

TECHNICAL MEMORANDUM

To: Ms. Jennifer Gates, AICP
From: Dave Barquist, AICP
Date: March 9, 2021
Subject: City of Encinitas 6th Cycle Housing Element CEQA Determination

1.0 INTRODUCTION & PURPOSE

This Technical Memorandum shall serve as an evaluation of the City of Encinitas 6th Cycle Housing Element (the “Project”) concerning California Environmental Quality Act (CEQA) compliance. This Technical Memorandum was prepared to present: 1) the findings resulting from the CEQA compliance review, as described below; and 2) the recommendations concerning the appropriate CEQA compliance documentation.

2.0 STATUTORY AUTHORITY & REQUIREMENTS

State CEQA Guidelines §15061 – Review for Exemption

Once it has been determined that an activity is a project subject to CEQA, it is then determined whether the project is exempt from CEQA. Pursuant to State CEQA Guidelines §15061, a project is exempt from CEQA if:

- 1) The project is exempt by statute (see State CEQA Guidelines Article 18, commencing with §15260).
- 2) The project is exempt pursuant to a Categorical Exemption (CE) (see State CEQA Guidelines Article 19, commencing with §15300) and the application of that CE is not barred by one of the exceptions set forth in State CEQA Guidelines §15300.2.
- 3) The activity is covered by the common sense 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.
- 4) The project will be rejected or disapproved by a public agency.

- 5) The project is exempt pursuant to the provisions of Article 12.5 - Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects.

3.0 PROJECT DESCRIPTION

The City of Encinitas 6th Cycle Housing Element provides policies, programs, and actions to accommodate the City's share of Regional Housing Needs Assessment (RHNA). The Housing Element identifies sites to accommodate future projected housing growth need for the 2021-2029 planning period. The environmental documentation for the 5th Cycle Housing Element (2013-2021 Housing Element Update) was an Environmental Assessment as defined in Government Code Section 65759, which was adopted by the City Council in March 2019 and, as required by state law, was made part of the City's General Plan. The 6th Cycle Housing Element Update does not propose to change the zoning, density, or development regulations applicable to any sites to accommodate the City's Regional Housing Needs Allocation. All of the sites identified to accommodate the City's lower income housing need were previously rezoned to accommodate the required densities.

4.0 FINDINGS CONCERNING CEQA COMPLIANCE/CEQA EXEMPTION

Kimley-Horn has completed the Project's CEQA compliance review, as follows:

Exemption Justification Under Common-Sense Exemption

The proposed Project is exempt under State CEQA Guidelines §15061(b)(3) common sense exemption, because the Project involves policies, programs, and actions to meet the City's RHNA allocation that either would not cause a significant effect on the environment or incorporates actions that have already been taken by the City. Additionally, the policies incorporated into the General Plan by the EA include mitigation measures to avoid or mitigate environmental impacts on sites designated in the Housing Element. Based on these factors, it can be seen with certainty that there is no possibility that the proposed 6th Cycle Housing Element Update would have a significant effect on the environment; therefore, the 6th Cycle Housing Element is exempt from CEQA under the common sense exemption.

Policy and Program Analysis in Support of Findings

Attachment A summarizes the 5th Cycle and 6th Cycle Housing Element policies and provides findings in support of an exemption under State CEQA Guidelines §15061(b)(3) common sense exemption.

As is evidenced by the discussions presented above and in Attachment A, the proposed Project qualifies as being exempt from CEQA under the common-sense exemption. Moreover, the Project is not barred from the application of a CE, pursuant to State CEQA Guidelines §15300.2. Therefore, it has been determined that the proposed Project would not have a significant effect on the environment and a CE is the appropriate CEQA documentation.

5 th Cycle Housing Element Program	6 th Cycle Housing Element Program	Discontinued Program	Amended Program	New Program	Ongoing Program	Summary of Determination the Program is exempt under state CEQA Guidelines §15061(b)(3) common sense exemption
1A. Accommodate the City's Regional Housing Needs Assessment Allocation	1A. Accommodate the City's Regional Housing Needs Assessment Allocation				X	The 6 th Cycle Housing Element does not identify any additional sites that were not previously analyzed in the 5 th Cycle EA.
1B. Adopt Amendments to the Zoning Code to Accommodate Lower Income Housing	1B. Monitor Sites Zoned to Accommodate Lower Income Housing		X			This is a monitoring program only and based on sites that were previously analyzed and upzoned in the 5 th Cycle EA. No changes in development regulations are proposed as part of this program and therefore there are no reasonably foreseeable physical impacts of this program.
1C. Promote the development of accessory housing units	1C. Promote the Development of Accessory Dwelling Units				X	This is a program to promote existing policy through public dissemination and would not result in physical environmental impacts.
	1D. Develop Programs to Promote and Encourage Accessory Dwelling Units (ADUs) Affordable to Lower Income and Moderate Income Households			X		This is a program to promote low and moderate income ADUs and does not propose any physical changes in the program. Consequently, it would not result in physical environmental impacts.

1D. Ensure that adequate sites remain available throughout the planning period	1E. Ensure that Adequate Sites Remain Available Throughout the Planning Period				X	This program commits the City to ensure it will follow state law if future development results in inadequate sites at any income level. No sites have been identified. If the City should need to upzone additional sites, CEQA review will be completed when sites are identified.
1E. Energy conservation and energy efficiency opportunities	1F. Implement Energy Conservation and Energy Efficiency Opportunities		X			This program promotes energy conservation through implementation of existing City policies adopted as part of the Climate Action Plan and Green Building Incentive Program, thus, it proposes no programs that would affect the physical environment and would not adversely affect the environment, rather would result in beneficial impacts.
	1G. Water and Sewer Service Providers			X		This program requires only that the Housing Element be sent to water and sewage services, thus, would not result in physical environmental impacts.
2A. Continue and improve inclusionary housing policies	2A. Continue and Improve Inclusionary Housing Policies				X	This program promotes inclusionary housing by evaluating the program's effectiveness and considering new provisions regarding

						affordable units in market-rate projects, thus, would not result in physical environmental impacts.
2B. Facilitate affordable housing for all income levels	2B. Facilitate Affordable Housing for All Income Levels				X	This program supports affordable housing by providing funding sources, thus, would not result in physical environmental impacts.
2C. Utilize Section 8 housing choice vouchers	2C. Utilize Section 8 Housing Choice Vouchers				X	This program promotes the use of Section 8 Housing Vouchers for rental assistance, thus, would not result in physical environmental impacts.
2D. Ensure that the density bonus ordinance continues to be consistent with State law	2D. Ensure that the Density Bonus Ordinance Continues to be Consistent with State Law				X	This program addresses compliance with applicable statutes, thus, would not result in physical environmental impacts.
2E. Accommodate specialized housing types	2E. Accommodate Specialized Housing Types to Assist Persons with Special Needs		X			This program describes existing City ordinances to service special needs populations and modifications required to comply with state laws regarding supportive housing and low barrier navigation centers. Because the City must comply with these state laws whether or not it adopts an ordinance, the policy would not result in

						physical environmental impacts.
2F. Continue programs to reduce homelessness	2F. Continue Programs to Reduce Homelessness				X	This program that promotes existing policy and development of a Homeless Action Plan. Any impacts of the Homeless Action Plan will be reviewed when the plan is adopted. A policy to adopt a Plan would not result in reasonably foreseeable physical environmental impacts.
	2G. Manufactured Housing			X		This program to amend the City's zoning ordinance to permit manufactured housing is required by state law. Because the City must comply with state law regardless of whether it modifies its zoning or not, the project would not result in physical environmental impacts.
3A. Establish parking standards appropriate for different kinds of housing	3A. Establish Parking Standards Appropriate for Different Kinds of Housing				X	This program suggests that the City develop parking requirements for different developments but does not propose any specific changes; thus, this would not result in reasonably foreseeable physical environmental impacts.

3B. Modify regulations that constrain the development of housing	3B. Modify Regulations that Constrain the Development of Housing		X			This program addresses studies to modify various regulatory language but does not propose specific changes. Therefore it would not result in reasonably foreseeable physical environmental impacts.
3C. Right to Vote Amendment	3C. Right to Vote Amendment		X			This program addresses compliance with applicable statutes, thus, would not result in physical environmental impacts.
3D. Rescind Obsolete Growth Management Policies and Programs						This program was fully completed in the Fifth Cycle and not included in the Sixth Cycle.
3E. Improve the efficiency of the development review process for housing projects	3D. Improve the Efficiency of the Development Review Process for Housing Projects		X			This program evaluates the efficiency of the City's development process to determine if there are constraints to development as proposed in the housing element but does not propose specific changes, thus, would not result in reasonably foreseeable physical environmental impacts.
3F. Review nongovernmental constraints impeding development of approved housing	3E. Review Nongovernmental Constraints Impeding Development of Approved Housing Projects				X	This program requires contacts with applicants to determine if nongovernmental obstacles to development exist and

projects						therefore does not have a reasonably foreseeable physical impact.
3G. Seek to create community support for housing at a variety of income levels	3F. Seek to Create Community Support for Housing at a Variety of Income Levels		X			This is a program to promote policy through public dissemination of information, thus, would not result in physical environmental impacts.
3H. Monitor adequacy of development standards	3G. Monitor Adequacy of Development Standards		X			This program evaluates development standards for undue burdens and potential constraints to development without specific proposals, and thus, would not result in physical environmental impacts.
	3H. Examining and Mitigating Barriers to Racial and Ethnic Equity			X		This program evaluates barriers to access to housing, thus, would not result in physical environmental impacts.
4A. Pursue opportunities to create safe and healthy housing	4A. Pursue Opportunities to Create Safe and Healthy Housing				X	This program promotes safe and healthy housing through the application of past building codes to non-permitted units, in a program already implemented by the City, thus, would not result in physical environmental impacts.
4B. Assist in rehabilitating housing	4B. Assist in Rehabilitating Housing				X	This ongoing program promotes and provides funding opportunities for

						home improvements categorically exempt from CEQA review, thus, would not result in new physical environmental impacts.
	5A. Affirmatively Further Fair Housing			X		This program includes affirmative steps that the City can take to promote and review access to fair and equitable housing and supports fair housing practices in the City, thus, would not result in physical environmental impacts
5A. Reasonably accommodate housing for the disabled	5B. Reasonably Accommodate Housing for Persons with Disabilities		X			This program continues existing policies regarding requests for reasonable accommodations and disseminates information to the public and City staff, thus, would not result in physical environmental impacts.
5B. Promote fair housing						Replaced by new Sixth Cycle Program 5A.
	5C. Economic Displacement Risk Analysis			X		This program evaluates developments and community investments to identify if actions must be taken to prevent displacement in the community, thus, would not result in physical environmental impacts.

6A. Monitor publicly assisted housing projects	6A. Monitor "At-Risk" and Publicly Assisted Housing Projects		X			This program monitors proposed conversions of affordable housing and explores available funding sources, thus, would not result in physical environmental impacts.
6B. Provide credit under the inclusionary ordinance for preservation of at-risk housing	6B. Continue to Provide Credit under the Inclusionary Ordinance for Preservation of At-Risk Housing				X	This program continues the City's existing program to provide credit for the preservation of at-risk affordable housing and supports implementation of existing ordinances, thus, would not result in physical environmental impacts.