

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

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October 9, 2007

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

Dear Mr. Murphy:

RE: Review of Encinitas' Revised Draft Housing Element

Thank you for submitting Encinitas's revised draft housing element, received for review on August 10, 2007. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b).

The revised draft element represents significant progress to address the statutory requirements described in the Department's February 24, 2006 review. However, further revision is necessary to address the statutory requirements of State housing element law (Article 10.6 of the Government Code). The following describes the changes needed to comply.

1. *An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)).*

The element notes a regional housing need of 1,712 housing units for the 2005 to 2010 planning period. Of which, 875 units are for lower-income households. Between January 2003 and June 2005, the City has permitted 769 units, of which, 84 units are affordable to lower-income households. The element rests on a mixed-use and redevelopment strategy to address this remaining housing needs, however the element must include more detailed information and analyses to demonstrate the suitability of identified sites.

Nonvacant Suitability

The element discusses recent mixed-use development on nonvacant and smaller sites and mentions characteristics of some recently redeveloped sites, are generally applicable to other nonvacant sites identified in the inventory. However, the extent to which recent development and site characteristics are similar to identified sites is not apparent or demonstrated. For example, the element notes several recently developed or approved projects on Second Street (page H-95) and these sites have

characteristics similar to some of those identified in the Downtown. But, the inventory identifies well over 100 sites in the Downtown and how many of those identified sites are similar to the recent development? As a result, the element should include more detailed analysis to demonstrate the suitability and availability of identified sites. Specifically, the discussion of nonvacant sites should include more information on the extent recent redevelopment is similar to identified sites. The analysis should detail typical sites in the inventory by area and should also better detail existing uses on identified sites and analyze structural conditions or other market and site circumstances that lead to redevelopment in the planning period. For example, the element identifies an approximately 28,000 square foot site zoned N-CRM-2 with an existing operating use of store-front commercial. The element should also detail conditions and circumstances such as deteriorating, expiring leases or property owner interest to better demonstrate redevelopment potential in the planning period.

- 2. Identify actions that will be taken to make sites available with appropriate zoning and development standards and with services and facilities. 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 (Section 65583(c)(1)).*

Housing Programs: Adequate Sites

A significant portion of available sites are nonvacant and smaller (less than two acres). These conditions pose challenges to encourage housing affordable to lower-income households. For example, the element notes affordable housing developers have reported difficulty in finding suitable sites for multifamily rental development. To offset these challenges, the element's strategy rests on Program 2A to establish an Affordable Housing Overlay Zone (AHOZ) and apply to sites within two years. However, the element includes little information on the contents of the AHOZ. For example, the program only generally lists some potential areas to apply the overlay and does not describe how much capacity will be available or indicate how the zoning will provide sufficient incentives to encourage adequate sites to accommodate the City's regional housing needs. The element must either add other programs such as rezoning higher density vacant sites for residential only or strengthen Program 2A. To strengthen Program 2A, the element must ensure the overlay zone proactively encourages development to accommodate the City's regional housing need in the planning period and should:

- indicate what densities will be allowed,
- identify how much acreage and capacity will be zoned by a specific date,
- describe how much capacity will be residential only,
- ensure a minimum number of residential capacity per site and appropriate development standards to achieve the increased density,

- clarify the AHOZ's relationship to State density bonus law,
- list incentives to be included,
- make certain permit and processing procedures will promote approval certainty and,
- contain a component to reach out and establish the AHOZ in partnership with the development community, including annually evaluating the effectiveness of the AHOZ with subsequent measures to appropriately revise the zone and ensure adequate sites.

The element should also strengthen:

Program 2B (Mixed Use Zoning) – Revise to describe the amount of land to be zoned with residential capacity by a specific date.

Program 5C (Transitional Housing) – Revise zoning to permit transitional housing without a major use permit and according to the proposed housing type and zone (i.e., multifamily use in a multifamily zone).

3. *Address and, where appropriate and legally possible, remove governmental 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, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities (Section 65583(c)(3)).*

The element describes a required finding that a project may exceed mid-point densities if it excels in design or provides extraordinary community benefit. While the element analyzes the City's mid-point density policy only marginally impacts the supply of housing, the above required finding clearly limits higher density residential development, impacts affordability and affects approval certainty. For these reasons, the element should include a program to address and remove or mitigate the mid-point regulation.

Once the element has been revised to adequately address these requirements, the element will be in compliance with State housing element law. If you have questions or would like further assistance, please contact Paul McDougall, of our staff, at (916) 322-7995.

Sincerely,



Cathy E. Creswell
Deputy Director