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August 30, 2021

Mashal Ayobi, Housing Policy Analyst
California Department of Housing & Community Development
2020 West El Camino Avenue
Sacramento, CA 95833

RE: Initial Comments to City of Garden Grove Housing Element Draft dated July 2021

Dear Ms. Mashal Ayobi:

The Kennedy Commission (the Commission) have reviewed the City of Garden Grove's 2021-2029 Housing Element draft and are submitting this letter to provide public comments.

The Kennedy Commission (the Commission) is a broad-based coalition of residents and community organizations that advocates for the production of homes affordable for families earning less than \$27,000 annually in Orange County. Formed in 2001, the Commission has been successful in partnering and working with Orange County jurisdictions to create effective housing and land-use policies that have led to the construction of homes affordable to lower-income working families.

Public Engagement

Public engagement is a necessary component of the Housing Element process. As California Housing Element law states: "The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element..."¹ Broad participation and true engagement of the public increase the likelihood that the community members involved in the discussion and planning processes will support new housing strategies and housing developments. Public engagement should include participation from residents of diverse communities, housing consumers, service providers, and advocates.

The City conducted two community workshops, and three surveys, but did not provide alternatives options or outreach for lower income residents to participate in the Housing Element process. Together, the community workshops had a total of approximately 40 participants.² It is unclear how many were residents and specifically low-income residents. The City's three surveys, the City only provides information for one of the surveys which had only 622 respondents. The summary does not provide the number of respondents for the second or third surveys. The City needs to engage community stakeholders and residents in the evaluation and creation of policies, goals, programs and sites for affordable housing development, especially low income and special needs residents who are the most vulnerable to the housing crisis and document these efforts.

In addition, the availability of the document to the public and opportunity for public comment prior to submission to HCD is essential to the public process. However, the City did not provide

¹ Gov. Code, § 65583, sub. (c)(9)

² City of Garden Grove 2021-2029 Draft Housing Element, p.12-8, July 2021.

sufficient opportunity for the public to review the Housing Element draft. The draft was released to the public on July 6, 2021, only one week before it was submitted to HCD for review on July 14, 2021. The city should proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate.

Community Needs

According to Table 12-6 of the Housing Element draft, there are a total of 21,940 renter households in Garden Grove, with 6,115 or 27.9% of those households spending thirty percent or more of gross income on housing costs. Additionally, 6,710 or 30.6% renter households are extremely rent burdened, paying fifty percent or more of gross income on housing costs.³ The median income for renters in Garden Grove is \$52,271, lower than the City's median income of \$69,278.33% of residents make less than \$50,000.⁴ Furthermore, 15.1% of residents live in poverty.⁵ In light of these figures it is not surprising that such a large number of renters in the City cannot afford 1- and 2-bedroom apartments. The Housing Element draft states a resident needs to earn an annual income of \$76,599 and \$ 94,572, respectively, to afford this housing.⁶

Employment:

At least three of the four primary employment sectors in the City provide a median salary that is below the City's median income and that HCD defines as very low income: Manufacturing, Retail, and Arts, Entertainment and Recreation. According to Table 12-5, these sectors account for approximately 39.1% of jobs in the City. The City should take into account its local economy and offer healthy and affordable housing options that the current market-rate housing development is not offering. The City could improve its analysis by describing employment trends by industry and how changes either recent or anticipated can affect the housing market and discuss opportunities for improving work-housing balance, such as mixed-use to facilitate housing near jobs.⁷

5th Cycle RHNA Performance

During the 5th Cycle Housing Element (5th Cycle), the City had a total Regional Housing Needs Assessment (RHNA) of 747 units: 164 very low-income units, 120 low-income, 135 moderate, and 328 above moderate. To date, the City has approved 79 moderate units and 787 above moderate.⁸ The City has approved 13 units at very-low income and 47 at low-income. The City has exceeded its 5th Cycle target for the above moderate income level, but has a deficit of very low and low housing units. The number of above moderate units approved in the last seven years was 13 times more than those at very low and low income. This imbalance in housing production indicates that the City's housing policies have not been effective in incentivizing and producing housing for lower income households. In a later section, the Kennedy Commission provides recommendations of policies the City can implement to increase its production of housing at the very low- and low-income levels.

³ City of Garden Grove 2021-2029 Draft Housing Element, p.12-17, July 2021.

⁴ City of Garden Grove 2021-2029 Draft Housing Element, p.12-8, July 2021.

⁵ City of Garden Grove 2021-2029 Draft Housing Element, p.12-15, July 2021.

⁶ City of Garden Grove 2021-2029 Draft Housing Element, p.12-23, July 2021.

⁷ HCD Housing Element Building Blocks, Population, Employment, and Household Characteristics

⁸ City of Garden Grove 2020 Housing Element Annual Progress Report, Table B.

5th Cycle Identified Opportunity Sites:

In the 5th Cycle, the City identified housing opportunity sites for very low and low income exclusively in the R-3, PUD, and GGMU-1 zones. The sites were identified based primarily on the minimum density requirement for affordable housing of 30 units to the acre. No affordable housing policy accompanied these higher density allowances, as is evident in the deficit of lower income housing in the City's 5th Cycle. The higher density zoning has provided significant incentives for market rate multi-family development at the expense of curtailing affordable housing options on these higher density sites. As analyzed, higher density incentives and sites (30+du/acre) identified are not producing affordable housing units and circumvents the efforts of the State density bonus law to include affordable housing in exchange for development incentives and increases in density that are being given away. Since developers receive all the incentives and density increases by-right, they do not need to include affordable housing in their projects. This clearly shows the need for strong affordable housing policies, such as an inclusionary policy that can ensure that at least a 15% affordable housing requirement for lower-income households is set on sites identified for the 6th Cycle Housing Element (6th Cycle).

Housing Policies to Increase Affordable Housing

Past Performance:

The City must "review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element."⁹ While the element includes a program-by-program review of implementation in the prior planning period, the review of past programs should also analyze the cumulative effectiveness of programs on addressing special housing needs over the previous planning period. As the 5th Cycle progress indicates, the City's housing policies have developed housing in an unbalanced way and prioritized market-rate housing over housing for low-income families. For the upcoming 6th Cycle, we recommend that the City include policies with stronger affordability requirements, instead of continuing to hope that the market will deliver affordable housing by identifying higher density sites for lower-income RHNA needs. This strategy has proven to be ineffective and has only produced luxury, market-rate housing that is unaffordable to most Garden Grove residents.

Incentivizing Affordable Housing in the 6th Cycle Housing Element:

To ensure that affordable housing is incentivized on the sites identified in the 6th Cycle, the City needs to include policies and programs that will create affordable housing. The following policies and programs proposed in the 6th Cycle can be improved in the following ways:

- **Program 4:** Affordable Housing Construction - The City pays particular attention to senior housing in this program. However, given the City's lack of production at the lower income levels in the 5th Cycle, it is important the City also prioritize housing for all low-income families, especially large family housing. There are 2,543 renter-occupied large households (5.3%) and 14.9% of those families live in poverty.
- **Program 11:** Inclusionary Housing Ordinance - The City needs a more specific timeline than 2021 to 2029 to assess the viability of an Inclusionary Housing Ordinance. Given the urgent need of residents for low-income housing, we propose the study be completed within one year of the adoption of the 6th Cycle Housing Element. The Commission strongly

⁹ Gov. Code § 65588 (a) and (b)

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 Inclusionary Housing Ordinance should be implemented no later than one year from the adoption of the Housing Element.

- **Program 12: Mixed Use Development** - Since lower income housing sites are primarily located in mixed use zoning and the City has not committed to an Inclusionary Housing Ordinance, the City should set aside 15% of housing to be affordable at the extremely low, very low-, and low-income level in mixed use zoning.
- **Program 17: Zoning Code Update**- In regard to single-room occupancy and motel conversions, the City must ensure existing long-term tenants have just relocation benefits and right of first refusal. The City could conduct a study of how many lower income residents are living in these units and do one-to-one replacement of units lost as a result of a conversion.
- **Program 22: Affordable Housing Overlay** - Like with Program 11, the City needs a more specific timeline than 2021-2029 to assess the viability of an Affordable Housing Overlay. We propose the study be completed within one year of the adoption of the 6th Cycle Housing Element. The Commission strongly recommends that the City adopt an Affordable Housing Overlay that requires 15% of units be set aside for housing at the very low- and low-income level. This will ensure that identified sites are truly feasible and effectively provide affordable housing in a balanced manner. The Affordable Housing Overlay should be implemented no later than two years after the adoption of the 6th Cycle Housing Element.

The Kennedy Commission provides additional policy recommendations in the recommendations section below that will help the City increase its production of affordable housing in the 6th Cycle.

Housing Element Opportunity Sites Inventory

As part of the analysis of adequate sites, the City has identified opportunity sites for lower-income households in the following zonings: International West Mixed Use; Commercial Housing Overlay, Civic Center Mixed Use; Civic Center Core (CC-3), Industrial/Residential Mixed Use 1; Industrial Housing Overlay, Residential/Commercial Mixed Use 1; Garden Grove Boulevard Mixed Use 1 (GGMU-1), Residential/Commercial Mixed Use 1; Garden Grove Boulevard Mixed Use 1 (GGMU-3), and Industrial/Residential Mixed Use 2; Industrial Housing Overlay.

Identified Low Income Sites:

The sites identified for lower-income categories are identified based on default densities for lower income units. In fact, the City states that in order to meet its RHNA requirement all of the mixed-use designations received density increases that averaged 25%.¹⁰ As evident from the City's lack of affordable housing production in the 5th Cycle, relying solely on default densities without implementing specific affordable housing policies will not produce affordable housing. Instead, it gives market-rate projects increased densities and land use incentives without incentivizing the inclusion of affordable units.

¹⁰ City of Garden Grove 2021-2029 Draft Housing Element, p.12-78, July 2021.

Suitability of Non-vacant Sites:

The Housing Element must include an analysis demonstrating the potential for redevelopment of non-vacant sites. To address this requirement, the Housing Element should describe and support the potential for additional development in the planning period and consider additional factors such as the age of structure, presence of expiring leases, condition of the structure, and expressed interest in development. If the Housing Element relies on non-vacant sites for more than 50% of the lower-income RHNA, it must make findings of substantial evidence that the existing use does not constitute an impediment to development, and that the existing use is likely to discontinue. Table 12-36 shows that the vast majority of sites the City identified to meet the lower income RHNA are non-vacant sites and, thus, require a more thorough analysis.

The City states that the owners of non-vacant sites were asked if they were interested in selling their properties for residential development and 56% responded they were interested.¹¹ However, the City does not define what expressing interest means and, thus, it is difficult for the public to assess if these sites are likely to be developed into lower income housing in the 6th Cycle. It is also unclear if the City included the in the site inventory of the Housing Element draft the properties of the 44% of owners that did not state they were interested in developing their properties. If the City did include properties for which owners did not express interest in development, what actions is the City taking to increase the likelihood of their development into affordable housing? Are their environmental constraints on these sites? What regulatory or contractual agreements exist that could impede development?

Additionally, there are a series of sites that require further evidence from the City of their potential for development:

- Site #33, currently a wholesale warehouse, identified has a capacity of 499 units. This site has the largest unit capacity. Is the owner interested in developing this site and by when? What environmental constraints exist on this site?
- Sites #2 and #3 are hospital parking lots. Are these sites truly underutilized? Did the hospital show interest in developing these properties and, if so, by when?
- Do sites #5 (industrial business park), #14 (commercial center), #37 (commercial center), and #49 (commercial center), each have multiple owners? If so, did all the owners of each site show interest in developing the land for affordable housing and by when?
- Sites #24 and #25 are currently a senior center and an adult daycare center. Are these sites truly underutilized? According to Appendix B-1 these are civic facilities. Are these sites owned by the City? If so, does the City plan on redeveloping them and by when? If the City is the owner and plans on developing these sites, as City resources, these sites should be fully prioritized for lower income housing. The City states that there are no serious constraints to the development of the sites identified for lower income housing.

However, there are at least 5 sites that stand out as having constraints worth further analyzing:

- Site #7's current use is metal recycling. Did the City analyze any potential environmental constraints the current use of the site poses?

¹¹ City of Garden Grove 2021-2029 Draft Housing Element, p.12-86, July 2021.

- Sites #41-43 and #45 are currently hotels or motels. Has the City conducted a study of how many long-term low-income residents might be living on these properties that would need relocation assistance or a one-to-one unit replacement?

Furthermore, the City needs to clearly identify what sites are being reused from the 5th Cycle. While the City states that it complies with AB 1397 and, thus, is able to identify these sites as new because the zoning and development potential was significantly increased, all the City seems to have done is increase the density of these sites without implementing any other type of incentive or policy to develop lower income housing. As the 5th Cycle shows, solely relying on default densities does not produce affordable housing.

Traditional Funding for Affordable Housing:

In addition, identified affordable housing sites should also be evaluated for their viability to compete for traditional funding to create affordable housing. These funding sources prioritize development sites that promote access to community resources and services, such as schools, public transportation, medical services and access to parks.

No Net Loss:

The City will also have to consider No Net Loss when it identifies sites. It is crucial that affordable housing moves along with market-rate housing given the limited sites that are available. Due to the State's No Net Loss requirements, if the sites identified for affordable housing are developed for market-rate housing, the City will have to rezone new sites for the appropriate density.¹²

It is important that the City address the concerns we raised with the 6th Cycle Housing Element site inventory and further evaluate constraints to and the likelihood of the development of affordable housing on these sites. Moreover, the City needs to identify affordable housing policies and programs that will equitably facilitate and incorporate affordable housing at the extremely low, very low and low-income categories on these sites.

Accessory Dwelling Units (ADUs)

Looking at the City's calculation for lower income ADUs, we believe that affordable housing opportunities assumed in the City's ADU calculations seem to be high and not supported by local housing costs for rentals and annual production. The City calculates an anticipated issuance of permits for 3,618 ADUs in the upcoming 6th Cycle, or 436 ADUS per year. The 436 ADUs per year is drastically higher than the number of ADUs issued permits in 2018 (217 units) and 2019 (297 units). The City did not provide information on how many ADUs were issued permits in 2020. To analyze potential ADU production in the 6th Cycle, the City needs to provide the public with complete past ADU production data. The Commission believes the City should either reduce the number of ADUs or include additional analysis and programs to support the City's assumption of ADU production in the next eight years.

The City states that implementation of Program 9: Accessory Dwelling Units (ADUs) will help increase the number of ADUs permitted per year thus far. However, this program does not provide strong enough incentives or data to support the City's projection of 3,618 ADUs. Furthermore,

¹² Government Code § 65863

Program 9 does not include any mechanisms that will ensure ADUs are affordable at the lower income levels. In addition to providing a more realistic calculation for anticipated ADUs in the upcoming Housing Element Planning period, the City needs to propose a better plan to ensure the affordability of ADUs.

Affirmatively Furthering Fair Housing (AFFH)

Based on the City's AFFH analysis it is clear there are segregation patterns in the City. The lowest resource areas in the City and areas with lower median incomes coincide with the predominantly Hispanic areas to the southeast of the City and with the predominantly Asian areas to the south. Meanwhile, the highest resource areas with the highest median incomes in the City are to the west and have a predominantly White population.

While the City provided an AFFH analysis, it has not provided an adequate plan for how it will address contributing factors to fair housing issues in the City and to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. Exhibit H-6 maps out site locations and shows that all opportunities for lower income housing sites in low and moderate resource areas. On the other hand, no sites are proposed in the area to the west that is predominantly higher resourced and that has higher median incomes.

Additionally, the City does not provide anti-displacement policies that adequately protect current residents. As Exhibit H-5 shows, a substantial portion of the City is considered low-income and susceptible to displacement, experiencing advanced gentrification, or at-risk of becoming exclusive. Providing housing that is affordable to low income residents also helps address concentration of poverty by helping rent-burdened residents. As established, the City has not provided policies that will effectively produce housing at the lower income levels.

As a reminder, AFFH requires the following:

- Identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity
- Identification and prioritization of fair housing contributing factors
- Investment in low resource areas that will improve quality of living in those areas
- Programs with a schedule of actions with timelines and specific commitment to have a "beneficial impact" within the planning period to achieve the goals and objectives of addressing contributing factors to fair housing issues¹³

We ask that the City prioritize the housing needs of low, very low and extremely low-income residents, who encounter difficulties in finding decent, affordable housing.

Recommendations

As the City moves forward with the Housing Element update, the Commission urges the City to support the development of affordable homes. The City needs to ensure opportunity sites are not

¹³ Gov. Code, § 65583, sub. (c)(10)(A)

City of Garden Grove's Housing Element Draft
The Kennedy Commission Comments
August 30, 2021

simply up zoned or rezoned without including affordable housing policies that will capture the financial and land use incentives being given to property owners and market rate developers. This approach did not create affordable housing in the 5th Cycle and nor will it have a different outcome in the 6th Cycle. The Commission would like to provide the City with following recommendations:

1. Adopt an Inclusionary Housing Ordinance that sets a 15% requirement of affordable housing production at extremely low, very low, and low-income categories of all residential projects. In Program 11, the City only commits to studying the possibility of an Inclusionary Housing Ordinance at some point from 2021-2029. This is not enough. The City must identify a timeframe to study the policy and a timeframe for adoption and implementation. We recommend that this be done in the first year of the 6th Cycle.
2. Implement an Affordable Housing Overlay, especially over mixed-use zoning and areas that are proposed to be up zoned, which sets aside 15% of all units at the extremely low, very low-, and low-income levels. In Program 22, the City only commits to studying the possibility of an Affordable Housing Overlay at some point from 2021-2029. This is not enough. The City must identify a timeframe to study the policy and a timeframe for adoption and implementation. We recommend that this happens in the first year of the 6th Cycle.
3. Identify City-owned sites and prioritize these sites for the development of housing exclusively at the extremely low, very low- and low-income level.
4. Prioritize affordable housing funding and programs to increase affordable housing options for families of lower incomes, especially at very low and extremely low-income.
5. Ensure that development sites being identified and discussed in the Housing Element draft are realistic and available during the planning period.
6. The City of Garden Grove should provide an adequate analysis and recommendations on how the City will Affirmatively Further Fair Housing. For example, the City should include anti-displacement policies that protect low-income residents from rising rents and commit to reinvesting in low resource areas to improve the quality of living of residents in those areas.
7. The City needs prioritize and expand affordable housing in new opportunity sites identified in the Housing Element inventory, where density and incentives will only promote market rate housing.

Thank you for taking the time to review the Commission's comments. If you have any questions, please feel free to contact me at (949) 250-0909 or cesarc@kennedycommission.org.

Sincerely,



Cesar Covarrubias
Executive Director