



November 19, 2024

San Clemente City Council
City of San Clemente
910 Calle Negocio, Suite 100
San Clemente, CA 92673

RE: Item 8B- Housing Action Plan

Dear Mayor Cabral and Members of the San Clemente City Council,

The San Clemente Affordable Housing Coalition (the Coalition) is a grassroots association of individuals and organizations committed to advocating for increased affordable housing opportunities for San Clemente's lower-income residents. To that end, our group was deeply involved in all stages of the City's adoption of its recent Housing Element (September 20, 2022, certified by HCD on October 12, 2022). We remain intensely interested in the City's progress in meeting the goals stated in this document.

In light of that experience and commitment, we write to express our concerns about certain parts of the proposed Zoning Code Amendment ZA24-193, Item 8B of the agenda for tonight's City Council meeting. We believe certain parts of the proposed Zoning Code Amendment (the Amendment) conflict with provisions of the City's certified Housing Element. Accordingly, if the City adopts the Amendment as proposed, the Zoning Code will be inconsistent with the General Plan, putting the City at legal peril. At the least, the City will be in the cross-hairs of the enforcement arm of the California Department of Housing and Community Development (HCD). Not a good place to be, as San Clemente well knows.

What are the problems with the proposed Amendment? At least three are immediately apparent.

1. **The Proposed Housing Overlay is Inconsistent with the Housing Action Plan.**

The proposed Amendment will replace the City's existing Affordable Housing Overlay (AHO) with a new Housing Overlay that has drastically reduced affordability requirements. Where the existing AHO provides a developer with the benefit of ministerial approval for a project with **51%** of its units designated for **very low-income** households, the new *Housing Overlay* provides that valuable incentive to developments with **zero lower-income units**.

At page 27 of "Exhibit A -- Zoning Amendment ZA24-193," under "C. Project Qualification," the Amendment defines "Qualified Affordable Housing Development" to include "multi-family rental or for sale housing" in which "i. At least 20% of the housing units are restricted to low-income households; or ii. At least 40% of the housing units are restricted to moderate-income households."

Of course, a developer could *choose* to qualify for the Housing Overlay's benefits by providing at least *20% lower income* units. But that choice is unlikely: *The developer will reap greater profits from including 40% moderate-income units in the project.* Consequently, the City's adoption of the proposed definition of "Qualified Affordable Housing Development" will mean future residential developments in the Housing Overlay will likely include **zero** lower-income affordable housing. Instead, the new housing will consist of moderate-income and market rate units only. And that's a big problem.

This proposed "40% moderate-income units" inclusionary requirement brings the new Housing Overlay into direct conflict with important parts of the Housing Action Plan, as follows:

(a) Program 5: "Affordable Housing Overlay"

Program 5: "Affordable Housing Overlay" includes as one of its "Objectives" the following:

"Concurrently with the housing overlay in Program 1, and by-right approvals in Program 2A, modify the Affordable Housing Overlay Zone to improve the effectiveness of the Overlay Zone and make amendments as necessary. Specifically, evaluate the effectiveness and create one Housing Overlay (H) with objective design standards, minimum levels of affordable housing units, and by-right approval if 20 percent of the units are set aside for lower income (very low and low) households (see Program 2A)."

Notably, the Housing Action Plan says nothing about allowing moderate-income housing to qualify for the Housing Overlay's "by-right approval" benefit.

(b) Program 2A: "By-Right Approval for Projects with 20 Percent Affordable Units."

The proposed change is also inconsistent with “Program 2A—By-Right Approval for Projects with 20 Percent Affordable Units.” In that program, the City commits to the following:

“[T]he City will amend the Zoning Ordinance and apply a Housing Overlay (H) to require **by-right approval** of housing development that includes **20 percent of the units as housing affordable to lower income (very low and low) households**, on the following types of sites for meeting the City’s RHNA:

- Sites being used to meet the 6th cycle RHNA that represent a ‘reuse’ of sites previously identified in the 4th and 5th cycles Housing Element. The ‘reuse’ sites are specifically identified in the inventory (Table 4-4).
- Candidate sites that are rezoned within three years from the statutory deadline of the 6th cycle Housing Element (Table 4-6).”

Again, the City’s Housing Action Plan does not express any intention to expand the Affordable Housing Overlay’s by-right approval benefit to moderate-income housing. Moreover, as explained above, expanding the Overlay’s benefits to moderate-income housing will siphon off potential opportunities for developing lower-income units at sites within the Housing Overlay. That change will interfere with the City’s ability to meet its Housing Element obligations and, thus, get the City in trouble with HCD.

(c) The Candidate Sites for Very Low-Income Housing

Importantly, the Housing Overlay map on page 30 on Exhibit A shows an expansion of the existing Affordable Housing Overlay to include in the new Housing Overlay several very large parcels of land (Pico Plaza and others) that are identified in the Housing Element as Candidate Sites for very low-income housing. The Amendment, however, encourages the development of moderate-income and market rate housing on these important sites, rather than lower-income affordable housing. As explained above, developers can qualify for the benefits of section 17.56.90 – including ministerial approval – by simply including 40% of the units as moderate income. Given that moderate-income rents are very close to market rate rents, developers will likely choose to avail themselves of section 17.56.90 by including moderate – not lower-income – units. Absent that Amendment, the benefits of section 17.56.90 – including ministerial approval—which were limited to projects including a minimum of 51% **very low-income** units – might have encouraged that very development. But after the Amendment, no chance.

2. **Moderate-income Units Should Not Qualify as Affordable Housing for Purposes of the New Housing Overlay.**

The Housing Element itself shows why the City should focus its efforts on facilitating the development of **low-** and **very low-income** housing, not moderate-income housing.

San Clemente's RHNA numbers are a good starting point. In this Planning Period, San Clemente must plan for 448 lower-income units, but only 188 moderate-income units. Compounding the City's difficulty in meeting its large lower-income RHNA is the fact its "residential site inventory" has a significant shortfall in lower income sites. That same inventory, on the other hand, comes close to meeting the moderate-income RHNA numbers. As noted in Program 1 of the Housing Action Plan, the City must rezone additional "candidate sites with a housing overlay (H) . . . to accommodate the **City's RHNA shortfall of 244 lower income units, 21 moderate income units . . .**" In other words, rezoning enough sites for lower-income units is a much steeper climb than rezoning enough sites for moderate-income units.

The Housing Element includes two related Tables which further illustrate the need for focusing City efforts on lower-income housing. Table 2-24 (HE-18) shows that "**affordable**" **monthly rents for a four-person household** are: \$689 for extremely low-income households; \$1329 for very low-income households; \$2289 for low-income households; and **\$2818 for moderate-income households.**

Table 2-23 (HE-17) shows that **average rent** in San Clemente for a two-bedroom apartment is **\$2549** (\$2484 on Craigslist, \$2832 on Zillow).

What these two tables show is that "**moderate-income**" **rents are essentially market rate rents.** These rents are already available in San Clemente. It is lower-income housing that is in drastically short supply. Consequently, the City will miss a crucial opportunity to expand its supply of critically-needed affordable housing by including "moderate-income" units in its definition of Qualified Affordable Housing for purposes of the Housing Overlay.

3. The Amendment Creates Barriers to Converting Motels Into Affordable Housing

The proposed Amendment to section 17.56.090 will *restrict the conversion* of low-cost motels in and near the coastal zone for use as Qualified Affordable Housing Developments. (See note 25 on pp. 33, 41; note 33 on p. 51.) More specifically, the Amendment would effectively outlaw the conversion of these motels into affordable housing or permanent supportive housing, with just two exceptions. Those exceptions are (1) if the motel conversion includes an equivalent amount of new, lower-cost visitor-serving accommodations, or (2) if the motel conversion is "required to be approved pursuant to State law."

Of course, neither “exception” is easily met. Instead, the Amendment creates a huge impediment to transitioning aging motel properties into affordable housing. Accordingly, this proposed revision conflicts with the Housing Element in several ways, creating further legal peril for San Clemente.

For example, the Amendment conflicts with affordable housing strategies in Housing Element Goal 5.3. Strategy 5.3.1 states: The city will “Encourage redevelopment and adaptive reuse of infill sites and properties in Affordable Housing Overlay Zone, such as conversion of residential motels to apartments.” Contrary to the Housing Element’s express intent here to encourage such redevelopment and adaptive reuse of the motels in the Affordable Housing Overlay Zone, the Amendment creates significant barriers.

Program 5 of the Housing Element, “Affordable Housing Overlay,” states that the city will “prioritize inclusionary in lieu fees for lower income affordable housing projects proposed in the affordable housing overlay/ housing overlay...” Program D3 of the Housing Element states that In Lieu Fees “could be used to acquire existing apartments, construct new apartments, or the purchase and conversion of old motels.” In other words, in these provisions the city has committed to using its in-lieu fees for projects within the housing overlay, specifically including motel conversions, but the Amendment would obstruct these options, thereby impeding affordable housing development.

Significantly, the staff report does not include an analysis of how these revisions will impact the city’s current Housing Element goals for affordable housing opportunities. This is a fatal flaw. San Clemente needs to address this issue by providing an analysis of the changes that will flow from the proposed Amendment and the consequences of those changes on the city’s ability to meet its obligations under the Housing Element.

We would like to ask the City Council a few questions related to this proposed restriction on converting motels into affordable housing:

1. Why is the City proposing to adopt this local restriction on motel conversions if the Coastal Commission does not require such an ordinance?
2. Why does the proposed restriction apply to motels *outside of the Coastal Zone*, given the fact that the Housing Element commits the City to “Encourage redevelopment and adaptive reuse of infill sites and properties in Affordable Housing Overlay Zone, such as conversion of residential motels to apartments.” (Housing Action Plan, Strategy 5.3.1.)
3. Why not place a qualifier on the motels subject to this restriction? Instead of the proposed overly broad language referring to motels “which have provided lower cost visitor serving accommodation in the last five years,” the restriction should apply only to motels *within the coastal zone* which have been used *primarily* to

provide lower cost visitor serving accommodations in the last *three* years, meaning the majority of room rentals in the last three years have been for short term, tourist lodging.

Conclusion

The Coalition requests that the City honor its commitments in its Housing Element to facilitate affordable lower-income developments on motel sites and as prescribed in the Affordable Housing Overlay. These sites and the existing Overlay are critical to addressing affordable housing needs in the city. The proposed restrictions on the conversion of motels into affordable housing, and the changes to the Affordable Housing Overlay, will hinder the city's attainment of its lower-income RHNA goals, and directly limit potential affordable housing developments.

Thank you for considering our concerns on these important issues. We urge you to vote no on these specific changes proposed in the Amendment to section 17.56.090.

Sincerely,

Kathy Esfahani

Kathy Esfahani,

San Clemente resident and Chair, San Clemente Affordable Housing Coalition

cc: Andy Hall, San Clemente City Manager
Mr. Paul McDougall - CA Dept. of Housing and Community Dev.
Cesar Covarrubias, Kennedy Commission
Richard Walker, Public Law Center