

Orange County Housing Element - HCD Review Letter dated September 28, 2023– Summary of Changes

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A.1: AFFH – Integration & segregation	While the element was revised to include adequate analysis of integration and segregation based on race and ethnicity, it must still be revised to provide the same analysis for patterns of integration and segregation based on disability, familial status, and income	Disability analysis revised to include tract-level unincorporated data by unincorporated subarea. Also included trends over time and analysis on elderly populations.	146-148
		Added unincorporated County discussion on familial status by unincorporated subarea as well as trends over time.	159
		Discussion on income added. Includes unincorporated subarea data as well as regional comparisons and trends over time.	160-161
A.1: AFFH – Disproportionate housing need	While the element was revised to provide further data on overcrowding, cost burden, housing conditions, and homelessness and provides some general analysis, it must still analyze the data for trends and geographical patterns over time both locally and regionally and provide additional analysis as to the potential causes of these patterns and trends.	Added discussion about cost burden in each unincorporated area and compared the County/unincorporated County to regional trends. Also included data from 2012 to show trend.	195-198
		Discussion on overcrowding by unincorporated subarea added with regional comparison and 2012 data to show trend.	199-200
		Expanded discussion on housing age and lack of facilities by unincorporated subarea.	202-204
		Added data on homelessness by unincorporated subarea.	205
A.1: AFFH – Local Knowledge	While the element was revised to include some additional local data for disproportionate housing needs, it largely was not revised to meet this requirement. As stated in HCD’s December 27, 2021 review, the element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.	Added history of Orange County with description of trends that contributed to racial/economic disparities.	210-211
A.1: AFFH – Identified Sites and AFFH	While the element was revised to provide an analysis of sites in relation race and ethnicity and income, it must provide the same analysis for disability, familial status. In addition, the element also requires an analysis of the	Sites analysis updated to include race, disability, familial status, LMI HHs, RCAAs, TCAC, CalEnviroScreen, cost burden, overcrowding, displacement risk. “Candidate Sites	Starts on pg. 90 (of AFFH section). See

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	<p>placement of sites in relation to disproportionate housing needs and access to opportunity. The element should discuss whether the distribution of sites improves or exacerbates existing conditions, and if sites do exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., ant displacement and place-based community revitalization strategies).</p>	<p>and AFFH Summary” also added to discuss sites by AFFH variables and county subareas.</p>	<p>revisions starting in subsection “Candidate Sites and Non-White Population.</p>
<p>A.2: Site Inventory</p>	<p>There continues to be inconsistencies with a number of tables (e.g., Figures B-13, B-14, and B-20) where the proposed total is inconsistent with the actual sum of the individual unit or acreage subtotals. The County should reevaluate all sites inventory tables to ensure consistency and be sure to include an estimate of size and capacity for each parcel.</p>	<p>The site inventory has been largely revised including document structure, a revised site inventory and inventory methodology and assumptions, etc.</p>	<p>Starts on pg. B-1 in Appendix B.</p>
<p>A.2: Realistic Capacity</p>	<p>While the element was revised to provide examples of recent development using the Housing Opportunity Overlay (HOO) in Table B-2, it appears all the example sites develop at densities consistently lower than the 70 dwelling units per acre the County is assuming (the maximum density the HOO allows). In order to assume this density and apply it to sites in the inventory; the element must provide evidence of specific trends; patterns or other evidence that led to and justify these assumptions. Additionally, the capacity methodology must account for development standards or other factors that could limit the capacity.</p>	<p>HOO methodology for realistic capacity has been revised based on changes to the site inventory.</p> <p>The HOO was adopted in 2006, and the maximum density has been increased twice since then. In 2020, the density of the HOO was increased from a maximum of 25 to 43.5 units per acre and in 2022, the maximum density of the HOO was again increased to 70 units per acre. After each increase, actual development densities increased proportionally. Table B-14 lists all HOO projects and shows that all but two projects have achieved densities more than what is allowed in the HOO at the time of their approval. Since 2007, 7 out of 9 housing projects in the HOO have been developed at densities of at least 125% of allowed maximum density and all 9 projects averaged to just over 100% of allowable density. In comparison, recent residential development in residential (R-3) areas outside the HOO during the same period have been developed at lower densities (Table B-15).</p> <p>The HOO has been very successful in stimulating affordable housing development, with 8 new residential projects approved since 2007 and one project currently under</p>	<p>The revised Site Inventory Methodology starts on pg. B-48 in Appendix B.</p>

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		<p>development. To expand the opportunities for development of higher density, affordable housing, in 2024, the HOO was expanded to sites zoned multi-family residential, light industrial, and mixed-use and a 30 du/ac minimum density was implemented for all base zones within the HOO. Additionally, most of the base commercial zoning within the HOO was changed to Mixed-Use which does not allow for stand-alone non-residential uses and requires residential uses to comprise at least 50% of the total floor area.</p>	
A.2: Suitability of Nonvacant Sites	<p>The element was not revised to meet this requirement. As stated in HCD’s February 7, 2022 and December 27, 2021 reviews, trends and analysis need to support the redevelopment potential of identified sites, and the analysis must demonstrate that the existing uses do not pose and impediment to new housing development within the planning period. The element should use development and market trends in the County and surrounding region, and specifically connect the characteristics of those trends of development to sites in the inventory</p>	<p>The site inventory methodology has been revised based on changes to the site inventory and site suitability section has been added that addresses existing uses. An extensive table of development trends in the Unincorporated County and in surrounding cities has been added.</p> <p>Close to 80% of the parcels in the site inventory (exclusive of the church properties) are developed with commercial or commercial type uses (such as auto repair uses) and 20% have residential uses. Table B-9 and B-10 show that residential development trends in surrounding cities indicate a higher demand for residential uses in areas with limited land availability, often leading to the redevelopment of commercial properties. This shift is evident as commercial areas and properties originally developed for commercial uses are increasingly being converted to meet residential needs. Almost all examples of recent developments had commercial or residential existing uses.</p>	<p>The suitability of non-vacant sites discussion is in the revised Site Inventory Methodology under the Existing Use heading on pg. B-49 in Appendix B</p>
A.2: Large Sites	<p>The element did not address this finding, as it does not provide information indicating sites of equivalent size and affordability to those large sites included in the inventory were successfully developed during the prior planning period. Please see HCD’s February 7, 2023 review, with particular</p>	<p>The only large sites (larger than 10 acres) included are mostly in the above moderate-income range but have commitments by the owners to the development of some affordable housing.</p>	<p>The large sites discussion is in the revised Site Inventory Methodology</p>

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	attention to the suggested framework of analysis for large sites in specific plan areas	While not falling under the large site size parameters set by State law, the inventory includes three stand-alone sites that are between 4.5 and 7.8 acres in size. Due to the densities on these sites (>30 du/ac) capacity can be credited toward the lower-income RHNA. However, as a more conservative approach, the capacity is split evenly between the lower- and moderate-income category to provide flexibility for the potential development of mixed-income housing.	under the Size and Lot Consolidation heading on pg. B-55 in Appendix B.
A.2: Small Sites	The element was not revised to meet this requirement. Please see HCD's February 7, 2023 review for an outline of the required analysis	<p>The revised site inventory does <u>not</u> rely on any stand-alone small sites (smaller than 0.5 acres) used to meet the lower income RHNA. Small parcels are included in the inventory but only as part of a larger, multi-parcel sites.</p> <p>The average HOO site size (which may contain multiple parcels) is 1.7 acres with a median size just under one acre (0.8 acres). In general, small site development is still a realistic approach as the County of Orange has previous recent experience developing affordable housing on sites smaller than half an acre (Potter's Lane). All but one of the nine affordable multifamily developments in Table B-14 were developed on sites larger than the inventory average (1.7) and five of those projects on sites that are 0.8 acres or smaller.</p>	The small sites discussion is in the revised Site Inventory Methodology under the Size and Lot Consolidation heading on pg. B-55 in Appendix B.
A.2: Accessory Dwelling Units	While Program 6 (Accessory Dwelling Units) was revised to commit to establishing an ADU monitoring program sooner in the planning period with more frequent monitoring, the element's ADU projections were not revised as requested in HCD's February 7, 2023 review, nor has adequate additional analysis or support for these projections been included. the element should be revised to <u>reduce the number of ADUs to accommodate the County's Regional Housing Needs Allocation (RHNA)</u> .	<p>The ADU analysis has been revised and is based on an annual estimate of 60 units to reflect the average permits issued from 2020-2023 (4 years).</p> <ul style="list-style-type: none"> • 2020 – 50 ADU permits • 2021 – 57 ADU permits • 2022 – 60 ADU permits • 2023 – 73 ADU permits 	ADU estimates are included in Appendix B under the Constructed/Projected Accessory Dwelling Units (ADUs) on pg. B-9.

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		Earlier this year the County made pre-approved ADU plans available to assist the public and streamline development of ADUs. The County has also committed to creating an Affordable Accessory Dwelling Unit Loan Program to provide low-cost loans to homeowners.	The ADU program (Program 7) is on pg. 259 of Chapter 5: Housing Action Plan.
A.2: Electronic Sites Inventory	the County must submit an electronic sites inventory with its adopted housing element.	Will be submitted with the next submittal to the Departments (estimated to be late September/early October 2024)	
A.3: Local Processing and Permit Procedures	While the element has been revised to provide a general analysis of the approval process and procedures, it must still include typical findings for each type of permit, as well as any discretionary approval procedures and findings for single-family and multifamily development. Programs to address potential constraints may need to be revised based on this completed analysis.	<p>The Constraints analysis has been updated to add a new section titled “Procedures and Findings and Conditions for Single-Family and Multifamily Residential Projects”.</p> <p>The County has been proactive in implementing strategies to facilitate development of housing:</p> <ul style="list-style-type: none"> • In July 2024, the County removed the Site Development Permit requirement for multifamily development of 1 to 4 units and any developments that include at least 20% affordable for multifamily development with 5 or more units, the Site Development Permit requirements were amended to replace the current findings with objective findings, including conformance with proposed Objective Design and Development Standards as allowed by State law and the Housing Accountability Act • The County also created an administrative review process for residential rental and owner-occupied projects that include at least 20% affordable units. The process provides applicants with a submittal checklist of applications materials and information needed including a general description of the 	Local processing and permit procedures are discussed under the Procedures and Findings and Conditions for Single-Family and Multifamily Residential Projects heading on pg. 98.

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		<p>projects, a copy of an affordability agreements, architectural plans, a Water Quality Management Plan Checklist, and if applicable, a request for a density bonus consistent with State law.</p> <p>As a result, Programs 2 has been updated to reflect these actions.</p>	
<p>A.3: Constraints on Housing for Persons with Disabilities</p>	<p>The conclusion that requiring a use permit for group homes with seven or more residents is not a constraint because no group home facilities of seven or more have been denied thorough the use permit process is erroneous. As stated in HCD’s February 7, 2023 review, Zoning and standards should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations. Zoning code regulations that isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors pose a constraint on housing choice for persons with disabilities, and program actions should be added to the element to remove this use permit requirement.</p>	<p>Program 8 has been updated based on the revised AFFH analysis and includes the following actions:</p> <ul style="list-style-type: none"> • Review Definition of Single Housekeeping Unit. To promote flexibility to accommodate residents with different living conditions, the County will review and adopt revisions as appropriate to its zoning code to provide greater flexibility in consideration of accommodating a variety of household situations for related and unrelated individuals living together. • Review Group Home/Sober Living Home ordinances and adopt revisions to its zoning code applicable to group and sober living homes • On an ongoing basis, ensure the permitting requirements for group homes and care facilities for seven or more persons are consistent with State law and fair housing requirements. 	<p>Program 8 is on pg. 260 of Chapter 5: Housing Action Plan.</p>
<p>A.4: Time Between Project Approval and Building Permit Application</p>	<p>While the element has been revised to provide and analysis of a number of factors that play a role in the length of time between receiving approval for a housing development and submittal of an application for building permits, it must provide a specific time frame for both single and multifamily developments.</p>	<p>An estimate of time between project approval and building permit application for Single and multi-family housing has been added to Table 3-5.</p>	<p>Table 3-5 is on pg. 103 of Section 3: Constraints.</p>
<p>B.1: Housing Programs</p>	<p>While the element revised a number of programs and added additional actions based on newly provided data and analysis, it largely was not revised to meet the requirements of this finding. Please see HCD’s February 7, 2023 review. Below are key findings from the 2/7/23 HCD findings letter:</p>		

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B.1: Housing Programs (from the 2/7/23 letter and not addressed previously)	The element did not address this requirement. As stated in the previous review, the element must provide discrete timing for all programs (e.g., month, year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period and quantify objectives where feasible. Additionally, all programs should be evaluated to ensure meaningful and specific actions and objectives. Many of the programs reference timing within a certain number of years from adoption. Given the County is already over a year within the planning period, program time frames should be revised to be specific and early enough in the planning period to have a meaningful impact. In addition, several programs commit to “review annually” various strategies and policies. However, those programs do not commit to specific outcomes as a result of that review.	The Housing Action Plan has been revised to add timeframes that have discrete actions. Also, specific quantifiable objectives have been added to the adequate sites, ADU, AFFH, and several other programs.	The Housing Action Plan starts on Page 246.
B.2: Housing Programs (from the 2/7/23 letter and not addressed previously)	Sites Identified in Prior Planning Periods: The element was not revised to address this statutory requirement. Please see HCD’s prior December 27, 2021, review.	<p>Program 2 addresses the requirements of Government Code Section 65583.2 which requires that certain types of sites in the County’s sites inventory for lower income RHNA be subject to by-right approval and subject only to design review based on objective standards, when a project includes 20 percent of the units affordable to lower income households and no subdivision is proposed.</p> <ul style="list-style-type: none"> • The County did not identify vacant potential sites in this 6th Cycle site inventory that were identified in the previous two cycles and thus, there are no vacant sites that needed to be rezoned. • All nonvacant sites that were identified in the County’s 5th cycle Housing Element as sites for lower income RHNA have been rezoned as part of the County’s 2024 zoning amendments to require a 30 du/ac minimum density and allow affordable housing by-right for projects with at least 20% as part of the 	Parcels that are subject to by-right approval pursuant to State law are identified in Table B-8 Appendix B on pg. B-28.

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<p>B.2: Program 1 (Provide Adequate Sites and Monitor for No Net Loss)</p>	<p>While HCD understands the County adopted new zoning to meet some requirements in Program 1 to increase allowed density in the HOO, it must provide information that those rezonings meet the requirements in Government Code section 65583.2, sub. (h) and (i). Specifically, information is necessary to determine compliance with the following provisions:</p> <ul style="list-style-type: none"> • permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval. • accommodate a minimum of 16 units per site; • require a minimum density of 20 units per acre; and • at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all the very low and low-income housing need, if those sites: o allow 100 percent residential use, and o require residential use occupy 50 percent of the total floor area of a mixed-use project. <p>In addition, please be aware, the recent California appellate decision in <i>Martinez v. City of Clovis</i>¹ found that while overlays can be used in a rezone, when the base zone allows residential development, both the base zone and the overlay zone must comply with the minimum density requirements of Government Code section 65583.2, subdivision (h). The County should analyze how this decision may impact its current rezone strategy using the HOO and may need to adjust accordingly.</p>	<p>RHNA shortfall requirements. Parcels that are subject to by-right approval pursuant to State law are identified in Appendix C.</p> <p>Program 1 (Provide Adequate Sites, No Net Loss, and Site Replacement) has been fully revised and renamed to reflect the changes to the site inventory and to include the elements required by Government Code section 65583.2 as well as Government Code Section 65863 (No Net Loss) and Government Code Section 65583.2(g)(3) (Site Replacement).</p> <p>All sites that required rezoning actions are in zoning districts that require a minimum density of 30 units/acre.</p>	<p>Program 1 is on pg. 249 of Chapter 5: Housing Action Plan.</p>
<p>B.3: Constraints Analysis (also included in the 2/7/23 letter and</p>	<p>As noted in Findings A3 and A4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints.</p>	<p>The Constraints analysis has been updated add a section titled “Procedures and Findings and Conditions for Single-Family and Multifamily Residential Projects”</p>	<p>Section 3: Constraints Analysis starts on pg. 82.</p>

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not addressed previously)		<p>As a result, the Housing Action Plan has been updated to add the following actions:</p> <ul style="list-style-type: none"> • Removing the Site Development Permit requirement for multifamily development of 1 to 4 units and any developments that include at least 20% affordable units. These uses will be allowed as a by-right use. For multifamily development with 5 or more units, the Site Development Permit requirements will be amended to replace the current findings with objective findings, including conformance with proposed Objective Design and Development Standards. • Adopt Objective Design Standards (ODS) to provide local guidance on design and standards for housing development, including by-right projects, as allowed by State law and the Housing Accountability Act which prohibits a local agency from disapproving or reducing the density of housing development projects that comply with local and state regulations unless the agency can make certain written findings. • Evaluate the County’s Zoning regulations annually to identify potential constraints to the development of affordable housing and housing for those with special needs. • review and adopt revisions as appropriate to its zoning code to provide greater flexibility in consideration of accommodating a variety of household situations for related and unrelated individuals living together. • Review Group Home/Sober Living Home ordinances and adopt revisions to its zoning code applicable to group and sober living homes and ensure the permitting requirements for group homes and care facilities for 	

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		seven or more persons are consistent with State law and fair housing requirements.	
B.4: AFFH Analysis (also included in the 2/7/23 letter and not addressed previously)	As noted in Finding A1, the element requires a complete AFFH analysis. The element must be revised to add goals and actions based on the outcomes of a complete analysis.	Goals and actions have been updated and reformatted as the “AFFH Action Matrix.” The Matrix includes meaningful actions, geographic targeting, timelines, and 8-year metrics by the following AFFH categories: fair housing outreach and enforcement, new housing opportunities in high resource areas, mobility, place-based strategies, and tenant protections and anti-displacement.	Program 8 is on pg. 260 of Chapter 5: Housing Action Plan.