

**CITY OF DANA POINT  
PLANNING COMMISSION  
AGENDA REPORT**

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**DATE:** DECEMBER 13, 2021

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT  
BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT  
BELINDA DEINES, PRINCIPAL PLANNER

**SUBJECT:** GENERAL PLAN AMENDMENT 20-0003 TO UPDATE THE 2021-2029  
HOUSING ELEMENT AND PUBLIC SAFETY ELEMENT

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**RECOMMENDATION:** That the Planning Commission approve the draft resolution recommending to the City Council approval of General Plan Amendment GPA 20-0003 to update the 2021-2029 Housing Element and Public Safety Element.

**APPLICANT:** City of Dana Point

**REQUEST:** That the Planning Commission review the draft 2021-2029 Housing Element and Public Safety Element, conduct the public hearing, and approve the attached resolution recommending to the City Council the approval and adoption of General Plan Amendment 20-0003 to update the 2021-2029 Housing Element and Public Safety Element.

**LOCATION:** Citywide

**ENVIRONMENTAL:** Pursuant to the California Environmental Quality Act (CEQA) Section 15061(b)(3), the project is covered under the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**DISCUSSION:**

In order to address the housing needs in California, State law requires that each jurisdiction adopt a Housing Element as a chapter of its General Plan. The Housing Element includes the City's housing strategy to plan for existing and project housing demand, identify adequate sites to accommodate the City's allocated share of regional housing needs, and analyze local policies, regulations, and requirements that have the potential to constrain development of housing for all income levels. State law requires

the City to update the Housing Element every eight-years.

Also as required by recent State law, the Public Safety Element must be evaluated and updated as part of the Housing Element Update. The Public Safety Element is a chapter of the General Plan and provides a comprehensive strategy to reduce both short-term and long-term potential harm from various threats to community health and safety.

On May 19, 2020, the City Council approved the agreement with PlaceWorks to assist the City in amending its Housing Element for the 2021-21 planning period and updating its Public Safety Element.

In January 2021, City staff and PlaceWorks initiated a public outreach program for the project and a timeline of these efforts are outlined below in Table 1:

**Table 1**  
**Public Outreach Program**

<b>Date</b>	<b>Task</b>
January-May 2021	Stakeholder Interviews
March-May 2021	Online Housing Priorities Survey
March 22, 2021	Planning Commission Study Session
April 1, 2021	Youth Board Workshop
April 20, 2021	City Council Scoping Session
May 20, 2021	Virtual Community Workshop
May 24, 2021	Planning Commission Update
June 5, 2021	Pop-Up Community Workshop
June 15, 2021	City Council Update
October 4, 2021-January 2, 2022	SB18 Tribal Consultation
November 2, 2021	CA Board of Forestry & Fire Protection Meeting

Updated drafts of the 2021-2029 Housing Element and Public Safety Element are available on the City's website:

<https://www.danapoint.org/residents/housing/housing-element>

The Planning Commission conducted a Study Session on March 22, 2021 and received a project update on May 24, 2021. At these meetings, the Planning Commission and the public were given presentations from City staff and PlaceWorks on the status of the Housing Element and Public Safety Element update process. Meeting minutes are attached as Supporting Document 6.

### **Housing Element**

The draft Housing Element update focuses on identifying housing sites to meet the Regional Housing Needs Assessment (RHNA) and updating the housing programs to meet current housing laws. Specifically, the amendment will update goals, policies, programs, and quantified objectives (pursuant to Government Code Sections 65583 et seq.) to address

identified housing needs and constraints based on the effectiveness and continued appropriateness of existing programs, information received through public outreach, the analysis of constraints, and findings from the needs assessment.

### RHNA

RHNA allocation is a “fair share” number of units in four income categories as determined by the Southern California Association of Governments (SCAG). The State assigns the total number of units for the region, and SCAG adopts a methodology to determine the number for each city. The existing 2013-2021 Housing Element addresses an allocation of 327 RHNA units for the 5<sup>th</sup> Cycle.

The 6<sup>th</sup> Cycle RHNA is the next Housing Element cycle from June 30, 2021 to October 15, 2029. HCD provided SCAG with the minimum regional housing need of 1,341,827 units for the 6<sup>th</sup> Cycle to distribute among local jurisdictions. The 6<sup>th</sup> Cycle RHNA planning period allocates 530 units to the City of Dana Point in the following income categories:

**Table 2**  
**Cycle 6 RHNA Allocation (2021-2029)**

<b>Income Category</b>	<b>Number of Units</b>
Very-Low Income Households (0-50% median)	147
Low Income Households (51-80% median)	84
Moderate income households (81-120% median)	101
Above moderate-income households (121%+ median)	198
<b>TOTAL</b>	<b>530</b>

### 2021-2029 Housing Element Update

The draft 2021-2029 Housing Element Update is provided as [Supporting Document 2](#). The 2014-2021 Housing Element served as the foundation for the update. The policy, programs, and strategies consist of revisions which are compatible with our community, while complying with State Law.

Introduction – The Introduction chapter discusses the purpose of the Housing Element and consistency with State Law. It also includes a summary of the citizen participation, stakeholder feedback and how that feedback affected the draft Housing Element.

Community Profile – Includes an evaluation of the City’s existing population and housing characteristics in order to inform the establishment of housing goals, programs, and quantified objectives. This section provides statistical analysis of demographic and housing factors that influence the demand for and availability of housing. The purpose of this section is to identify existing housing needs for the City’s population.

Evaluation of Previous Housing Strategies – This section is required to address statutory regulations to review the prior 2013-2021 Housing Element’s appropriateness toward

contributing to the state housing goal, effectiveness in attainment of community goals and objectives, and progress in implementation of the Housing Element. The evaluation matrix quantifies the level of achievement and evaluates the effectiveness for each program.

Housing Constraints – This section details the governmental and non-governmental constraints which may hinder the ability for the City to achieve its housing goals. Housing Element law requires an analysis of the following governmental factors: land use controls (land use element and zoning), building codes and enforcement, site improvements, local processing and permit procedures, and fees and other exactions. This section also analyzes potential and actual non-governmental constraints including: environmental, infrastructure, residential land resources, land prices, construction costs, and financing.

Residential Land Resources – This is also commonly referred as the site inventory and details the City's capacity to accommodate its RHNA allocation for the 6<sup>th</sup> Cycle. The inventory provides an analysis of planned/entitled housing projects, vacant land, and underutilized land that is designated for or may be approved for residential use.

As detailed in the draft Housing Element, the City's RHNA is attainable based on development potential in Town Center, as well as the adopted rezoning in Doheny Village, and construction of accessory dwelling units (ADUs).

Housing Strategy – The Housing Strategy consists of a set of goals, policies, programs and quantified objectives to address the six categories cited in state law:

1. Providing adequate sites to achieve a variety and diversity of housing
2. Assisting in the development of affordable housing
3. Removing governmental constraints if necessary
4. Conserving the existing stock of affordable housing
5. Preserve assisted housing developments at-risk of conversion to market-rate
6. Promoting equal housing opportunity

Fair Housing Assessment – As of September 2018, housing elements submitted after January 1, 2021, shall include an assessment of fair housing that includes the following:

- A program that affirmatively furthers fair housing and promotes housing opportunities throughout the community for protected classes.
- An assessment of fair housing that includes summary of fair housing issues, an analysis of available federal, state, and local data and local knowledge to identify patterns of segregation or other barriers to fair housing, and prioritization of contributing factors to fair housing issues.
- Land inventory and identification of sites through the lens of affirmatively furthering fair housing.

Furthermore, SCAG prepared a Local Housing Data report for Dana Point, which has been pre-certified by HCD to be included as part of the Community Profile section. This report is attached as [Supporting Document 5](#) and will be included as an addendum to the Housing Element update.

### Revised Draft Housing Element

On May 24, 2021, the Planning Commission received a presentation introducing the draft Housing Element sections, received public comments, and provided feedback for consideration. On June 15, 2021, the City Council reviewed the first draft of the Housing Element and authorized submittal to the California Department of Housing and Community Development (HCD) for review.

On June 17, 2021, the City submitted its draft 2021-2029 Housing Element for review to HCD, and the City received HCD's findings on August 16, 2021. The comments request revisions necessary to comply with State Housing Element Law (Article 10.6 of the California Government Code).

City staff and PlaceWorks prepared a 2<sup>nd</sup> draft Housing Element ([Supporting Document 2](#)), which includes edits intended to address the items identified by HCD staff. As requested by a local stakeholder group, the 2<sup>nd</sup> draft Housing Element is also available with tracked changes to clearly show edits made from the 1<sup>st</sup> draft ([Supporting Document 3](#)).

On October 19, 2021, the City resubmitted a revised draft of the Housing Element for its second review by HCD staff. City staff will receive comments from HCD staff by the end of the 60-day review period on December 19, 2021.

For the 6<sup>th</sup> Cycle Housing Element Update, the statutory due date is October 15, 2021, for HCD certification. However, Senate Bill (SB) 375 specifies that a local government on an eight-year planning cycle may adopt its housing element within 120 days after the statutory due date without penalty. If the Housing Element Update is not adopted by February 11, 2021, the City will be required to update its housing element every four years until it adopts at least two consecutive revisions by the applicable due dates.

In compliance with the SB 375 120-day deadline, the City submitted a draft housing element to HCD, HCD issued findings, and the local government considered the findings prior to adoption of the housing element. As such, the City completed these tasks and is eligible for adoption once the SB 18 tribal consultation period ends on January 2, 2022.

### Public Safety Element

The Public Safety Element is one of the required elements of the City's General Plan, which establishes policies to protect the community from natural and human-made hazards. This Element was first adopted in 1996 and has not been updated since. A

limited portion of Dana Point is located within the Very High Fire Hazard Severity Zone, which initiated the statutory requirement for an update to the Public Safety Element in conjunction with the 2021-2029 Housing Element update. The proposed amendments to the Public Safety Element will meet the requirements of California Government Code Section 65302(g) as updated by Senate Bills 1241, 379, and 1035, which are intended to address state legislation requiring local jurisdictions to examine climate hazards and develop resiliency strategies, specifically related to severe wildfire threat and other relevant hazards.

The purpose of the Public Safety Element is to identify and address features or characteristics that exist in or near Dana Point and represent a potential danger to the safety of its citizens, sites and structures, public facilities, and infrastructure. The Element establishes goals and policies to minimize danger to residents, workers and visitors from natural and human-made hazards. The Element identifies actions to deal with crisis situations (e.g., earthquake, fire, or flood), and the manner in which emergency response agencies cooperate with one another and with other jurisdictions.

The update includes refinements to the goals, policies, and implementation programs which address potential hazards in Dana Point as outlined in the following categories: geologic hazards, seismic hazards, flood hazards and sea-level rise, hazardous materials, fire and explosion hazards, emergency plan and evacuations, public access, water quality, nuclear hazards, and climate resilience.

The draft Public Safety Element ([Supporting Document 4](#)) was submitted to the California State Board of Forestry and Fire Protection for review. On November 2, 2021, CAL FIRE provided the City's consultant with the completed assessment document with no further recommendations.

As part of the update's statutory requirements, a Climate Change Vulnerability Assessment was completed in 2021 to assess the extent to which the diverse populations and assets in Dana Point are vulnerable to different emergencies and hazardous conditions that may be created or made worse by climate-related impacts, as well as the ability of Dana Point's populations and assets to resist and recover from these effects. The assessment results can be found in Appendix A of the draft Public Safety Element.

### **Environmental Determination**

The City of Dana Point is updating its Housing Element and Safety elements to comply with state law. Both elements are policy documents required by state law as part of the City's General Plan and the City as lead agency, with recommendations from PlaceWorks and the City Attorney's office, has made the determination that the project is exempt from CEQA pursuant to Section 15061(b)(3):

#### **15061. REVIEW FOR EXEMPTION**

(b) A project is exempt from CEQA if:

(3) The activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

### Housing Element

The Housing Element update satisfies state requirements to address the eight-year planning period of 2021-2029 and the associated housing needs of existing and future residents. The majority of the Housing Element documents the socioeconomic and demographic makeup of the City, past trends related to fair housing, current regulations for housing and similar uses, and the performance of the City's past housing programs. This information is purely a restatement of historical patterns and the existing setting.

The only two sections of the Housing Element that reflect potential future activity are the Residential Land Resources section, which describes the land inventory needed to address the City's fair share of potential future housing growth and the Housing Strategy section, which identifies the programs, actions, and resources the City will take and/or make available to address existing and future housing needs.

As discussed in the update, the City's RHNA for the planning period is 530 units. The City's obligation is only to demonstrate that there are a sufficient number of developable parcels that are appropriately zoned to accommodate the 530-unit RHNA allocation. The City is neither required to build the RHNA allocation nor require that property owners build the RHNA allocation. The City has confirmed that the Land Use Element of the General Plan already identifies an adequate number of developable sites that have the appropriate zoning to accommodate the 530-unit RHNA allocation. Importantly, no rezoning will be required to accommodate the City's RHNA allocation. All of the required zoning is currently in place and has been addressed by prior planning efforts and associated environmental clearances. These include the Town Center Plan (SCH# 2006091005) and associated Mitigated Negative Declaration and the recently approved Doheny Village Plan and associated Environmental Impact Report (SCH# 2020030428).

The City's housing strategy primarily focuses on addressing the housing needs of existing residents through programs that facilitate financial assistance and streamlining regulations. The only programs that overlap with the direct development of new housing are those committing the City to maintain an adequate land inventory to accommodate any unmet RHNA allocation, should the current inventory be developed in a manner that falls short during the planning period. This requirement could, however, be met if needed with other parcels in the City that are currently zoned for residential uses.

Given that the Housing Element update does not contemplate any additional development beyond that which is already authorized by the City's General Plan and zoning ordinance, there is no possibility that adoption of the update will have a significant effect on the

environment.

### Public Safety Element

The Public Safety Element update consists of minor, technical updates to reflect changes in law such as those enacted through Senate Bill 379, which addresses climate adaption and resiliency, and Senate Bill 1241, which addresses fire hazard severity zones.

Changes to the Public Safety Element are limited to narrative updates to reflect current conditions and policy changes to ensure the City conducts better planning, conducts additional coordination with the appropriate agencies, and enhances the amount and means by which the City educates and informs the general public. All the substantive updates to the Public Safety Element will enhance safety for people and property from the potential risks associated with natural and human-generated hazards. No physical improvements or other changes that would potentially impact the environment are proposed.

In sum, the proposed updates to the Housing and Public Safety Elements are a documentation of regulatory compliance and the decision to adopt these updates will not result in any physical changes to the environment.

### Project Schedule

In order to meet the State's Housing Element deadline, staff proposes the project timeline presented in Table 3. The review and adoption of the Public Safety Element will follow the same timeline.

**Table 3**  
**Housing Element and Public Safety Element Update Schedule**

<b>Milestone</b>	<b>Timeline</b>
Community Outreach	March – May 2021
Public Review of Draft Updates	May 2021
PC and CC Review and Direction to forward to HCD	May-June 2021
Submit Draft Housing Element to HCD	June 2021
Prepare CEQA Review	June 2021
HCD 60-day review	June – July 2021
Revise Housing Element per HCD Comments	August 2021
HCD 60-day review	October 2021—December 2021
PC Public Hearing	December 13, 2021
CC Public Hearing	January 18, 2022
Housing Element Due Date	February 11, 2022

Pursuant to California Public Resources Code Section 65352.3-65352.4 (Senate Bill [SB] 18), local governments are required to conduct meaningful consultation with California Native American tribes prior to the adoption or amendment of the City's General Plan for

the purpose of protecting cultural places on lands affected by the project. SB 18 requires a 90-day consultation period which began October 4, 2021 and ends on January 2, 2022, for both Housing Element and Public Safety Element updates.

**CORRESPONDENCE:**

On November 22, 2021, Welcoming Neighbors Home Tapestry's Initiative to End Homelessness submitted a public comment letter on the City's Draft 6<sup>th</sup> Cycle Housing Element (Supporting Document 7). Staff prepared a response to questions and provided additional context on the City's housing strategy attached as Supporting Document 8.

**CONCLUSION:**

Staff recommends that the Planning Commission: 1) review the draft 2021-2029 Housing Element and Public Safety Element; 2) conduct a public hearing; and 3) approve the resolution recommending City Council approval of General Plan Amendment GPA20-0003 to update the Housing Element and Public Safety Element.

Adoption of the Housing Element is necessary prior to final approval by California Housing and Community Development Department, at which point the updated Housing Element will become "certified" by the State and determined to comply with State law.



Belinda Deines, Principal Planner



Brenda Wisneski, Director  
Community Development Department

**ATTACHMENTS:**

**Action Documents**

1. Draft Planning Commission Resolution 21-12-13-XX (GPA for Housing Element and Public Safety Element)

**Supporting Documents**

2. 2<sup>nd</sup> Draft Housing Element (no markup) – Available Online:  
<https://www.danapoint.org/home/showpublisheddocument/33417/637707731604600000>
3. 2<sup>nd</sup> Draft Housing Element (tracked changes) – Available Online:

<https://www.danapoint.org/home/showpublisheddocument/33463/63771353596600000>

4. Draft Public Safety Element – Available Online:  
<https://www.danapoint.org/home/showpublisheddocument/33415/637707731586170000>
5. SCAG Pre-Certified Local Housing Data for Dana Point, August 2020 – Available Online:  
<https://www.danapoint.org/home/showpublisheddocument/32456/637550209520400000>
6. Minutes from Planning Commission – March 22, 2021 and May 24, 2021
7. Letter from Welcoming Neighbors Home Tapestry's Initiative to End Homelessness dated November 22, 2021
8. Response to Public Comments dated December 8, 2021

**ACTION DOCUMENT 1:** Draft Planning Commission Resolution 21-12-13-XX (GPA for Housing Element and Public Safety Element)

**RESOLUTION NO. 21-12-13-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVE GENERAL PLAN AMENDMENT GPA20-0003, WHICH AMENDS THE HOUSING ELEMENT AND PUBLIC SAFETY ELEMENT, AND SUBMISSION OF THE HOUSING ELEMENT FOR CERTIFICATION BY THE CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT (HCD).**

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, on July 9, 1991, the City of Dana Point adopted its General Plan; and

WHEREAS, the City may amend all or part of an adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, the General Plan Amendment GPA21-0003 is the second General Plan Amendment processed for 2021; and

WHEREAS, the proposed amendment would make changes to the Housing Element and Public Safety Element of the General Plan; and

WHEREAS, the amendment is internally consistent with the other Elements of the General Plan; and

WHEREAS, the City of Dana Point has determined that the project is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), which has been reviewed and considered by the Planning Commission; and

WHEREAS, the Planning Commission did on December 13<sup>th</sup>, 2021, hold a duly noticed public hearing as prescribed by law to consider said General Plan Amendment; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the Planning Commission considered all factors relating to GPA21-0003.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A. That the above recitations are true and correct;
- B. That the proposed action complies with all other applicable requirements of State law and local Ordinances;

- C. That the General Plan Amendment under GPA21-0003 is in the public interest;
- D. That the Planning Commission has reviewed and considered the CEQA exemption pursuant to Section 15061(b)(3) in that the proposed project is complete and adequate for the consideration of the General Plan Amendment;
- E. That the Planning Commission recommends to the City Council adoption of the 2021-2029 Housing Element, Public Safety Element, and corresponding General Plan Amendment (GPA21-0003).

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 13<sup>th</sup> day of December, 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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Eric A. Nelson, Chair  
Planning Commission

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Brenda Wisneski, Director  
Community Development Department

**SUPPORTING DOCUMENT 2:** 2<sup>nd</sup> Draft Housing Element (no markup)

**LINK TO DOCUMENT ON CITY WEBSITE**

<https://www.danapoint.org/home/showpublisheddocument/33417/637707731604600000>

**SUPPORTING DOCUMENT 3:** 2<sup>nd</sup> Draft Housing Element (tracked changes)

**LINK TO DOCUMENT ON CITY WEBSITE**

<https://www.danapoint.org/home/showpublisheddocument/33463/637713535966000000>

**SUPPORTING DOCUMENT 4:** Draft Public Safety Element

**LINK TO DOCUMENT ON CITY WEBSITE**

<https://www.danapoint.org/home/showpublisheddocument/33415/637707731586170000>

**SUPPORTING DOCUMENT 5:** SCAG Pre-Certified Local Housing Data for Dana Point

**LINK TO DOCUMENT ON CITY WEBSITE**

<https://www.danapoint.org/home/showpublisheddocument/32456/637550209520400000>

**SUPPORTING DOCUMENT 6:** Minutes from Planning Commission – March 22, 2021 and May 24, 2021

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**CITY OF DANA POINT  
PLANNING COMMISSION  
REGULAR MEETING ACTION MINUTES**

March 22, 2021  
6:02 p.m. – 8:11 p.m.

PAGE 7

Recommendation: That the Planning Commission review the 2020 Annual Housing Element Progress Report and forward to the City Council.

Environmental: In accordance with CEQA, a Negative Declaration was prepared as required for adoption of the 5<sup>th</sup> Cycle 2014-2021 Housing Element. The Annual Housing Element Progress Report does not require further CEQA action.

**Carline Hua** (Planning Intern) provided a presentation and answered questions from the Planning Commission.

**ITEM 9: 2021-2019 Housing Element and Safety Element Update**

Location: Citywide

Recommendation: That the Planning Commission receive the presentation providing the status of the Housing Element and Public Safety Element update process.

**Colin Drukker** (PlaceWorks Consultant) provided a presentation and answered questions from the Planning Commission.

**G. STAFF REPORTS**

There were no Staff Reports.

**H. COMMISSIONER COMMENTS**

**Vice-Chair Nelson** welcomed Commissioner Gabbard and thanked Chair Opel for her service.

**Commissioner Gabbard** thanked Chair Opel for her service as he has watched all the meetings from the past year, saying she has been a true servant to the community. He also expressed his excitement for being a member of the Commission.

**Chair Opel** stated she looks forward to the next four years on the Commission. She mentioned that she would like to see more diversity and inclusivity and would like future resolutions to read "Chair" or "Chairperson" so that people can identify how they wish.

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CITY OF DANA POINT  
**PLANNING COMMISSION**  
REGULAR MEETING ACTION MINUTES

May 24, 2021  
5:32 p.m. – 6:51 p.m.

PAGE 3

**PUBLIC COMMENTS**

There were no Public Comments.

**ACTION:** Motion made by Vice-Chair Dohner, seconded by Commissioner Gabbard, to approve Coastal Development Permit to permit the 717 square foot addition and remodel to the main residence and the 1,339 square foot addition, remodel, new balcony, and new 519 square foot two-car garage for the pool house. Site improvements include a pool, fireplace, outdoor bar area, and hardscape improvements located within the Coastal High-Density Residential (C-RHD) zone of the Dana Point Specific Plan, Coastal Overlay District, with the addition of condition #38. Motion carried 5-0-0.

**AYES:** Nelson, Dohner, Opel, Murphy, Gabbard  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**E. OLD BUSINESS**

**ITEM 3: Short-Term Rental Subcommittee Update**

There were no Updates.

**ITEM 4: 2021-2029 Housing Element Update**

Applicant: City of Dana Point

Address: Citywide

Recommendation: That the Planning Commission receive a presentation introducing the draft Housing Element sections, receive public comments and provide feedback for consideration.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section 15306 (Class 6 – Information Collection) in that the project involves basic data collection, research, and information gathering purposes leading to an action which a public agency has not yet approved or adopted.

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CITY OF DANA POINT  
**PLANNING COMMISSION**  
REGULAR MEETING ACTION MINUTES

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May 24, 2021  
5:32 p.m. – 6:51 p.m.

PAGE 4

**Belinda Deines** (Principal Planner) and **Colin Drakker** (Placeworks Consultant) provided a presentation and answered questions from the Planning Commission. No formal action was required.

**F. NEW BUSINESS**

There was no New Business.

**G. STAFF REPORTS**

There were no Staff Reports.

**H. COMMISSIONER COMMENTS**

**Chair Nelson** mentioned that the City of Dana Point sponsors the 5<sup>th</sup> Marine Regiment, and they will be holding a golf tournament on Monday, June 14<sup>th</sup> with which they need volunteers the day of the tournament. Chair Nelson stated it would be a great way to give back.

**I. ADJOURNMENT**

Chair Nelson adjourned the meeting at 6:51 p.m. The ~~next~~ Regular Meeting of the Planning Commission will be held on Monday, June 14, 2021 in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

  
Eric Nelson, Planning Commission

**SUPPORTING DOCUMENT 7:** Letter from Welcoming Neighbors Home Tapestry's Initiative to End Homelessness dated November 22, 2021



November 22, 2021

RE: Dana Point Draft 6<sup>th</sup> Cycle Housing Element

Dear Mayor Federico, Mayor Pro Tem Muller, and Councilmembers Frost, Viczorek, and Villar and Planning Commissioners Dohner, McKhann, Murphy, Nelson, and Opel,

The Welcoming Neighbors Home (WNH) Initiative is a ministry of Tapestry, a Unitarian Universalist Congregation. Our members live in cities throughout South Orange County, including Dana Point. The WNH initiative works to end homelessness and promote the development of more affordable housing – especially for those with extremely low and very low incomes.

We have reviewed Dana Point's [October 2021 Red-lined version of the 2021-2029 Housing Element Draft](#) and the [California State Office of Housing & Community Development \(HCD\) Review Letter](#) and we offer the following comments and questions.

**Past Performance:**

Dana Point did not meet its 5<sup>th</sup> Cycle RHNA goals of 76 very-low-income (VLI) housing units and 53 low-income (LI) units. *(Source: Dana Point Annual Progress Report for 2019, Table B)*

- 0 Permits were issued for Very Low-Income units.
- 9 Permits were issued for Low Income units

None of the projected properties on the 5<sup>th</sup> Cycle Site Inventory were used to provide units for VLI and LI income families/individuals. *(Sources: 2013-2021 Housing Element, Dana Point Annual Progress Report for 2019, Table B for actual permits)*

**Housing Inventory status:**

Site	Projected units	Permits issued
Town Center	10 LI units	None
Former Marina Mobile Home Estates	17 LI units	None
Capistrano Unified School District Storage Yard	60 LI units	None

Given that there were 31 moderate-income and 406 above-moderate-income housing units built compared to 9 lower-income units – a ratio of 49 to 1, we would like to see a more balanced approached to development in the 6<sup>th</sup> Cycle.

Comments Regarding Site Inventory:

We request a copy of the site inventory so we can review the city's analysis of the feasibility of the sites.

We visited the sites listed as candidates for re-zoning (see Appendix for photos). Our observations are as follows.

1. From an Affirmatively Furthering Fair Housing perspective, **we would like to see the lower income housing spread out more.** For example, though we understand there are pending projects, we would have wanted to see lower income units included in the following sites: 24470 Del Prado and 24452 Del Prado (Del Prado Shopping Center) and 34175 Pacific Coast Highway.
2. In fact, there will be a loss of lower-income rentals in the conversion as proposed at the 24452 Del Prado site. There appears to be about 30 units of lower income housing that will be destroyed in this new project producing more than 60 units of Above Moderate-Income units. Will those numbers be added to the RHNA or is there already a plan for replacing them elsewhere?
3. Currently, we have observed **Ganahl Lumber to be a very busy store** (25981 & 25991 Victoria and 34162 Doheny Park)-, but we understand that the owner plans to relocate. What is the city doing to incentivize 16 lower income units to be built there? We hope this will include extremely low and very low-income units.
4. The **Capo Valley Shopping Center** is a **vibrant shopping area** that includes Smart & Final, a very popular thrift store, a long-standing Mexican restaurant, an auto parts store, a gas station, and a Big 5 frequented by many visitors to the nearby State Park and more.

**What is the city's analysis that supports the feasibility of this site being developed to include 82 lower income with 83 moderate income housing units?** Have the developers that have approached the owner to do mixed use development indicated they are willing to develop half of the sites as lower income units?

We note this center is only 400 feet from double-tracked railroad tracks. Additionally, the center is in FEMA Flood Hazard Zones AO and X, special flood hazard areas which require special permitting for building or major redevelopment. Might this be an impediment to building affordable housing?

Finally, we hope the Smart & Final will stay. It is the grocery store for the entire "Doheny Village." If it were lost, 100's (maybe thousands) of residents, including the almost 400 new residents of the planned development at 26126 Victoria, would be affected. The nearest grocery stores would then be one that is 1.3 miles away, one that is 1.8 miles away and uphill, and finally, one that is 1.9 miles away and, therefore, not walkable.

5. Likewise, we note that the center located at **24871 Del Prado is a busy shopping center with a Ralph's grocery store**, a Rite Aid, a long-time bank, a pizza restaurant, several other food establishments, and private offices. We understand the property owner is interested in developing this site into a mixed-use development. What is the property owner's interest in having half of the projected 216 housing units be lower-income?  
This Ralph's is the grocery store for a large area. All other grocery stores are 1.5 to 3 miles away, most with very hilly roads. We hope this store will not close.
6. In the 5<sup>th</sup> Cycle, the **School Storage Yard property** (26126 Victoria Blvd) was listed to have 100 units of low- and moderate-income housing, with about 45% of the total development being for low-income households. We are disappointed to see that in the proposed 6<sup>th</sup> Cycle Inventory, only 38 of the total 365 units on this site are projected to be lower income, and only 19 will be moderate-income. **We ask that this site include more affordable units.**
7. We were happy to see **27298 Calle Juanita (Water District vacant land)** on this list. We **wondered if there are any access issues involved** with this site. We note it has only one road to it, a rather narrow road through an existing residential neighborhood. It abuts San Clemente's city boundaries, and there are single family homes and condos surrounding it.
8. Please **share the analysis of 25975 Domingo site** because the **Capo Beach Church** at this address is a very busy church. The entire parking lot, and that of a nearby business were full on a recent (non-holiday) Sunday at noon. Also, there is a pre-school that operates there.

Rather than taking 3 years to re-zone the sites, we urge the city to re-zone them within 1 year of the 6<sup>th</sup> Cycle Housing Element being adopted.

**Comments regarding Proposed Housing Programs:**

1. **Program 1.1 – Adequate Sites** - We urge the city to initiate the General Plan Update in 2022 instead of 2023 and complete it by 2023 instead of 2025.
2. **Program 1.3 - ADUs** – We note the projection of 81 ADUs to meet the RHNA goals. We were happy to see that the city plans to monitor the affordability of the rents including when rents are not charged.  
**We would like to see more details on the plan to monitor the affordability of ADUs. Will owners be required to report rental rates, or will it be optional reporting? We favor the reporting of rental rates being required.**  
In addition, we would like to see more incentives put in place to encourage the development of ADUs such as expedited review of ADU permits, pre-approved ADU design plans, and reduction of permit fees for deed restricted affordable ADUs.
3. **Program 2.1: Rental Assistance** – We welcome the city's plans to coordinate with United Way's Welcome Home OC Program. We ask that the City **be more specific and robust in their plans for educating residents** about the Federal Housing Choice Voucher rental assistance program. We especially **urge the city to reach out to**

landlords to encourage them to accept housing vouchers because we are hearing that even when people are approved for the vouchers, they cannot find landlords who will accept them. Anecdotally, we are presently working with three individuals, one a Viet Nam veteran, and two women with disabilities, all of whom are struggling to even find housing in the price range allowed with the vouchers. Overly relying on vouchers as part of an affordable housing plan at this time is problematic as there are very few Section 8-type vouchers provided in the county, the Section 8 waiting list has been closed for years, and for the few fortunate enough to receive Section 8 vouchers, they still have the problem of affordability. People with vouchers still need affordable housing.

4. **Program 6.4 and 6.5 – Housing Resources Assistance and Housing for Persons with Disabilities.** People with disabilities are disproportionately affected by homelessness. We urge the city to go beyond assisting, but rather proactively pursue developers of supportive housing and other partners to ensure the development of housing for Dana Point residents who are disabled and homeless.

Given that all the proposed sites have buildings on them, we think that a much more robust set of programs are needed to affirmatively attract developers to build lower income housing in Dana Point.

#### RECOMMENDED HOUSING PROGRAMS:

We have consulted with staff at the Kennedy Commission to learn what housing programs facilitate the production of affordable housing. Below is their advice. We are in agreement with their recommendations.

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The Kennedy Commission recommends the following affordable housing policies and programs to provide development incentives and collaborative opportunities for the production of affordable homes:

1. **Inclusionary Housing Ordinance** - Given the urgent need of residents for low-income housing, the Commission strongly recommends the City adopt an Inclusionary Housing Ordinance within the next year to ensure that identified sites are truly feasible and effectively provide affordable housing in a balanced manner. We recommend that the ordinance include a 15% **requirement** of affordable housing production at extremely-low-, very-low- and low-income categories and that it apply to all residential projects. The ordinance should be flexible to allow for the development of affordable housing onsite, off site, or provide for an appropriate in-lieu fee option. We recommend an in-lieu fee option in the range of \$10,000 to \$15,000 per unit, or \$10 to \$15 per square foot, to go along with this policy. The in-lieu fee must be calculated to achieve the gap financing needed to create affordable housing and be used to leverage additional state

and federal housing funds. We recommend the affordable units be deed restricted for at least 55 years. A feasibility study and implementation of the ordinance should be completed no later than one year from the adoption of the Housing Element.

2. **Mixed-Use Zoning** – We support the city’s planning for mixed-use developments that provide residential units along major corridors and can provide significant opportunities for affordable housing development. We understand that mixed-use zoning allows for the integration of housing with other uses on underutilized commercial or industrial sites while retaining existing commercial/industrial square footage usage to provide services to new residents and the surrounding community. We recommend that the City require 15% of housing to be affordable at the extremely-low-, very-low-, and low-income levels in the mixed-use zoned focus areas.
3. **Affordable Housing Overlay** – The Commission recommends that the City adopt an Affordable Housing Overlay, especially over the mixed-use focus areas that are being rezoned and upzoned. A minimum of 15% of all units should be set aside for extremely low-, very low-, and low-income levels in exchange for development and regulatory incentives. The City must identify a timeframe to study the policy and a timeframe for adoption and implementation. We recommend that this happen in the first year of the 6th Cycle as part of the Zoning Code update.
4. **Congregational Housing Overlay** - A Congregational Housing Overlay Zone provides an opportunity for the development of affordable housing on religious sites while retaining the existing religious use. The overlay would provide 100% affordable units on congregational sites, with a focus on extremely-low-, very-low- and low-income categories. Click [here](#) for a survey of how other cities are using congregational zoning.
5. **Adaptive Reuse Ordinance** - Certain building, fire code, and parking requirements add additional costs to building conversion projects and reduce the likelihood of developers converting commercial buildings to residential. The City should consider the adoption of an Adaptive Reuse Ordinance, such as [Santa Ana’s ordinance](#), to provide alternative building and fire standards for the conversion of eligible buildings in exchange for 15% of converted units dedicated to extremely low-, very low- and low-income categories.
6. **Community Land Trust** - The City should consider developing a Community Land Trust that would allow the City to retain ownership of land (either donated or purchased) and lease the land to the owner of the improvements for community benefit and the creation of 100% affordable housing.
7. **Density Bonus** - The City should analyze the effectiveness of the City’s density bonus ordinance to develop affordable housing for lower-income households. The City’s 5th

cycle RHNA progress demonstrates that moderate and above moderate-income housing production has outpaced lower-income housing development by a 49 to 1 ratio. The City should prioritize affordable housing for lower-income households in its update and implementation of density bonuses. The review should include analysis as to how the density bonus is being implemented. This is especially important when analyzing its effectiveness in higher density specific plans and rezonings that give density and land use incentives and parking reductions, similar to the density bonus, but without requiring affordable housing. It is worth noting that rental developments can only use density bonuses to incentivize lower-income units.

8. **Incentivizing 100% Affordable Housing** - Regulatory, zoning and administrative requirements can contribute to high construction costs, and negatively affect the feasibility of producing affordable housing. The City should develop a program that incentivizes 100% affordable developments and reevaluate the current zoning code to eliminate barriers and create incentives for affordable housing developments. Incentives could include reducing or eliminating permitting fees, offering additional by-right incentives beyond density bonus, reducing parking standards, and alternative development standards. The City should consult with for-profit and nonprofit developers to determine appropriate regulatory incentives.
9. **City Owned Sites and Surplus Property** - The city should prioritize city owned sites and surplus land to be developed exclusively for 100% affordable housing for low, very low and extremely low income families. The City must be proactive and implement a program that markets available surplus land to affordable housing developers.

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The need for more affordable housing for those earning less than \$50,000 per year is acute. We urge the city to take proactive steps, such as those outlined above, to promote the production of more affordable housing in Dana Point.

We also recommend that the city issue an RFP to actively solicit affordable housing developers to the city. We would like to see the city offer incentives in exchange for development of extremely-low-, very-low and low-income housing units as well as seeking funding available from the State of California's HomeKey funds ([https://homekey.hcd.ca.gov/sites/default/files/2021-09/NOFA\\_Homekey\\_0.pdf](https://homekey.hcd.ca.gov/sites/default/files/2021-09/NOFA_Homekey_0.pdf)), and the federal government American Rescue Plan Act funds.

The Project Homekey deadline is January 31st. There is a source of funding, the Permanent Local Housing Allocation (PLHA), that will be available in 2022 and the deadline is December 31st. This PLHA funding is readily available to cities but only if they apply for it. Is our city tracking these program deadlines to bring these resources to our community? Are we aware of all funding

opportunities? It is important for the city to take advantage of these funding sources NOW to make important strides in the provision of affordable housing.

Sincerely,

Rona Henry, Chair  
Welcoming Neighbors Home

Rev. Kent Doss, Minister  
Tapestry, a Unitarian Universalist Congregation

Maura Mikulec, Capistrano Beach Resident  
Dana Point City Monitor for Welcoming Neighbors Home

Abigail Burdick  
Dana Point Resident

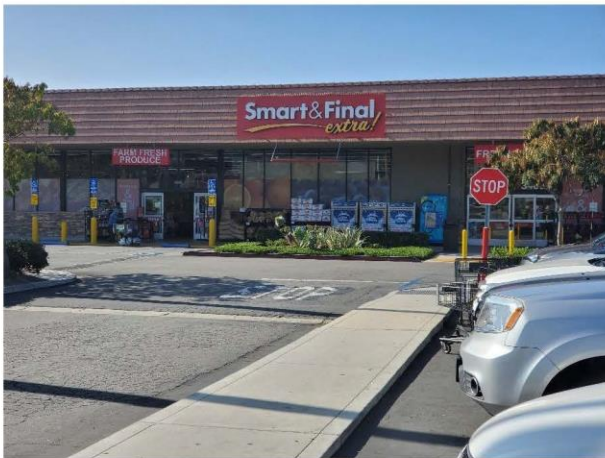
cc: Mike Killebrew, City Manager, Dana Point  
Brenda Wisneski, Community Development Director, Dana Point  
Belinda Deines, Principal Planner, Dana Point  
Johnathan Ciampa, Senior Planner, Dana Point  
Colin Drukker, Placeworks, Inc  
Cesar Covarrubias, Mildred Perez, Cythia Guerra and Daisy Cruz - Kennedy Commission  
Paul McDougall, Marisa Prasse - California State Housing and Community Development Office

APPENDIX

Photos of Sites in October 2021 Dana Point Housing Element Draft Site Inventory



34091 Doheny Park Rd.



34091 Doheny Park Rd.



24470 Del Prado Ave.



24452 Del Prado Ave



**24452 Del Prado Ave.**

**24452 Del Prado Ave. Side View**



**Residential mailboxes at 24452 Del Prado Ave.**

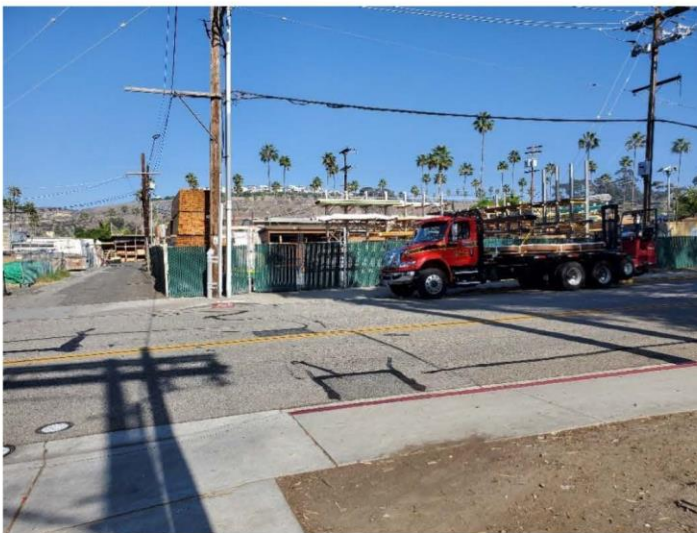


34162 Doheny Park Rd. Main entrance





**34162 Doheny Park Rd.**



**25991 Victoria Blvd.**

**Ganahl Lumber Supply Yard**

**25981 Victoria Blvd.**



24871 Del Prado Ave.

27298 Calle Juanita, Dana Point Closest property to this address was this one: 27221 ½

[Special District Owned \(South Coast Water District\) Publicly Owed – considered to be vacant land – See HE Page 141 \(PDF Page 145\)](#)







24722 Del Prado Ave.

34175 Pacific Coast Hwy (3 pictures)





Parking lot of Peking Dragon (34171) starting where construction of 34177 from corner stops.

26210 Victoria Blvd., Dana Point (3 pictures) [School Storage Yard – Publicly Owned](#)





26126 Victoria Blvd. (Cont'd)



25975 Domingo Avenue, Dana Point (4 pictures in total) Considered to be Vacant Land (See HE Page 141, PDF Page 145 to 146)





25975 Domingo Avenue (cont'd)



**PLANNING COMMISSION AGENDA REPORT**  
**GPA 20-0003**  
**DECEMBER 13, 2021**  
**PAGE 40**

**TABLE H-A1**  
**SITE INVENTORY BY PARCEL**

Location	APN	Consolidated Group	GP	Zone	Min Density	Max Density	Acres	Existing Use	Existing Units	Environmental Constraints	Infrastructure Available	Publicly-Owned	Identified in Land Use Element Planning District(s)	Site Status	Lower Income Capacity	Moderate Income Capacity	Above Moderate Income Capacity	Total Capacity	Eligible for CDBG/Other Reinvestment	Other Information
34091 Doherty Park Rd	121-254-13	A	C/MS	V-MH & HO	-	35	6.63	Cape Valley Shopping Center	0	No	Yes	No	No	Available	82	83	0	165	Yes – consistent w/DV Plan	Does not require rezoning
24470 Del Prado Ave	682-234-07	B	CC	TC-MU	-	2.5 FAR	0.34	Del Prado Shopping Center	0	No	Yes	No	No	Pending Project	0	0	26	26	Yes – consistent w/TC Plan	Does not require rezoning
24452 Del Prado Ave	682-234-06	B	CC	TC-MU	-	2.5 FAR	0.34	Del Prado Shopping Center	0	No	Yes	No	No	Pending Project	0	0	26	26	Yes – consistent w/TC Plan	Does not require rezoning
24452 Del Prado Ave	682-234-05	B	CC	TC-MU	-	2.5 FAR	0.23	Del Prado Shopping Center	0	No	Yes	No	No	Pending Project	0	0	17	17	Yes – consistent w/TC Plan	Does not require rezoning
34162 Doherty Park Rd	668-351-13	C	C/MS	V-MH & HO	-	35	0.38	Ganahl Lumber	0	No	Yes	No	No	Available	5	5	0	10	Yes – consistent w/DV Plan	Does not require rezoning
25591 Victoria Blvd	668-351-09	C	C/MS	V-MH & HO	-	35	0.12	Ganahl Lumber	0	No	Yes	No	No	Available	1	1	0	2	Yes – consistent w/DV Plan	Does not require rezoning
25581 Victoria Blvd	668-351-10	C	C/MS	V-MH & HO	-	35	0.12	Ganahl Lumber	0	No	Yes	No	No	Available	2	2	0	4	Yes – consistent w/DV Plan	Does not require rezoning
25581 Victoria Blvd	668-351-11	C	C/MS	V-MH & HO	-	35	0.12	Ganahl Lumber	0	No	Yes	No	No	Available	2	2	0	4	Yes – consistent w/DV Plan	Does not require rezoning
25581 Victoria Blvd	668-351-12	C	C/MS	V-MH & HO	-	35	0.12	Ganahl Lumber	0	No	Yes	No	No	Available	1	2	0	3	Yes – consistent w/DV Plan	Does not require rezoning
25551 Los Flores Ave	668-351-08	C	C/MS	V-MH & HO	-	35	0.48	Ganahl Lumber	0	No	Yes	No	No	Available	5	5	0	10	Yes – consistent w/DV Plan	Does not require rezoning

Dona Plant  General Plan

**TABLE H-A1**  
**SITE INVENTORY BY PARCEL**

Location	APN	Consolidated Group	GP	Zone	Min Density	Max Density	Acres	Existing Use	Existing Units	Environmental Constraints	Infrastructure Available	Publicly-Owned	Identified in Land Use Element Planning District(s)	Site Status	Lower Income Capacity	Moderate Income Capacity	Above Moderate Income Capacity	Total Capacity	Eligible for CDBG/Other Reinvestment	Other Information
24871 Del Prado Ave	682-301-25	D	CC	TC-MU	-	2.5 FAR	0.09	Relphs	0	No	Yes	No	No	Available	2	2	0	4	Yes – consistent w/TC Plan	Does not require rezoning
24871 Del Prado Ave	682-301-26	D	CC	TC-MU	-	2.5 FAR	5.42	Relphs	0	No	Yes	No	No	Available	108	108	0	216	Yes – consistent w/TC Plan	Does not require rezoning
27298 Calle Juanita	675-120-04	E	CE	CE	-	30	0.93	Vacant	0	No	Yes	Yes – special district-owned (CWSO)	Last 2 cycles – vacant	Available	23	0	0	23	Yes – infill class 32 categorical exemption	Does not require rezoning
24722 Del Prado Ave	682-192-07	E	C/B	TC-MU	-	2.5 FAR	0.43	Vacant	0	No	Yes	No	No	Pending Project	0	0	18	18	Yes – consistent w/TC Plan	Does not require rezoning
34175 Pacific Coast Hwy	682-322-08	G	CC	TC-MU	-	2.5 FAR	0.21	Vacant	0	No	Yes	No	No	Pending Project	0	0	13	13	Yes – consistent w/TC Plan	Does not require rezoning
34175 Pacific Coast Hwy	682-322-09	G	CC	TC-MU	-	2.5 FAR	0.22	Vacant	0	No	Yes	No	No	Pending Project	0	0	13	13	Yes – consistent w/TC Plan	Does not require rezoning
34175 Pacific Coast Hwy	682-322-10	G	CC	TC-MU	-	2.5 FAR	0.28	Vacant	0	No	Yes	No	No	Pending Project	0	0	13	13	Yes – consistent w/TC Plan	Does not require rezoning
26126 Victoria Blvd	668-361-01	H	SP	SP	-	66	5.60	School storage yard	0	No	Yes	Yes – other publicly-owned (CWSO)	No	Pending Project	38	10	308	365	Yes – pending VBSP	Rezonings underway not needed for this A
25975 Domingo Avenue	668-332-10	I	C/B	V-C/B & HO	-	35	0.61	Vacant	0	No	Yes	NO – Privately Owned	No	Available	18	0	0	18	Yes – consistent w/DV Plan	Does not require rezoning

**TABLE H-33  
PLANNED/ENTITLED HOUSING PROJECTS**

Map Ref	Project Name	GP   Zoning <sup>1</sup>	Other Features	Acres	Density	Income Level			Total Yield
						Lower	Moderate	Above Moderate	
P1	The Greer	CC   TC-MU	10.8 KSF commercial and 13 senior units	0.92	75	0	0	69	69
P2	Vista Del Mar <sup>2</sup>	CC   TC-MU	7.2 KSF commercial	0.54	72	0	0	39	39
P3	Theel Mixed Use	C/R   TC-MU	5.2 KSF commercial	0.43	41	0	0	18	18
P4	Victoria Apartments	SP   SP	15% low/mod <sup>3</sup>	5.50	50/66 <sup>4</sup>	38	19	308	365
<b>Total Planned / Entitled</b>				<b>8.58</b>	<b>--</b>	<b>38</b>	<b>19</b>	<b>434</b>	<b>491</b>
<b>Total RHNA Allocation</b>				<b>--</b>	<b>--</b>	<b>231</b>	<b>101</b>	<b>198</b>	<b>530</b>
<b>RHNA Balance</b>				<b>--</b>	<b>--</b>	<b>193</b>	<b>82</b>	<b>0</b>	<b>275</b>

1. CC = Community Commercial, C/R = Commercial/Residential, TC-MU = Town Center Mixed Use, SP = Specific Plan

2. Building permits issued in 2020, construction expected to be completed after June 30, 2021.

3. Based on the applicant's proposal to create no less than 15 percent affordable housing units, with no less than 5% very-low income units to be constructed onsite, and 5% low- and 5% moderate-income housing units to be constructed either on- or off-site in the city (any fractional figures are rounded up per direction by the City).

4. The maximum base density is 50 units per acre. The project density increases to 66 units per acre due to the inclusion of affordable housing and the application of a density bonus. A maximum of 365 units is permitted on the site.

TABLE H-37  
QUANTIFIED OBJECTIVES BY INCOME CATEGORY

Activity/Program	Extremely Low	Very Low	Low	Moderate	Above Moderate	Total
<b>New Construction</b>						
Planned/Entitled	0	19	19	19	434	491
Vacant Land	10	6	5	0	0	21
Underutilized Land	33	30	50	60	0	173
ADUs	30	19	10	22	0	81
Total	73	74	84	101	434	766
RHNA	73	74	84	101	198	530
<b>Rehabilitation</b>						
41. Owner Rehab	-	10	10	-	-	20
4.2 Rental Rehab	-	10	10	-	-	20
6.5 Housing for Persons with Disabilities	-	5	5	-	-	10
<b>Assistance, Conservation, or Preservation</b>						
2.3 Housing Initiative	-	10	10	-	-	20
2.4 Conversion to Affordable/Supportive	10	-	-	-	-	10
<b>Affirmatively Furthering Fair Housing</b>						
<a href="#">1.3 Accessory Dwelling Units (overlaps with New Construction Objectives)</a>	<a href="#">10</a>	<a href="#">10</a>	<a href="#">5</a>	<a href="#">=</a>	<a href="#">=</a>	<a href="#">25</a>
<a href="#">2.1 Rental Assistance (voucher use above 2021 levels)</a>	<a href="#">=</a>	<a href="#">25</a>	<a href="#">25</a>	<a href="#">=</a>	<a href="#">=</a>	<a href="#">50</a>
<a href="#">2.6 Orange County Housing Finance Trust (aggregate total throughout all member jurisdictions)</a>	<a href="#">2,700</a>			<a href="#">=</a>	<a href="#">=</a>	<a href="#">=</a>
<a href="#">6.2 Affirmatively Furthering Fair Housing (50 families + 50 individuals without kids)</a>	<a href="#">=</a>	<a href="#">=</a>	<a href="#">100</a>	<a href="#">=</a>	<a href="#">=</a>	<a href="#">100</a>

**SUPPORTING DOCUMENT 8:** Response to Public Comments dated December 8, 2021

**2021-2019 HOUSING ELEMENT  
RESPONSE TO PUBLIC COMMENTS  
DECEMBER 8, 2021**

To date, the City has received one public comment letter from Welcoming Neighbors Home (WNNH), dated November 22, 2021 regarding the revised Draft 6<sup>th</sup> Cycle Housing Element. The following provides the City's response to questions and additional context on the City's housing strategy. The revised Draft 6<sup>th</sup> Cycle Housing Element outlines the City's housing strategy for the maintenance and development of housing to meet the needs of existing and future residents in Dana Point.

**Past Performance of 5<sup>th</sup> Cycle RHNA**

Regarding past performance of Dana Point's 5<sup>th</sup> Cycle Regional Housing Needs Assessment (RHNA), it is important to note that it is the City's responsibility to setup the necessary conditions so that private sector developers and non-profit affordable housing organizations can come to the City with proposed development. While Dana Point is a small city with limited resources, the City has undertaken efforts to expand the production and availability of lower income housing.

In coordination with the City of Dana Point, Friendship Shelter (a local non-profit housing service provider in South Orange County) remodeled and converted 17 existing market-rate units to permanent supportive rental housing for extremely-low income residents in 2017 during the 5<sup>th</sup> Cycle. These 17 units, located on Silver Lantern, did not qualify for RHNA because of the State's time constraints and strict definitions associated with unit conversion. Regardless, the Friendship Shelter's Silver Lantern property will remain extremely-low income for as long as the units exist, rather than 55-year restrictions. It is the City's policy that all deed restricted affordable housing remain in perpetuity, which is a stronger policy that enforces preservation of affordable units rather than allowing market-rate conversion at 55 years.

The City's 6<sup>th</sup> Cycle housing strategy identifies several programs to encourage the development of housing for all income levels, including Program 2.4, specifically allowing future conversion to affordable and permanent supportive housing projects such as Silver Lantern to qualify toward the City's RHNA lower income unit progress.

**Site Inventory**

To clarify, the City's statutory requirements are to identify sites with the potential to accommodate housing and provide adequate tools for developers to construct housing. One of the most common barriers to the production of affordable housing is the limited number of property owners who are willing to sell for the purposes of affordable housing, which is at the sole discretion of the property owner. The City of Dana Point owns very little land and has no surplus property that can accommodate affordable housing. Jurisdictions throughout California lost the ability to directly create housing sites through redevelopment powers in 2012. Since that time, the role of jurisdictions is primarily

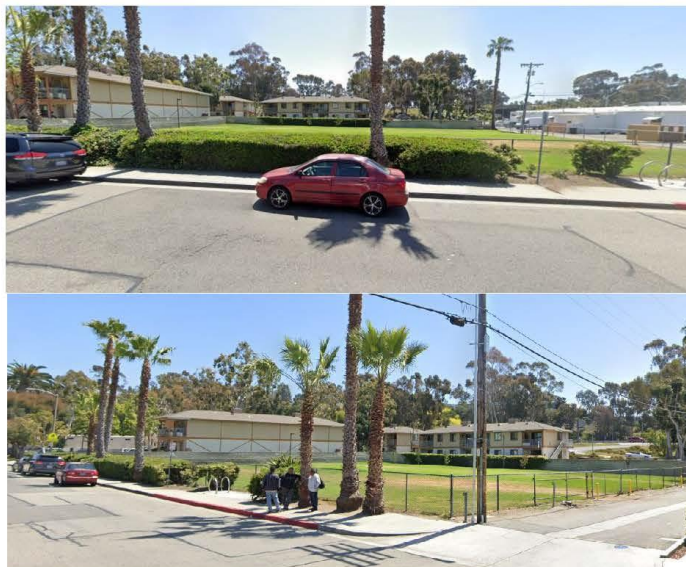
around creating the regulatory structure that facilitates the production of affordable housing by the development sector.

In response to the Site Inventory observations:

1. **Fair Housing and Sites Inventory.** The City undertook an analysis of sites suitable for the potential development of affordable housing through the lens of affirmatively furthering fair housing (AFFH). If suitable sites were available in other parts of the City, such as those considered to be high or highest resource areas, the City would have included such sites and pursued an even broader distribution of affordable housing opportunity sites. Unfortunately, at this time, the City has determined the inventory of sites to be the most suitable and feasible, though the City identified direction to seek housing opportunities in higher resource areas as part of a comprehensive update to the General Plan. Please note that the pending projects identified in Lantern District/Town Center are already entitled and/or under construction.
2. **24452 Del Prado Ave.** At 24452 Del Prado Ave, commonly referred to as The Greer project, we received notification this week that the property owner will not pursue development of the site as entitled. The existing property consists of market-rate apartments, not lower income.
3. **Ganahl Lumber.** Ganahl Lumber will be relocating to their new site in San Juan Capistrano currently under construction. The Doheny Village Plan, as recently adopted by City Council in July 2021, now allows for this site to accommodate affordable housing units rather than commercial uses only. This site would not have allowed residential development if not for the Doheny Village Plan.
4. **Capistrano Valley Shopping Center.** Capistrano Valley Shopping Center has maintained vacant suites for several years, the parking lot area is underutilized, and the structure needs rehabilitation due to its age. City staff has received interest and concepts from several developers interested in maintaining commercial area, including a grocery store, while incorporating residential units.
5. **Lantern Bay Village Shopping Center.** The property owner of Lantern Bay Village Shopping Center, which contains Ralphs, has expressed interest in redeveloping the site into a mixed-use development. The property is subject to Town Center Plan regulations, which encourages a pedestrian-oriented environment conducive to commercial/retail uses on the street level and residential on upper levels.
6. **Capistrano Unified School District Bus Yard.** The CUSD Bus Yard applicant is in negotiations with the City for the project's development agreement, which includes affordable housing. The City anticipates that the property will provide 15% low-income units in compliance with the Surplus Land Act. The current draft

Element reflects previous discussions, and the City will be updating the element to reflect the 15% lower income assumption and reference to the Surplus Land Act.

7. **27298 Calle Juanita.** At 27298 Calle Juanita, there are no access issues associated with the vacant property as there is direct access to the street within City of Dana Point boundaries.
8. **25975 Domingo Ave.** For Capo Beach Church, the photographs provided are not of the property identified in the Site Inventory. The property is located across Domingo Avenue south from the church, next to the apartment complex and bounded by the alley. Please see images below. The site is vacant, adjacent to existing residential uses, and owned by Capo Beach Church.



**Rezoning (or lack thereof).** The City is not proposing any rezoning of sites to accommodate the 6<sup>th</sup> Cycle RHNA allocation. In your comment letter, the reference of 3 years for proposed rezoning would only have been applicable if the City were proposing any rezoning. For jurisdictions that are both required to rezone property to accommodate a lower income RHNA allocation and did not obtain final HCD certification by February 11, 2021, recent changes in state law require rezoning to be completed by October 15, 2022 (within one year of the statutory deadline, not including the 120-day grace period). Again, however, the City of Dana Point is not proposing any rezoning.

### **Proposed Housing Programs**

1. **Program 1.1 Adequate Sites/GP Update.** The City anticipates a comprehensive update of most elements in the City's General Plan which have not been updated since the 1990s. Based on staff resources and realistic timelines for purposes of HCD annual reporting, City staff will be focused on housing-related ordinances and updates in 2022 and the General Plan update process will follow.
2. **Program 1.3 ADUs.** Since 2019, the City has surveyed applicants of rental rates for ADUs. Estimated monthly rental rates are reported by property owners as optional information in the City's ADU Permit Application, however, most property owners do provide the City with proposed rental rates. For purposes of annual reporting to HCD, City staff researches ADU rental rates throughout the year using sources from Costar, Craigslist, Zillow, and other apartment rental listing services in addition to the surveyed rents. The City developed an ADU affordability methodology to calculate market-rate price per square foot based on bedroom size and determine income category based on the HCD affordability calculator. HCD staff accepted this methodology for the past three years. In 2018, the City adopted a revised fee schedule that waives all City imposed fees for deed-restricted housing affordable to lower income households. This fee waiver program is already in place and any property owner may request fee waivers on the ADU Permit Application.
3. **Program 2.1 Rental Assistance.** It is our understanding that recent legislation, Senate Bill 329 (2019) effective January 1, 2020, has made it illegal for landlords not to accept housing vouchers. In Program 2.1, City staff has committed to "coordinate with Fair Housing Council of Orange County to promote the use of vouchers and the acceptance of vouchers by landlords." Staff will evaluate opportunities for outreach to landlords and local property management companies as stated in the program.
4. **Program 6.4 & 6.5 Housing Resources Assistance and Housing for Persons with Disabilities.** Regarding proactively pursuing developers of supportive housing, the City is not in a position to pursue projects when the City is not the property owner. The City cannot issue an RFP or RFQ for affordable housing developers for private property that the City does not control. It is only when a property owner or developer approaches the City with an affordable housing project that we can help facilitate the process.

### **Recommended Housing Programs:**

1. **Inclusionary Housing Ordinance.** HCD has communicated to jurisdictions that per state law (AB 1505, 2017), HCD will not allow inclusionary requirements greater than 15% unless an economic feasibility study is prepared that demonstrates (to HCD's satisfaction) that the inclusionary requirement would not unduly constrain the housing market. At this time, the City sees no evidence from

other jurisdictions that illustrates inclusionary requirements above 15% do not unduly constrain the housing market.

Although inclusionary requirements are not uncommon in jurisdictions in California, the City is concerned about the efficacy and potential negative impacts of citywide inclusionary requirements on other housing opportunities. In housing elements, HCD often requires jurisdictions to analyze inclusionary requirements as a potential *constraint* on development in housing elements and does not permit jurisdictions to consider a fixed percentage inclusionary provision as an automatic factor in calculating capacity for or projected production of affordable housing. While not required by state law, a best practice is to prepare a feasibility study to understand whether a fixed-percentage inclusionary requirement would not substantially discourage or stop market-rate development.

As part of Program 2.5, the City will evaluate the effectiveness of in-lieu fees in the Coastal Zone and/or considering a citywide in-lieu fee, especially in comparison to other options. Through this evaluation, the City will better understand whether its current practice of negotiating the inclusion of affordable housing on a case-by-case basis and/or current or changes to development standards, processes, or fees offer a better balance compared to a fixed-percentage inclusionary requirement in terms of effectiveness (yielding affordable housing) and minimizing impacts on market-rate housing.

2. **Mixed-Use Zoning & Affordable Housing Overlay.** There are challenges associated with applying a 15% inclusionary housing overlay in the City's mixed-use areas. In the Lantern District/Town Center, which is governed by the Town Center Plan, such changes would be subject to a vote of the people in accordance with the Measure H ballot initiative (passed in 2016) which requires a vote of the people for any changes to the Town Center Plan. The other major mixed-use zoning area was created through the Doheny Village Plan, which was just recently adopted in July 2021. Amending this Plan to include any inclusionary provision would be more appropriate after the findings of the City's study of current in-lieu fee provisions and other options (see Program 2.5 and discussion in #1 above).
3. **Congregational Housing Overlay.** The City evaluated existing church sites early in the site inventory process and determined that the sites were either too small to accommodate additional housing or the sites are currently under construction with no plans for room for affordable housing. Existing church sites are already zoned to build housing, but the City has not received any interest in affordable housing on already developed church sites from property owners. The vacant lot owned by Capo Beach Church on Domingo Avenue is the only property identified on the Site Inventory with realistic capacity for residential development.
4. **Adaptive Reuse Ordinance.** There are very few commercial buildings in the City that would be eligible or ideal for conversion to residential units. It is unclear which sites in Dana Point, if any, would benefit from an Adaptive Reuse Ordinance.

5. **Community Land Trust.** In lieu of a Community Land Trust specific to Dana Point, the City actively participates with the Orange County Housing Finance Trust (see Program 2.6), in which Mayor Jamey Federico is a current Board Member. The countywide collaborative effort allows the region to be more competitive with access to additional funding sources.
6. **Density Bonus.** The City plans to update the City's Density Bonus Ordinance in 2022.
7. **Incentivizing 100% Affordable Housing.** As mentioned previously, the City has an existing fee waiver program of all City permit fees for all deed-restricted lower income units.
8. **City Owned Sites and Surplus Property.** The City owns very little land and no surplus sites which can accommodate for affordable housing.

The City prioritizes assisting in the provision of housing affordable to lower income households, highlighted as Goal 2 of the City's housing strategy. Dana Point is a participating city in the Urban County of Orange, which is administered by the County of Orange Housing and Community Development. The "Urban County" is comprised of 11 participating cities with populations under 50,000 (Brea, Cypress, Dana Point, Laguna Beach, Laguna Hills, Laguna Woods, La Palma, Los Alamitos, Seal Beach, Stanton, and Villa Park), two metro cities (Placentia and Yorba Linda), and the unincorporated areas of Orange County.

It is important to note that the Urban County operates to assist the smaller Orange County jurisdictions to pool and obtain federal, state, and local funds for development of new affordable housing, housing and commercial rehabilitation, local economic development, public facilities and improvements, and public service activities. The County of Orange Housing and Community Development administers several housing programs on behalf of Dana Point, as described in the City's housing strategy. As mentioned previously, Dana Point is a small city with limited resources, so we rely on and work closely with the County of Orange for the City's housing program implementation.

In anticipation of the California's Homekey NOFA Round 2, the County of Orange released two RFI's seeking affordable housing developers and more information can be found at this website: <https://www.ochcd.org/housing-development/developer>. The City has not received any Homekey eligible inquiries from these listed qualified affordable housing developers for sites specifically in Dana Point.