

Reducing the Barriers to the Creation of Housing

Background

The State of California has declared that the lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California. The consequences of the housing crisis include the lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commutes, and air quality deterioration. While the causes of this crisis are multiple and complex, the State attributes the underlying cause to insufficient housing supply.

On October 15, 2019, the California Department of Housing and Community Development (HCD) issued a Regional Housing Needs Assessment (RHNA) for the Southern California Association of Governments (SCAG) region of 1,341,827 units that each jurisdiction within the region must plan for in the 2021-2029 Planning Permit (Sixth Cycle). As required under State law, SCAG developed a RHNA Allocation Methodology to reallocate the regional determination to each of the 197 jurisdictions in the region, including Newport Beach.

The City of Newport Beach worked diligently for many months in partnership with other member jurisdictions and stakeholders throughout the RHNA Allocation Methodology development process to provide comments and recommendations to achieve a RHNA allocation that is fair, equitable and in consideration of the unique circumstances and local planning factors inherent in our community. Despite this process and a City-initiated RHNA appeal, the final adopted RHNA methodology resulted in an allocation of 4,845 units for the City.

The City has successfully obtained and maintained HCD certification of its Housing Element for both the Fourth Cycle (2008-2014) Planning Period with a RHNA Allocation of 1,769 units and the Fifth Cycle (2014-2021) Planning Period with a RHNA Allocation of 5 units. Despite a low Fifth Cycle RHNA Allocation, the City maintained its commitment to housing programs intended to reduce the barriers to the development of affordable housing, including preserving the Residential Overlay within the Newport Place Planned Community. During the first six years of the Fifth Cycle Planning Period, the City has permitted over 1,768 new units, including 95 lower income units. In addition, the City has approved entitlements for housing development projects totaling another 662 multi-unit residential units in the Airport Area, including 13 very low- and 78 low-income units. The Newport Airport Village Planned Community was also adopted creating the opportunity for another 444 residential units that would include a minimum affordable housing component consisting of at least 5 percent very low-income units or 10 percent low income units. Lastly, the City has committed approximately \$2 million to fund the

acquisition and rehabilitation of the Cove permanent supportive housing project a 12-unit apartment complex for homeless veterans and low-income seniors that opened in 2018.

Despite an immensely difficult-to-attain Sixth Cycle RHNA Allocation, the City remains committed to addressing the housing crisis by developing a timely and compliant Housing Element and continuing to support the production of housing for all income levels.

Policy

Recognizing that the City has several major constraints on existing lands that severely limit or totally restrict the City's ability to accommodate growth to the extent identified in the Sixth Cycle RHNA Allocation, it shall be the policy of the City Council to consider new and flexible land use and zoning regulations and strategies in order to reasonably and practically accommodate this ambitious State housing mandate while protecting the character and maintaining a quality of life that makes Newport Beach a special place to live, work, and visit.

The City Council therefore directs City staff and the Newport Beach Planning Commission to develop, modify as necessary, and aggressively implement strategies and action plans that are designed to accelerate housing production consistent with this policy as described in the following sections:

Production of Accessory Dwelling Units

The Legislature approved, and the Governor signed SB 13 (Chapter 653, Statutes of 2019), AB 68 (Chapter 655, Statutes of 2019), and AB 881 (Chapter 659, Statutes of 2019) into law that, among other things, amended Government Code sections 65852.2 and 65852.22 to further impose new limits on the City's ability to regulate ADUs and Junior Accessory Dwelling Units (JADUs). The Legislature's intent was to reduce regulatory barriers and costs, streamline the approval process, and expand the potential capacity for ADUs.

Although the City has revised its ADU regulations to comply with the minimum requirements of State law, further encouraging the development ADUs is an important strategy to accommodate future growth in combination with other strategies to meet the RHNA Allocation. HCD allows ADUs to meet a portion of the City's RHNA based on trends in past production and more aggressive production estimates based on the adoption of production programs. Encouraging ADUs allows for the dispersing of density throughout the City and avoids the need for excessive rezoning and high infrastructure costs associated with new high-density developments. Because ADUs tend to be relatively small with modest amenities, they provide more affordable housing options for select groups, such as students, seniors, caretakers, and people with disabilities.

Therefore, to further encourage and incentivize the development of ADUs, the City should pursue the following:

1. Interpret ambiguities in code provisions regulating ADUs in a manner that accommodates and maximizes production.
2. Direct staff and the Planning Commission to review and recommend code changes that reduce regulatory barriers, streamline the approval process, and expand potential capacity of ADUs beyond minimum State law requirements.
3. Publicize incentives for construction of ADUs with a systematic approach utilizing all forms of media and outreach.
4. Prepare and maintain a user-friendly website committed to information related to codes, processes, and incentives pertaining to the development of ADUs and JADUs in the City.
5. Develop and administer a program that includes waiving all permit and City fees for property owners of unpermitted units when they agree to bring units into compliance with current building and fire codes to ensure the safety of occupants and structures.
6. Develop permit-ready standard plans to permit new ADU construction to minimize design costs, expedite permit processing, and provide development certainty for property owners.

Planning Commission Review and Recommendations for Mixed-Use Designations

As part of the 2006 Comprehensive General Plan Update and 2010 Zoning Code Update, new mixed-use housing opportunity zones were created throughout the City as a strategy to enhance and revitalize underperforming and underutilized properties. These areas included the Airport Area, Dover/Westcliff, Newport Center, Mariners Mile, and portions of the Balboa Peninsula. The Airport Area and Newport Center have proven the most successful with several approved and constructed mixed-use developments, such as Uptown Newport and Villas Fashion Island. The Balboa Peninsula has had some limited success while Dover/Westcliff and Mariners' Mile have not proven successful to-date.

Despite the housing opportunity that has been created on several properties in these areas, a majority of these sites remain underutilized with a single, non-residential use, such as retail or office. It is evident the City's existing development standards (e.g., setbacks, height, density, parking, dedications, etc.) related to mixed-use development may create constraints to the redevelopment of these properties. Therefore, to ensure that mixed-use opportunities envisioned by the 2006 General Plan redevelop to their full potential, the City should pursue the following:

1. Direct staff and the Planning Commission to review annually the established mixed-use zones in the City and recommend code changes or policy ideas to the City Council that reduce regulatory barriers and incentivize mixed-use residential development.

Mixed-Use Resort Opportunities

Mixed-use resorts are an established trend in the hospitality industry that incorporate hotel-branded residential units as an accessory use located within a resort hotel complex where residents enjoy access to the full range of services, facilities, and amenities provided by the hotel operator or brand. The residential use cannot exist without the hotel's services, facilities, and amenities.

The hotel industry has been one of the hardest hit industries due to the COVID-19 pandemic and a full recovery of the industry is not anticipated for many years. Mixed-use resorts provide an opportunity to revitalize older or underperforming hotels and maintain their competitive standing by creating multiple revenue streams.

Economies of scale created by shared facilities, amenities, and services add additional benefit to mixed-use resort developments. This cross pollination of business benefits both the hotel and the resident. It may also increase occupancy rates at the resort by creating increased synergy between uses and social gathering opportunities, boosting transient occupancy taxes while providing in-fill housing opportunities to partially assist the City in meeting its RHNA obligation in highly desirable and built-out areas. Incorporating residences also helps to off-set cyclical variations in hotel occupancy rates that can, for instance, result in seasonal decreases in revenue for the hotel's food and beverage offerings.

Therefore, to further encourage and incentivize the development of mixed-use hotels, the City should pursue the following:

1. Issue interpretations that interpret ambiguities in General Plan, Zoning Code, and/or Local Coastal Plan Program provisions to allow hotels and motels, located outside of the Coastal Commission Appeal Areas, to convert up to thirty percent (30%) of their permitted hotel and motel rooms into residential units on a one-for-one basis. Such interpretation would allow for residential units to be deemed an accessory use to the principal use of a hotel and find that such residential uses are consistent with the hotel's and motel's underlying General Plan, Zoning Code, and Local Coastal Plan Program land use and zoning designations.
2. The residential units may be allowed in repurposed hotel and motel rooms and/or in new residential structures, subject to the City's project approval process (e.g., Site Development Review) and including, as appropriate, review under the California Environmental Quality Act.
3. Consider establishing parking programs (e.g., shared parking) and/or reduced residential parking requirements that mitigate the need for any additional parking due to the conversion to residential use.
4. Consider fiscal impact analysis to disclose and mitigate any reduction in transient occupancy tax due to the conversion.

5. Consider increasing the flexibility in use of transfer of development rights to allow for transfer of unbuilt residential units to hotel sites.
6. Require property owners converting permitted hotel and motel rooms into residential units to mitigate impacts as a result of the conversion including, but not limited to, creating affordable housing units either in the project itself or through a contribution of in-lieu fees.

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