

**CITY OF NEWPORT BEACH  
HOUSING ELEMENT UPDATE ADVISORY COMMITTEE MEETING  
ZOOM MEETING, NEWPORT BEACH, CA**

**WEDNESDAY, MARCH 31, 2021  
REGULAR MEETING – 6 P.M.**

**I. CALL MEETING TO ORDER – 6 p.m.**

**II. WELCOME AND ROLL CALL**

MEMBERS PRESENT: Chair Larry Tucker, Jeffrey Bloom, Susan DeSantis, Paul Fruchbom, Elizabeth Kiley, Geoffrey LePlastrier, Stephen Sandland, Debbie Stevens, Michelle Thrakulchavee, (Ex Officio Member) Will O'Neill

MEMBERS ABSENT: None

Staff Present: Deputy Community Development Director Jim Campbell, Principal Planner Jaime Murillo, Senior Planner Ben Zdeba, Administrative Support Specialist Clarivel Rodriguez

**III. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Jim Mosher stated that in the Zoom meeting format the public cannot tell how many other members of the public are attending the meeting.

Chair Tucker stated there were eight members of the public attending via computer and one attending via telephone.

**IV. CONSENT CALENDAR**

**a. Minutes of March 17, 2021 (Attachment 1)**

*Recommended Action: Approve and file the minutes of March 17, 2021.*

Chair Tucker indicated Jim Mosher submitted changes to the minutes.

Committee Member Sandland moved, seconded by Committee Member DeSantis, to approve the minutes of the March 17, 2021 meeting as amended by Mr. Mosher.

AYE: Tucker, Bloom, DeSantis, Fruchbom, Kiley, LePlastrier, Sandland, Stevens  
NO: None  
ABSTAIN: Thrakulchavee  
ABSENT: None

**V. CURRENT BUSINESS**

**a. Subcommittee Progress Reports**

*Recommended Action: Receive verbal updates from each subcommittee, as appropriate.*

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Chair Tucker stated that the attachments represented the finalization of the subcommittee reports on the Housing Sites Inventory. The Committee had no further comment.

Jim Mosher thought that some members of the public might be confused about the updated reports. The Committee is advising the City Council and so the final reports should be given more prominence. He suggested the final memorandums be posted to the Committee's webpage. With the Remainder of Town report, he was confused about the acreage at Coyote Canyon. Page 5 refers to 32 acres and the draft Housing Element refers to 22 acres. The second memo, Page 14, points to a project in progress on Mariners' Mile and it says there are 3 units there, but he understood it to be 3 units of affordable housing and 32 units of market rate housing. On Page 16, Item 3, he questioned why the road and track property was deemed infeasible when the current zoning is for housing.

Chair Tucker thanked Mr. Mosher and instructed Senior Planner Ben Zdeba to clean up the details and post the final reports on the website.

In response to Committee Member Sandland's questions Chair Tucker explained that the next step is to look at and discuss the suitability aspects of sites. All the sites will be listed in the Sites Inventory. The sites are handled primarily through overlays so the unit counts for the various sites that are shown as feasible does not mean the City will reach the unit count. The details will be worked out when the overlay text is developed after the Housing Element is approved.

Committee Member Sandland stated concern about Table B1 in the Adequate Site Analysis of the Housing Element and how many units are shown above moderate income.

In response to Committee member Sandland's question, Deputy Community Development Director Jim Campbell explained that the draft would be submitted and California Department of Housing and Community Development (HCD) would review the comments on the draft and how the City addressed the comments.

Dave Barquist of Kimley-Horn explained that HCD would review the memos and anything else of record as part of their process. There is a section in the plan about community outreach and all public conversations will be disclosed. Further, the public has the right to provide comments to the City or directly to HCD.

Committee Member Sandland commented for the fourth time that the parcel on the Newport Beach Golf Course near the northeast corner of Irvine Avenue and Mesa Drive still does not show up in the draft report as a potential site.

Chair Tucker instructed Senior Planner Zdeba to work with Committee Member Sandland.

In response to Senior Planner Zdeba's question Committee Member Sandland stated the parcel was on the Subcommittee's recommended sites and it is in Safety Zone 6. He said it should be listed in the Adequate Site Analysis portion of the Housing Element.

Senior Planner Zdeba stated that had not been modified since initial publication for the public. Staff has not made changes yet; Committee Member Sandland's comments have not been ignored.

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Committee Member Sandland stated that the site had potential for low- and moderate-income units so he wanted to make sure it was captured.

Chair Tucker clarified that the Sites Subcommittee made changes and that staff had not yet reflected those changes in the draft Housing Element. He further noted that his comments on the draft Housing Element were submitted in writing.

Committee Member Sandland stated he would also make his comments in writing.

Committee Member Kiley referenced the March 17<sup>th</sup> meeting and Mr. Mosher's comments regarding the Coyote Canyon site. There is confusion regarding the useable area and requested that staff clarify that point.

Chair Tucker confirmed it was 22 acres.

Deputy Community Development Director Campbell also confirmed that it was 22 acres and that the change would be made.

Committee Member Kiley said that she thought there was still confusion on the number of units that could be developed and stressed that was what she wanted clarified.

In response to Committee Member Fruchbom's question, Deputy Community Development Director Campbell said they originally thought the Coyote Canyon site was about 32 acres, but they looked at it further and that was not correct.

Committee Member Fruchbom stated the landfill could be used for housing related things such as parks and parking, it just cannot have people living on it. He said that the number of acres available should not be politicized as to what might or might not be possible. He wanted to know how many acres were theoretically possible that could be built on.

Deputy Community Development Director Campbell stated that he thought there was 22 acres available for development. The acreage is at the bottom of a large slope that is made of trash so anything built on that would be about a quarter of a mile from the homes built at the bottom of the landfill.

In response to Committee Member Fruchbom's question, Deputy Community Development Director Campbell stated 22 acres is available to be built on.

Chair Tucker indicated that some of the land on the slope was designated as habitat area, which would be a further impediment to development.

Deputy Community Development Director Campbell explained that there was habitat within the 22 acres as well, which makes the parcel a complicated one to develop. There was talk of a golf course, but the County has indicated that it is supportive of housing there.

Chair Tucker said it was an important parcel as it is vacant land.

In response to Committee Member DeSantis' question, Chair Tucker explained that the Site Inventory is part of Appendix B. Very few people indicated that they wanted to rezone their property

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for housing so the way the City will do it is through overlays. That is why there are percentages in the revised document as to what portion of overlay areas the City thinks will be developed. Debra Allen stated she read the draft Housing Element and the Sites Inventory and found it difficult to compare them to the Sites Subcommittee Remainder of Town report because the parcel numbers are different. She suggested that the Committee cross index the unique identification numbers that parcels are given in Table B10.

Chair Tucker said in the Subcommittee reports they used the number inside of the ball on the maps and in addition they had an owner's list.

Ms. Allen stated she hoped they could be put together in one place in a staff report for clarity.

Deputy Community Development Director Campbell said staff would work on a companion table for cross referencing purposes.

**b. Virtual Housing Element Workshop Recap**

*Recommended Action: Receive an overview of the March 22, 2021 virtual public workshop that was held to provide the community an overview of the update and to listen to feedback.*

Deputy Community Development Director Campbell introduced Jenna Tourje of Kearns & West to discuss the public feedback.

Ms. Tourje utilized a presentation to give an overview of the March 22, 2021 virtual public workshop. There were about 48 community participants who provided over 30 comments. There were 912 unique IP addresses that visited Newport Together in March with 450 registered users receiving updates. They also used Nextdoor and Facebook to publicize the event. The participants had questions relating to the Tables in the Housing Element, especially related to percentages and distribution. There were comments on housing in the Coastal Zone, incentives and distribution of Accessory Dwelling Units (ADU), and equitable distribution of housing throughout the City.

Chair Tucker called for Committee Member comment, but there was none. He then called the public comment.

Jim Mosher stated that the workshop was held on March 22<sup>nd</sup>, not February as the slide indicated. He went to the Newport Together Website and said that the Frequently Asked Questions section was blank despite it stating that it would be updated weekly. The tab for the Housing Element does not refer to the Housing Element Update, only to the current Housing Element. The Home page did not mention the March 31<sup>st</sup> Housing Element Update Advisory Committee (HEUAC) meeting, but it did mention the March 22<sup>nd</sup> workshop; however, the presentation given at the workshop is not posted. He suggested they post the presentation given at the workshop for the public's review.

Ms. Tourje said they would update the dates on the website and post the PowerPoint presentation. With respect to Frequently Asked Questions, the page will be updated this week.

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**c. Discuss Initial Draft Housing Element**

*Recommended Action: Review the initial draft Housing Element update, which was published online on March 10, 2021, and made available here: [www.newportbeachca.gov/DraftHEUpdate](http://www.newportbeachca.gov/DraftHEUpdate). Discuss and provide comments to staff.*

Chair Tucker stated the item was a continuation of the discussion started on March 17, 2021. He viewed the exercise more like an Environmental Impact Report (EIR) than a project specific document as it is led by a consultant. He instructed the Committee to make comments appropriate for the consultant and then the consultant will explain how things need to be done.

Deputy Community Development Director Campbell stated the Committee was provided with the draft Housing Element at its previous meeting. He thanked Chair Tucker for his written comments and edits. He noted that the current meeting packet included another scenario for review, which they will present today. After they take feedback from the Committee, the Planning Commission and the City Council will update the document and then submit a progress draft to the State for its initial review.

Mr. Barquist explained that the draft is an initial draft which will go through a process with the Committee and the public. The Planning Commission and the City Council will receive the recommendations and comments from both the Committee and the public. Based on all the input they will then put together a draft for initial review by the State. The State will review it for compliance with the law and will provide the City with a response and an explanation of how to comply with statutory provisions. The draft Element could be approved or it could require some iterations based on consultations with HCD.

In response to Chair Tucker's question, Mr. Barquist explained that the Housing Element identifies the opportunities that would accommodate the City's Regional Housing Needs Assessment (RHNA) allocation. Staff will go through the tables, but they list the percentage of redevelopment. You may have a scenario showing an above moderate opportunity, but that does not necessarily mean that those are the units that will be constructed.

In response to Chair Tucker's questions Mr. Barquist said that the overlay is the policy prescription to provide the regulatory allowance for the development to occur. The overlay is another layer on top of existing policy. So the entitlement underneath it is not lost, an additional entitlement is added on top. An overlay that has met its objectives in some cases can sunset. That is a policy decision for the City to make.

In response to Committee Member DeSantis' questions on Coyote Canyon, Mr. Barquist explained that the City has many avenues to get to where it wants to be. If the City wants to be very prescriptive about a site, then it should have a policy and supportive evidence that shows that the strategy or method planned is feasible. If there is rationale and policy support, it should be acceptable. The bottom line is the Housing Element is a promise the City must keep. The policy support could come from affordable housing developers or it could be from a combination of public/private joint development.

Chair Tucker stated that the revised schedule did not show 88 affordable units. The revised number is 308.

Mr. Barquist directed the Committee's attention to the top scenario on Page 3. He stated that the

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percentage changes were indicated in green.

Chair Tucker confirmed that in the revised scenario there are 308 low/very low units instead of 88.

In response to Chair Tucker's questions, Committee Member Fruchbom said that 100 percent affordable works fine at 50, 60, 80, and 120 Area Median Income (AMI). For a 100 percent affordable project, typically 20 percent at 50 AMI and the balance 80 percent at 60 AMI works. Those projects look like any other apartment complex; they are nice housing and people just need to qualify income wise. There are changes coming and there is hope that the Democratic federal administration will increase the amount of tax credits available. They will also get rid of the 50 percent rule which will increase available credits. People believe the tax credits will be extended, but no one knows to what extent. The key driver is land cost. He did not believe it would work to mix homeless with people making 50 or 60 percent AMI, but if the land is not expensive you can mix luxury units with 60 percent AMI and it would work.

Chair Tucker asked if they could do a significant number of 100 percent affordable projects to really make progress on the City's numbers since those projects involve less housing units than mixed-income projects.

Committee Member Fruchbom stated there were limits to how many credits a project could get, but Newport Beach's biggest issue is geographical limits. There is tremendous demand for tax credits.

Committee Member Kiley commented that if Newport Beach has in lieu fees and wants to have affordable senior housing they could combine those funds with State credits and other credits.

Chair Tucker said that usually in lieu fees are generated by market rate units; however, many people are looking to keep market rate units at a lower level. The City tends to grant entitlements whereas the federal control comes through tax credits.

Committee Member Sandland asked staff to pull up Table B1, Summary of RHNA Status, and asked several questions.

In response to Committee Member Sandland's questions, Chair Tucker referenced the revised scenario created after the draft Housing Element was published on the advice of City Council members and explained that it should be used as a starting point. There will be more affordable units in Newport Center and less in the airport area. Additionally, the unit count is reflected as if everything was built without restrictions. As stated earlier in the meeting the intention is to create opportunities and then close them once projects are built, but that is not something that is the current purview of the HEUAC. All the City must do is show that it has enough potential sites to meet RHNA and then adopt policies that promote it.

Deputy Community Development Director Campbell said the revised scenario was a result of the discussion held at the March 17<sup>th</sup> HEUAC meeting. There is a decrease of units in the airport area and an increase in West Newport Mesa, a smaller increase in Dover Westcliff, and an increase in Newport Center. They also changed the affordability assumptions in Coyote Canyon to increase that. He further noted that they did not look at any other geographic locations like the peninsula. There is a 25 percent assumption in the airport area, a 30 percent assumption in West Newport, 40 percent in Dover Westcliff, 25 percent in Newport Center, and 100 percent at the 22 acres of Coyote Canyon. The percentages of redevelopment, the affordability, and the assumed densities can be changed.



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Another option is to look at the inventory area itself and add or subtract parcels from there. The highest density the City has assumed is 50 dwelling units per acre in the airport area.

Committee Member Sandland confirmed that the policy recommendation would change as well.

Deputy Community Development Director Campbell stated that was correct and that the policies in Section 4 would shift to match the scenarios in the revised tables in the memorandum. The revised scenario is the best place to look. They are not updating the draft Housing Element before every meeting which has led to some confusion. Following this HEUAC meeting, there is a Planning Commission meeting on April 8<sup>th</sup> and the City Council meeting on April 27<sup>th</sup>. Following the City Council review of all materials, staff will update the document and submit it to the State for review.

In response to Committee Member Sandland's questions, Deputy Community Development Director Campbell stated that Table B10 would be revised if they changed the density or assumed affordability for that geographic area or if they eliminated a site for unsuitability. The acreage was changed for Newport Center due to an error. With respect to Policy 1G and the 5<sup>th</sup> Cycle, the units are reflected in Table B10 and Table B1 under the 5<sup>th</sup> Cycle Sites Existing Zoning Capacity.

Committee Member Sandland said he wanted to line up the Tables with the policy, which was difficult. He thanked staff for their effort.

In response to Committee Member LePlastrier's question regarding Banning Ranch, Deputy Community Development Director Campbell said it was theoretically possible they could reach an agreement on the value of the property that the property owner will accept.

Committee Member LePlastrier said he had intelligence indicating that they have come to an agreement and half the funds have been raised.

Deputy Community Development Director Campbell said that a private donor put up 50 percent of the funds, but the rest of the funds will have to come from other places and that is taking time and discussion. If they reach an agreement and the land is publicly acquired then the site is probably not suitable. If it came off the City's list, the numbers would go down and that is indicated on the table. If they were taken out, then the low/very low has about an 8 percent overage and moderate would have about a 1 percent overage and 1,375 units would not be needed. The City could go forward without Banning Ranch if it were deemed unsuitable, but there would be almost no buffer on the low, very low, and moderate-income housing.

Chair Tucker believes that HCD would have something to say about Banning Ranch when it reviews the initial draft.

In response to Committee Member DeSantis' question, Deputy Community Development Director Campbell explained that Policy 1K on Page 4-8 of the draft Housing Element commits the City to adopt an inclusionary Housing Element, but it does not lay out the specifics. The City has time to develop the specifics and could do so with an ordinance that covers the entire City with different variances. Policy 1K also states that the City could adopt a policy immediately to cover current projects as there is no current inclusionary requirement, but due to the high RHNA coming, the City might need to require inclusion of current projects. The inclusionary numbers themselves could be an impediment to housing production if they are too high.

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Committee Member DeSantis observed that other than the Newport Center project there has not been multi-family rental housing built in Newport Beach in many years.

Deputy Community Development Director Campbell said Uptown Newport has 462 occupied units.

Committee Member DeSantis said that those were the only two projects and Uptown Newport had an affordable component. She thought that if the City consulted with affordable housing developers that they would see the higher percentages are feasible in an area like Newport Beach where the demand is high.

In response to Committee Member DeSantis' questions, Deputy Community Development Director Campbell explained that current State law was amended and allows a developer to ask for a 50 percent density bonus. Newport Beach's current ordinance is out of date and so they will implement State law. If a developer requests 50 percent density bonus and if they provide the minimum inclusion required by law, then they would be entitled to it.

Chair Tucker added that the Statute lays out the affordable factors if a developer chooses to exercise the density bonus. The law also allows an applicant to seek waivers of development standards which must be granted. He used the project at 4400 Von Karman as an example of how developers are given choices under the Statute.

Mr. Barquist stated the General Plan Housing Element is adopted by resolution. It is a policy document or statement of intent that will be implemented through overlays or a similar rezone strategy. At the next level it is the ordinance or law that the City creates in support of the resolution. Over the next three years they will look at site specific criteria, funding, financing, and everything else involved in order to create an overlay or similar rezone strategy with necessary provisions to make them legal and practical.

In response to Committee Member Fruchbom's question, Chair Tucker stated that the policy details are beyond the scope of the HEUAC, although in the Affordable Housing Subcommittee Memo they recommended a series of potential policies. The City Council ultimately makes the decisions.

Committee Member Fruchbom suggested that it is extraordinarily difficult to have a comprehensive policy as every site is different in terms of rents and construction costs. Developers look for the best and most efficient way to get their projects built and historically in lieu fees have been woefully short of what is required.

Chair Tucker agreed and added that land values and site work are different. Not having a one size fits all approach will ultimately result in more affordable housing.

Committee Member Fruchbom commented that one of the subsidies that historically has not been available, but he thinks will become more available is cities waving fees. He suggested that the City consider that.

Chair Tucker stated that was already in the policy documents except for school fees, which are up to the school district.

Committee Member Kiley agreed that every project was different but did not want to ignore in lieu fees. She stated that they were working well in Irvine.



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Committee Member Fruchbom clarified that it was difficult to have an internally consistent fee.

Committee Member Thrakulchavee said that having the optionality of in lieu fees is particularly important and when it comes to providing affordable units within a project, the inclusionary works well if it is for a multi-family rental project but if you are trying to produce ownership housing, it is very challenging because of the way that those homeowners have to qualify in terms of loan requirements and deed restrictions over time. Developers need to be able to calculate the in lieu fee clearly and without guesswork.

Chair Tucker said the Affordable Housing Subcommittee produced a report that concluded the affordable housing in Newport Beach was unlikely to be for sale housing. He thought Committee Member Thrakulchavee's point confirms that this will be a deeper policy conversation over time.

Committee Member Stevens said she understood that after sites are reviewed for suitability. They might not all still be in play, but that it was concerning to send the document to HCD without caps. Currently there are about 10,000 sites in the Housing Element which she thought seemed excessive.

Chair Tucker thought that was a common concern.

In response to Committee Member Stevens comments and questions, Mr. Barquist said that the draft Housing Element is demonstrating the capacity to accommodate RHNA. The City is showing that as of this point and prior to developing policy programs and regulatory framework, they have capacity to meet RHNA. The overlays or other zoning programs are only intended to provide for the accommodation of the remaining RHNA need. The City has 36 months from the date of the adoption of the Housing Element to do that work. If the City shrank it down to exactly what they need for RHNA now, they would have to go parcel by parcel and show the committed affordably for each one. The way it stands is that the City will have flexibility to determine the best scenario to meet its objective.

Committee Member Stevens confirmed that Table B10 would be sent to the State and stated that Table B10 was confusing.

Mr. Barquist said Table B10 only listed the low-income units because Newport Beach already met its other obligations based on development in the pipeline.

In response to Committee Member Stevens' question, Mr. Barquist explained the Housing Element would provide the project description that the State would evaluate. The City will provide the assumptions of growth within the focus areas. There is a theoretical number and there is a realistic number. It is a threshold that is being evaluated for California Environmental Quality Act (CEQA) purposes.

Committee Member Stevens said the grand total of projected units is 10,000.

Mr. Barquist said it is projected units of accommodation ability, not necessarily the sites that will be used. It is demonstrating to HCD that these are the sites that have a feasible ability to accommodate housing. The City is showing HCD that the sites in its inventory provide it with the ability to accommodate its growth need then subsequently over the next three years the City will have the

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requisite zoning strategy for those sites to accommodate the RHNA obligations.

Committee Member Stevens stated that the number in the EIR had to be developed first before the City gets to the RHNA numbers.

Mr. Barquist said it would be something below the theoretical buildout number.

In response to Committee Member Sandland's questions, Policies 1A through 1F will match and in the project description for the purposes of CEQA everything will be consistent. There is a theoretical number, but the obligation is the RHNA number. The net remaining need is the goal number. The other numbers simply demonstrate the capacity to meet the need.

Committee Member Sandland stated that all the charts are confusing for HEUAC members and the public.

Committee Member Stevens thought it would help to see the project description in the EIR.

Chair Tucker said that while the total unit count will be less than the maximum shown, they do not know where in each part of town the development will occur. Each area will develop differently. With respect to the "grand total projected units," the description needs to be better to limit confusion. It is the total units from which Newport Beach will satisfy RHNA, not the total units that will be built or approved to be built. There are 9,927 units from which they will pick 4,845 units. Seeing no further Committee Member comments, he called for the public comment.

Debra Allen said regarding the draft Housing Element and the column in B10 that refers to "net units final," she did not think Mr. Barquist's explanation matched Community Development Director Jurjis' answer at the Speak Up Newport Forum. She suggested the two meet and determine the answer for the public. Secondly, she questioned how many units the City will zone for and use Newport Center as an example. Currently, the City says there is 161 acres in Newport Center, and it is uniformly zoned for 45 dwelling units an acre. She determined that came to 7,245 dwelling units in Newport Center alone.

Chair Tucker stated the numbers would be true if everything were developed, but they are planning to use overlays that sunset. There is similar zoning in the Airport area from the 2006 General Plan Update that allowed 2,200 residential units on a first come first served basis. He understood that they could have overlays with caps.

In response to Chair Tucker's question, Deputy Community Development Director Campbell agreed that the City could have overlays with caps but stated that there are limits to caps. Caps can be set for environmental reasons and when the RHNA is satisfied. The key is that the Housing Element includes enough sites to accommodate RHNA.

Chair Tucker said that something that should be addressed in the overlay is that Newport Beach has balanced land use now. Because it is a built-out town the State has decided that some of the commercial uses should be changed to residential and the City will comply, but to do 7,000 units in Newport Center would change the land use mix and is not a balanced land use plan. Those things will be discussed later in the process and not with the Land Use Element submittal.

Jim Mosher said Appendix B ends with Table B14 which should be cross referenced with a map,

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but the map is missing. Secondly, at the March 17<sup>th</sup> meeting many Committee Members promised to submit written comments on the draft Housing Element, but he has only seen Chair Tucker's comments. He shared Committee Member Sandland's concern about confusion around what the public is supposed to comment on. He noted the original draft still has the watermark making it difficult to attach comments. Senior and homeless housing is mentioned in Section 4 and specific projects are mentioned. He thought two of those projects were defined as congregate care and only one project was deemed to be housing and wanted to know if senior housing counted toward RHNA. He was also concerned about the undefined numbers in the draft Housing Element. Section 4 also states that anything carried over from the 5<sup>th</sup> cycle would be by right and so he wondered if that could be applied to projects in the pipeline.

In response to Mr. Mosher's comments and questions, Deputy Community Development Director Campbell explained there were no changes to the draft Housing Element. Staff has looked at the percentages of redevelopment and affordability in the focus areas and created the new scenario in the packet which better distributes units. He appreciated the watermark comment and stated staff was looking to change that and apologized that it was not yet available. Senior housing counts toward RHNA, but congregate care does not. Theoretically for a pipeline project to take advantage of the 5<sup>th</sup> cycle being by right, a developer would have to withdraw the project and wait until the Housing Element is adopted, certified, and for the City to create the process over three years.

Mr. Barquist added that Policy Action 1G specifies the by right requirement. There are caveats and it is contingent on a percentage of units being affordable. It is not a blanket by right.

Deputy Community Development Director Campbell said that currently the document specified a 20 percent inclusion. The subcommittees have reviewed different sites and produced memos. If there are sites that are not suitable the City needs to understand that and remove them from the Inventory. Once the City receives comments back from HCD, sites might be questioned and pulled, which would adjust the numbers. Therefore, the suitability discussion must happen quickly or wait until after comments are received from HCD. With respect to the map for Table B14, staff will make sure it is included before the draft is sent to HCD.

Chair Tucker stated that after going through the list of potentially feasible properties he hoped landowners would be interested, but if they were not so, the City will need an overlay approach. He suggested they look at suitability at the next Committee Meeting and not before they submit the draft to HCD. A May meeting could be possible to discuss suitability, but he would discuss that possibility with staff later.

Nancy Scarbrough stated she had four main questions. First, the Revised Scenario Focus Area Strategies lists Newport Center with 544 affordable units and a total of 1,814 units. If a developer decided to pay an in lieu fee and not develop affordable units, theoretically the City could end up with an unbalanced distribution of affordable units. Second, RHNA requires 100 percent residential zone by right land with no local discretion, input, or control. She asked if the City studied how to comply with State law while still retaining local control. Third, are the density bonuses that are assumed by the State law at 50 percent considered in the number in the Revised Scenario Focus Area Table? Fourth, she wanted to know the methodology currently used to allocate low income and above moderate income in each area.

In response to Ms. Scarbrough's questions, Deputy Community Development Director Campbell said that the answer to the first question really depends on how the inclusionary ordinance is written. With

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respect to the second question the Committee and staff are attempting to create a document that complies with State law. It is an erosion of local control in some respects, but that is why the State wants to address the housing shortage. Third, density bonus is not accounted for in the numbers, but he expected density bonus to be utilized by most projects.

Mr. Barquist further explained that the density bonus could not be counted on the front end since it is discretionary on the part of the developer so HCD does not allow it to be counted as an assumption. On the back end, implementation units are being created and counted toward the RHNA obligation. Concerning Ms. Scarbrough's fourth question, Mr. Barquist stated Newport Beach has met its obligation for above moderate units. The assumption is a small portion of the sites identified will be affordable, so the above moderate and moderate are the remaining portion when the goals for low and very low are netted out. The capacity of the sites that theoretically can be produced is listed, but it does not mean the City will yield those units.

Chair Tucker called for additional Committee Member comments and questions.

Committee Member Sandland stated he had the original document of March 10<sup>th</sup>, the document distributed for this meeting including Chair Tucker's comments, and the memo dated March 23<sup>rd</sup>.

In response to Committee Member Sandland's question, Deputy Community Development Director Campbell said that Committee Members and members of the public were welcome to comment on all three documents. The scenario building is what is in flux. He understood it was a challenging task and apologized for its difficulty.

Chair Tucker recommended that Committee Members work off of the original draft Housing Element. When he was on the Planning Commission, they had controversial and complex projects but there was always a continual stream of new information from staff.

Committee Member Sandland stated he planned to start with Chair Tucker's comments.

Chair Tucker suggested Committee Member Sandland speak to staff regarding how to format his comments. In response to Committee Member Sandland's question, Chair Tucker indicated that other Committee Members may choose not to make comments. Discussing the mechanics of comments can be done offline with staff.

Committee Member DeSantis agreed with Committee Member Sandland that it would facilitate the next steps if everyone worked within the same document, including staff and consultants.

Chair Tucker advised Committee Member DeSantis to work with staff and stated his comments would not change. He called for further Committee Member comments and questions. Hearing none, he moved on to the issue of which scenario should be included. Senior Planner Zdeba's memo contains tables and is consistent with what Ex Officio Member Will O'Neill suggested.

In response to Chair Tucker's question, Deputy Community Development Director Campbell explained the current General Plan for the Dover/Westcliff area is mixed-use and the zoning is consistent with that. Nothing has happened in the area since the 2006 General Plan. If the density is increased then the area might get taller and more dense development, which the community must consider. Staff kept the density lower out of respect for the existing area. He suggested that density bonus could be used in this area and explained that the inclusionary requirement with a dense project

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is considerable. It is about finding a suitable balance for the community.

Chair Tucker stated it stood out among the other parcels except for Banning Ranch. Thirty units is the minimum for the State to recognize the density, so this area stands out.

Committee Member Kiley stated that she agreed with Chair Tucker and the density per acre was somewhat low and should be higher. She suggested a density of 40 to 45.

In response to Committee Member Thrakulchavee's questions, Deputy Community Development Director Campbell said the density of the 880 apartments is closer to 50. He estimated that it was close to 1,400 units on about 25 acres. There is a range of density in the area and in order to have any of the sites converted to housing they may need to increase the density to 40 or 45. The parcels listed along Dover are mixed-use designation. He highlighted the differences between the published scenario and the updated scenario.

Committee Member Thrakulchavee advocated for a higher density of 45 or 50 to give more opportunity for the market to dictate what is feasible from a project standpoint. Chair Tucker agreed because there are currently income producing buildings in place so there needs to be a fair amount of incentive to redevelop.

Committee Member Thrakulchavee added that over the past five years, the area has transformed into a pedestrian environment so it would be a good candidate for more of an urban feel. The office buildings, while income producing, sit on underutilized land.

Committee Member Sandland echoed his colleague's thoughts on Dover/Westcliff that the density could be increased to 45 from 30. He was also concerned about Newport Center because at 45 a significant portion of the area is under the Sight Plane Ordinance which means only one and two-story buildings are allowed.

Chair Tucker stated that 45 would be used only in the feasible parts and the Sight Plane Ordinance also covers the City Hall site, which will not be redeveloped for housing.

Committee Member Sandland stated that a large area of Newport Center is covered by the ordinance and suggested that they look at this issue when discussing suitability.

Chair Tucker agreed.

In response to Committee Member Thrakulchavee's question, Chair Tucker clarified that the assumed density is the maximum.

Deputy Community Development Director Campbell stated Chair Tucker was correct.

In response to Chair Tucker's question, Deputy Community Development Director Campbell confirmed that if the Dover/Westcliff area were changed to 45 or 50 units per acre it would be in addition to the commercial entitlement on the property.

Charles Klobe stated he has participated in every previous HEUAC meeting and was encouraged by the level of comments and questions from Committee Members in this meeting. With respect to Dover Shores and Westcliff, he pointed out that the population of 880 is 25 percent of the District



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2 residents and are also mostly nonvoters. The 880 project is already under parked and he feared high density projects utilizing the low income 50 percent density bonus would exacerbate parking and traffic problems in the area. Westcliff also abuts a Richard Neutra designed building that should be designated as a historical building. Therefore, he questions raising the density of the area. He also warned of an uproar from wealthy neighbors who are currently unaware of the City's plans.

Debra Allen seconded Committee Member Sandland's concerns about the Sight Plane over much of Newport Center. The proposed zoning overlay would add approximately 1,000 dwelling units in the Sight Plane. There are five owners that expressed interest in redeveloping with housing, so the neighborhood is concerned about high rise development and invasion of the Sight Plane.

Nancy Scarbrough stated Westcliff/Dover is 14 acres at 30 units per acre. If it is raised to 45 units per acre and three developers decide to build, it would be 630 units in one concentrated area and that is without a density bonus.

In response to Ms. Scarbrough's question, Chair Tucker and Deputy Community Development Director Campbell explained that no matter what density the City established a developer could ask for more in exchange for including affordable housing. The maximum percentage they could request is 50 percent.

Ms. Scarbrough said that if that were the case there could be 950 units.

Deputy Community Development Director Campbell said theoretically that was true, but in reality the inclusionary percentages get so high at a 50 percent density bonus that those projects may not work out.

In response to Ms. Scarbrough's question, Deputy Community Development Director Campbell said the marketplace and individual property's feasibility will change the assumptions. He did not believe they would get 50 percent density bonus on all the property, although they could not prohibit it.

Ms. Scarbrough argued that the density should stay at 30 and not be increased to 45. The 880 project has police and fire department presence weekly because it is populated at an income level that seems problematic in that density.

Chair Tucker said the issue the Committee is focused on is housing production as instructed by the State. Every area will have people that are unhappy about it and he was not sure how to resolve that. He asked the Committee whether they wanted to recommend the change or leave the question for the Planning Commission and City Council. However, it is not likely to have housing built at 30 units per acre.

Committee Member Kiley said the question really was if the City would be able to meet its RHNA obligations without increasing the density in Westcliff/Dover.

Chair Tucker said the schedule shows approximately 10,000 units with which to meet RHNA but noted other sites would be removed when residents attended meetings and voiced opposition.

In response to Committee Member Kiley's question, Deputy Community Development Director Campbell said The Colony Apartments are around 36-40 units per acre. Uptown Newport, in the two buildings built, has a net density closer to 60 units per acre. A lot of the feasibility hinges on



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the size of the units. Smaller units mean higher density, but it all depends on what the developer is trying to bring to the market.

Committee Member DeSantis requested that the number of units with a 50 percent density bonus be included in the charts.

Chair Tucker explained that the State required a 50 percent density bonus to be available, not that it be exercised. Therefore, it might be misleading to include 50 percent when it likely would not be utilized. He suggested a footnote regarding the assumed base density with an explanation of the density bonus range.

Committee Member Thrakulchavee said she would clarify that it was the maximum density with a footnote stating that California density bonus law could go into effect. If a developer utilizes density bonus, then it is also providing a significant amount of affordable housing in the project.

Chair Tucker suggested saying the maximum base density. He wanted to state that there could be a density bonus in addition to the base because that seems unclear to people. He asked the Committee for thoughts on assumed density of the Dover/Westcliff area.

Committee Member Thrakulchavee explained that the difference between a 30 unit per acre density and 45 or 50 units per acre is in how the project is parked, like a wrap style instead of a garden style. To achieve either 30 or 45 units per acre, one would need a two to three story building. She liked the optionality of the 45 units per acre and pointed out that what would be built would be market driven and dependent on the availability of the real estate.

Chair Tucker suggested the buildings with commercial components would be a podium style product rather than a wrap product.

Committee Member Thrakulchavee said that was a possibility and in that instance the developer might have to consider an underground parking scenario. She appreciated the comment on the 880 apartments but argued that was a poorly designed project with poorly located parking.

Chair Tucker found it difficult when he was on the Planning Commission to punish property owners for the transgressions of other surrounding properties. He thought the density in Dover/Westcliff should be lower, perhaps 40 units per acre, but acknowledged that might not yield development of units.

Committee Member Thrakulchavee saw no real difference between 30 and 40 units per acre from a product standpoint. The threshold for a different product type is really 45.

Committee Member Sandland noted that the shape of the parcel made a difference. He agreed with Committee Member Thrakulchavee. He would like to keep the total number of units down, so he suggested staying at 30 units per acre.

Chair Tucker said that part of the exercise was to satisfy the State, not necessarily build the units.

Committee Member Fruchbom questioned whether the conversation was outside the scope of the Committee, especially given that they were focusing on one site.

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Chair Tucker said it probably is beyond the scope and there did not seem to be enthusiasm for changing the number. The numbers were created by a consultant. He suggested leaving the number at 30 and requested a better estimation of the grand total of projected units.

In response to Chair Tucker's question, Deputy Community Development Director Campbell said the City started with the focus areas based on community feedback from the original steering committee. Staff heard clearly that adding high density housing on the peninsula was a poor idea. Staff respected the committee's work and reflected on what they heard from the community.

Chair Tucker confirmed that the Committee did not need to make a recommendation yet.

Deputy Community Development Director Campbell explained staff was taking in all Committee and public comments and considering them. The comments are informing staff's decision making on the draft document. Everything will be summarized for the Planning Commission. Once their input is received with additional public testimony the draft will go to the City Council. Following direction from City Council, staff would update the progress draft for the State. Once comments are received from HCD, the City will repeat the process for further Committee and public comment.

Chair Tucker said the Committee still needed to hold a suitability discussion so he would discuss the timing of the next HEUAC meeting with staff later. It would be quite some time as the draft has to work through the Planning Commission, Council, and HCD.

Deputy Community Development Director Campbell said the State had a 60-day window within which to provide the City's comments. Staff will review and digest the comments prior to scheduling a HEUAC meeting. He stressed there would be time for additional public comment and noted that the City would not normally look to densify this way, but they are reflecting and responding to a State mandate.

In response to Chair Tucker's question, Deputy Community Development Director Campbell thought the next HEUAC meeting could be held in early August 2021, at the soonest. That is assuming the City submits the draft on May 15<sup>th</sup>.

In response to Committee Member DeSantis' question, Deputy Community Development Director Campbell explained that staff intended to update the draft Housing Element after the City Council's input and direction. That will be the progress draft that is submitted to HCD and it is a public document. The Committee will receive copies when the progress draft is submitted to the State. The Committee is not being asked to vote on anything at this point.

Chair Tucker stated they would wait to hear from staff regarding the scheduling of the next meeting.

In response to Committee Member Stevens' question, Chair Tucker explained the Committee would discuss suitability at the next meeting.

**d. Upcoming Schedule and Community Engagement Opportunities**

*Recommended Action. No action. Staff to provide a brief overview of upcoming schedule for meetings and workshops.*

Senior Planner Zdeba shared the tentative schedule for the Housing Element with the Committee. Staff is looking to discuss the HCD review with the Committee in August and then return with an

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updated draft. The Planning Commission will hold two meetings on the draft prior to the City Council meeting in October 2021. City Council will ultimately adopt the document in compliance with statutory deadlines.

In response to Committee Member Stevens' question, Senior Planner Zdeba said the review of the EIR would happen in the background, but he did not have a specific schedule for that. There will be meetings and additional public input related to the EIR.

Chair Tucker said that the Committee would not look at the environmental aspects.

Committee Member Stevens agreed, but indicated people would want to participate in the EIR process.

Chair Tucker agreed, but said it was not HEUAC's purview.

In response to Committee Member Stevens' questions, Senior Planner Zdeba said the project description for the EIR will be ready for HCD as they would have a good estimate of the housing pool by then. That will also basically trigger the CEQA process as well.

Chair Tucker called for the public comment.

Jim Mosher asked if the EIR would have a Notice of Preparation, a scoping meeting, and a public review period. He also asked about the differences between the current Housing Element submittal process and the last submittal process in 2013. He also inquired if staff would have a draft of the Housing Element ready to be authorized on May 11<sup>th</sup>.

In response to Mr. Mosher's questions, Deputy Community Development Director Campbell said there was no schedule prepared for the EIR yet, but that there would be a complete process. He requested that Mr. Barquist explain the HCD process.

Mr. Barquist said that the initial submittal is of a draft document that is an expression of the City's intent. The State would review for compliance with state law and either provide comments that indicate what needs to be changed for compliance or they will provide a letter of substantial compliance which essentially articulates upon your local adoption and submittal of the final Housing Element as adopted by the City Council that the City would have a certified Housing Element. If HCD provides a conditional letter, then certification is contingent on those conditions being met. Based on the recent experience on the 6<sup>th</sup> Cycle, he felt that it is likely staff will receive comments back. The goal is to receive the compliance letter prior to the City Council meetings at the end of the process.

Chair Tucker thanked the Committee and looked forward to seeing additional comments in the coming days.

**VI. ADJOURNMENT – 9:02 p.m.**

*Next Meeting:* Not scheduled at this time.