

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

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September 17, 2021

Lucas Seibert, Community Development Director
Community Development Department
City of Ojai
401 S. Ventura Street
Ojai, CA 93023

Dear Lucas Seibert:

RE: Review of the City of Ojai's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Ojai's (City) draft housing element received for review on July 20, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on September 14, 2021 with you, James Vega, and consultants Jamie Power and Veronica Tam.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes revisions needed to comply with State Housing Element Law.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

Pursuant to Government Code section 65583.3, the City must submit an electronic, true-and-correct copy of the housing element site inventory when it submits its adopted housing element to HCD for review. The City must utilize standards, forms, and definitions adopted by HCD. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

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 and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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.

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 Molivann Phlong, of our staff, at (916) 776-7569 or molivann.phlong@hcd.ca.gov.

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 Unit Chief

Enclosure

APPENDIX CITY OF OJAI

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 <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of this analysis, the element should describe the actual results of the prior element's programs, compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation. This information and analysis provide the basis for developing a more effective housing program. This should include a description of how the goals, policies, and programs of the updated element incorporated what has been learned from the results of the previous element.

As part of the evaluation of programs in the past cycle, the element must provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing (AFFH) 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))*

Access to Opportunity: The element provides information (p. D-1) on the access to opportunity but must include an analysis on persons with disabilities. An analysis of disparities in access to opportunities must specifically address the housing and community development needs of persons with disabilities. A complete analysis should include the locally and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. Please refer to page

36 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as they pertain to persons with disabilities, and any factors that are unique to Ojai.

Sites Inventory AFFH Analysis: The element includes maps with the sites inventory and states that the proposed sites meet lower-income regional housing needs allocation (RHNA) (Appendix D). However, the accompanying analysis shall also be reflective of housing development at all income-levels and evaluate the sites relative to socio-economic patterns. The sites inventory analysis should address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group and should be supported by local data and knowledge.

To AFFH, sites must be identified and evaluated relative to the full scope of the assessment of fair housing (e.g., segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, etc.), include specific actions to address upgrades to the aging housing stock/substandard rental housing conditions in the City, and address displacement risk of low-income residents. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidanceev>.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

The element includes a table with the household income distribution (p. 9). However, the element must quantify existing extremely low-income (ELI) households for renters and homeowners and analyze their housing needs. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

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).)*

Sites Inventory: The element contains a sites inventory (p. B-3) listed with existing uses, assessor parcel numbers, parcel size, zoning. However, the list of sites must also include each property's general plan designation and sites broken down into income categories. For additional information and sample sites inventory, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

Please note, in the review of the Table B2: SPL Overlay Sites, HCD did not consider Sites 1-5 which are not currently zoned with the Special Housing Overlay

(SPL) when evaluating the inventory and analysis for compliance with housing element requirements. If revisions to the housing element require reliance on these sites to accommodate the RHNA, further analysis may be needed to determine the suitability of these sites to accommodate residential development.

Realistic Capacity: While the element provides assumptions of units for sites included in the inventory (p. B-3), it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land-use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#zoning>.

Site 6 Ojai Unified School District (OUSD) School and Skate Park Site: The element states that the site owned by the OUSD has a concept review that was submitted to the City. To demonstrate the feasibility of this site, the element should detail the proposed development of the site including who submitted the concept design, proposals for affordable housing on the site, and any other details that demonstrate the feasibility of development within the planning period. In addition, the element should indicate whether the site has been identified by the school district as “surplus” and assess any impediments to the development within the planning period.

Suitability and Availability of Infrastructure: While the element identifies water, wastewater, and transportation infrastructure (p. 41) capacity to accommodate the City’s regional housing need, it must also demonstrate sufficient existing or planned dry utilities supply capacity (Gov. Code, § 65583.2, subd. (b).) For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

Small Sites: The element identifies one site at less than a half-acre. However, it is unclear whether the City is relying on this site to accommodate a portion of its lower-income housing need. Sites less than a half-acre are not eligible absent a demonstration that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless other evidence is provided.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element notes that the Business Professional Commercial (BP) zone allows emergency shelters (p. 26), the element must demonstrate the City still has sufficient capacity to accommodate the identified housing need for emergency shelters and evaluate the available acreage for characteristics like parcel size or potential redevelopment or reuse opportunities, proximity to services and describe development standards. In addition, the element identifies that a conditional use permit is required when accommodating more than 27 beds on site. While housing element law does allow a jurisdiction to limit the number of beds or persons permitted to be served nightly by a facility, standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. The element should analyze the 27-bed limit and conditional approval to ensure that the standard does not unduly constrain the development of emergency shelters.
 - *Single-Room Occupancy (SRO) Units:* The element generally describes how housing types are permitted by zone, but must address all housing types, such as SRO units. Specifically, the analysis must address the location of where SRO units are allowed.
 - *Accessory Dwelling Units (ADUs):* The element indicates (p. 52) that ADUs created on the second floor of a residential dwelling requires a Design Review Permit. Under Government Code section 65852.2, subdivision (a)(4), a permit application for an ADU or junior accessory dwelling unit (JADU) shall be considered and approved ministerially without discretionary review or a hearing. In addition, the City's adopted ADU ordinance limits the square footage for conversions of existing space into ADUs. State ADU Law does not allow for the limitation of square footage of ADUs that are converted. (Gov. Code, § 65852.2 subd. (e)(1)(A)(i).).
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. 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 Government Code 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). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: The analysis must evaluate the cumulative impacts of land-use controls on the cost and supply of housing, including the ability to achieve maximum densities and the capacity assumed in the housing element sites inventory. In particular, the element should analyze the two-story limitation on height and parking standards for their impact as a potential constraint on housing.

The element includes a description of the City's Growth Management Ordinance (GMO) (p. 36) and recognizes the GMO has been suspended until 2025 pursuant to SB 330 (Chapter 654, Statutes of 2019). As the City may be aware, SB 8 (Statutes of 2021) was passed by the legislature and signed into law by the Governor on September 16, 2021. SB 8 extends these provisions of SB 330 until 2030. The element should be updated to reflect this extension of the suspension through the planning period.

Fees and Exaction: The element generally explains the cost of construction for a single-family and multifamily residence (p. 40). However, the element should also further analyze the cumulative impact or total fees on the development costs of a typical single-family and multifamily development within the jurisdiction, with local and regional data. Additionally, the element must clarify its compliance with new transparency requirements for posting fees and inclusionary requirements on the jurisdiction's website.

Local Processing and Permit Procedures: The element provides a general overview of the City's processing and permit procedures for residential developments (p. 38). However, the element should provide the average processing times for single-family and multifamily developments, and analyze the level of governmental review, processing projects under the SPL, typical processing timeframes, typical findings for approval, review criteria, and the applicable design review criteria, for potential impact on development approval certainty, timing, and cost of development.. Additionally, the element must clarify compliance and include further analysis with a streamlined ministerial approval process pursuant to Government Code section 65913.4 (Senate Bill 35; Chapter 366, Statutes of 2017).

Constraints on Housing for Persons with Disabilities: While the element makes reference to reasonable accommodation for persons with disabilities, it does not provide any information on the City's reasonable accommodation procedure. The element should describe the City's reasonable accommodation procedure, including how requests are made and processed, and any approval findings. In addition, the element details that residential care facilities serving six or fewer persons are permitted in all residential zones. However, residential care facilities serving seven or more persons require a Conditional Use Permit (CUP). The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the*

requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)

The element must include analysis regarding local efforts to address nongovernmental constraints that create a gap in the jurisdiction's ability to meet RHNA by income category and an identification and analysis of requests to develop at densities below the density identified in the site inventory, and a description of the length of time between project approval and request for building permit that hinders the jurisdiction's ability to accommodate RHNA by income category. For example, the City can look at recent developments in the jurisdiction and identify any nongovernmental constraints.

6. *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).)*

While the element quantifies the City's special needs populations, it must also analyze their special housing needs. The element does not include analysis of available resources nor draw any conclusions on housing need that would lead towards programs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (e.g., availability senior housing units, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

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

To address the program requirements of Government Code section 65583, subdivision (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 1 (Adequate Sites for RHNA and Monitoring of No Net Loss): Provide a definitive implementation timeline.
 - Program 13 (Resource Constraints): Provide objectives and a definitive implementation timeline.
 - Program 18 (Fair Housing): Provide a definitive implementation timeline.
2. *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, SRO units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B1, the element does not include a complete site analysis. 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.

Program 4 (Increase the Supply of ADUs): The monitoring program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). If necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or similar actions would be an appropriate action. If the actual production and affordability is near the anticipated trends, then it would be appropriate to include measures like outreach and marketing.

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 Findings B4 and B5, the element requires a complete analysis of potential governmental and nongovernmental 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 12 (Ojai Municipal Code Growth Management Ordinance): The program should be updated to reflect the new sunset provision for SB 330 that extends to 2030.

4. *Promote AFFH 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).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs. For example, given that most of the City is considered a high and highest resource community, the element could focus on programs that enhance housing mobility, encourage development of more housing choices and affordable housing and provide displacement protections for low-income residents. Programs also need to be based on identified contributing factors, be significant and meaningful. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidancev>.

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

While the element includes a general summary of the public participation process, the element should include additional efforts to include a broad spectrum of individuals and representative organizations and consider language access barriers. The element should describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element must summarize the public comments and describe how they were considered and incorporated into the element.