-bedrooms to provide 1.75 spaces per unit and are required to have one garage space. HCD's prior review found that the element must reduce parking requirements and analyze the garage requirement. Additionally, based on a complete analysis, the element may need to include additional parking modifications. The element was revised to reduce the parking requirements for smaller bedroom units. Additionally, the element included an analysis of the garage requirements indicating that it can be a constraint on the development of multifamily housing. HCD generally finds garage requirements as a constraint to development. As such, the element should include or modify programs specifically committing to removing the garage requirements for multifamily development.

Local Processing and Permit Procedures: HCD's prior review found that the element must analyze the conditional use permit (CUP) requirement for multifamily housing in zones intended to permit multifamily housing. The element was revised to indicate that the City will include a program committing to updating the zoning code to remove the use permit requirements for uses that are already principally permitted (p. 4-9). While the element included Program C-3 (Mitigating Constraints) committing to a zoning code update, it must specifically commit to remove or replace the CUP requirement with a procedure that does not act as a constraint on housing.

B. 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 A3, 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 should be revised as follows:

Publicly Identified Sites: HCD's prior review found that the element must include significant actions to facilitate and encourage development on City-Owned sites, including former Fort Ord Site. The element included a revised analysis indicating that the City released an request for proposal (RFP) and is still working to identify a developer. The element must include a schedule of actions to continue facilitating and incentivizing development on these sites. This includes a program with numerical

objectives including affordability that ensures compliance with the Surplus Land Act if applicable, provides incentives and actions along with a schedule to facilitate development of this site. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element was revised to include some general commitments to address housing for persons with special needs including assisting and support developers with funding applications and conducting broader outreach efforts. However, given the importance of farmworkers and the regional needs, the element must include significant actions to specifically address the needs of farmworkers that are responsive to the analysis. For example, the element could commit to proactive actions to coordinate with non-profit developers, employers, and other related organizations, to explore funding and incentives and to identify specific development opportunities. Other strategies could include developing informational materials on farmworker housing, pursuing funding, and providing technical assistance on funding applications.

3. *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 Finding A4, 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.

4. *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... (Gov. Code, § 65583, subd. (c)(5).)*

The element was revised with some additional actions to address AFFH. However, this generally does not address HCD's prior review. First, as noted in Finding A1, the element requires a complete AFFH analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues. Second, actions must be significant and meaningful enough to overcome identified patterns and trends. Third, actions must have specific commitment, metrics and milestones as appropriate. Given that most of the City is considered majority high resourced community, the element should focus on programs that promote housing mobility and encourage development of more housing choices and affordable housing throughout the community. Examples include promoting more housing choices

and affordability in lower-density areas (e.g., missing middle housing types), identifying additional multifamily areas, additional religious institutional sites, enhancing ADUs, junior accessory dwelling units (JADU) or additional conversion of existing space, home sharing strategies and city-wide affordable rental registry. Furthermore, all programs must include geographic targeting and metrics to target significant and meaningful outcomes in the planning period.

C. Quantified Objectives

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

As noted in HCD's prior review, the element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element was revised to include Table 3-6, the table must still include objectives for ELI households. Additionally, HCD's prior review found that the element should include quantified objectives for rehabilitation and conservation across income categories. The element included rehabilitation objectives limited to ADUs. However, the element should increase objectives for rehabilitation and conservation beyond ADUs. For example, objectives could be increased by incorporating anticipated outcomes from the following programs: Program E.1 (Assist in Rehabilitating Housing) and Program E.2 (Continue Code Enforcement).