

↵  
Mission Viejo Partnership  
↵

---

**From:** Ann Owens <[annowens@cox.net](mailto:annowens@cox.net)>

**Sent:** Tuesday, June 22, 2021 12:15 PM

**To:** Lee, Chelsea@HCD <[Chelsea.Lee@hcd.ca.gov](mailto:Chelsea.Lee@hcd.ca.gov)>; David Navarrett <[david.navarrett@hcd.ca.gov](mailto:david.navarrett@hcd.ca.gov)>; Prasse, Marisa@HCD <[Marisa.Prasse@hcd.ca.gov](mailto:Marisa.Prasse@hcd.ca.gov)>; McDougall, Paul@HCD <[Paul.McDougall@hcd.ca.gov](mailto:Paul.McDougall@hcd.ca.gov)>

**Subject:** local letters from MV residents on housing element

Hello,

Please put the two attached letters into your Mission Viejo file for their 6th Cycle Housing Element. I also was wondering when a reviewer would be assigned specifically to Mission Viejo's document and if we could know who that person was. Thanks for your time.

Sincerely,

Ann Owens

Mission Viejo Planning Partnership

June 18, 2021

**To:** City of Mission Viejo City Council

Sent electronically to:

City Clerk – cityclerk@cityofmissionviejo.org

Mayor Patricia Kelley - tkelley@cityofmissionviejo.org

Mayor Pro Tem Wendy Bucknum - wbucknum@cityofmissionviejo.org

Council Member Brian Goodell - bgoodell@cityofmissionviejo.org

Council Member Greg Rath - graths@cityofmissionviejo.org

Council Member Ed Sachs - esachs@cityofmissionviejo.org

**From:** Cathy Kadison

**RE:** Please read into public record at the June 22, 2021 City Council Meeting

**Agenda item:** Preliminary Consideration of Draft Update to the City of Mission Viejo General Plan Housing Element for the 2021-2029 Planning Period Pursuant to the Requirements of State Law

---

Dear City Council Members,

My name is Ilene Geiger. I'm a homeowner and resident of Mission Viejo.

During the June 8 city council meeting, there was discussion about adopting a 15 percent inclusionary housing policy.

Inclusionary housing policies are considered a best practice in meeting affordable housing needs (please see the attached study). They require that developers build a percentage (often 10-20 percent) of new housing as affordable or pay an in-lieu fee. These fees allow the city to attract and support other affordable housing developers.

I'd like to address the comments made about inclusionary housing at the last meeting and provide additional information.

**Comment during the June 8 city council meeting:** A 15 percent inclusionary policy would mean projects would not "pencil out".

**Additional information:** When the city rezones land for housing, especially when density is increased, the city is making the land more valuable for the developer. The financial benefit from the opportunity to build higher housing density developments offsets the cost of affordable units. In exchange for rezoning, the city deserves to receive this community benefit from the developer.

**Comment during the June 8 city council meeting:** Inclusionary housing policies were not needed because 50 percent of Mission Viejo's RHNA is allocated to affordable housing and the site inventory accounts for the RHNA allocation.

**Additional information:** I agree the city is working to identify sites to allow for affordable housing development per the RHNA allocation. (Although I have an issue with Site C because it's not financially

feasible, but that's another issue). I agree the RHNA allocates 50 percent of the total housing need in Mission Viejo for affordable housing. I do not agree that these two facts eliminate the need for an inclusionary housing policy. The fact that we have such a significant need for affordable housing, 50 percent of the RHNA allocation, is the very reason we need an inclusionary housing policy. The sites identified in the housing element draft specify *site capacity* for housing development per the RHNA allocation. To help ensure affordable housing is actually *developed* on these sites, we need an inclusionary housing policy. Without one, it would seem the council is only serious about fulfilling its mandatory legal requirement of identifying site capacity and is NOT serious about the actual affordable housing development on the identified sites.

If you're still not convinced, consider the No Net Loss Law. If the identified sites are developed without enough affordable units, the city will be required to rezone new sites for the appropriate density. Given the limited sites available in Mission Viejo, this would definitely be a challenge. Without an inclusionary housing policy for sites already identified for higher density, the city will lose leverage later when required to provide for replacement affordable housing sites.

Several cities in Orange County have already adopted inclusionary housing ordinances: Brea, Huntington Beach, Long Beach, San Clemente, San Juan Capistrano, Tustin and most notably Irvine which has had one for many years.

Like our neighbors, I recommend we adopt an inclusionary housing ordinance to help ensure we meet our affordable housing need.

Sincerely,  
Cathy Kadison

Mission Viejo Resident

June 22, 2021

Speech 2-Letter presented to the city council in person

Dear City Council,

I would like to comment on the letter that the council and staff received from the Public Law Center critiquing Mission Viejo's 6<sup>th</sup> Cycle Housing Element siting reasons the city has not met the minimum standards required by law. The first concerns outreach which has been non-existent and discouraged. The recent newsletter that came out the week of June 8<sup>th</sup> had a glossy Steinmart promotion video but nothing on the housing element. A requested meeting my MV Planned Partnership held in May was more a pushback than an outreach. I was surprised when I saw in your element that the Kennedy Commission was stated to be a partner while on this zoom the head of the Kennedy Commission was treated rudely and called a zealot with the rest of us.

My other concern is your lack of investigation into the viability of many of the sites on your list. The biggest concern is Site C which was there in the 5<sup>th</sup> cycle and now is still on the list. This one site has a total of 477 very-low and low-income units. That is huge. Several companies have looked at this site and passed on it. In your current budget you are spending \$120,000 on grading. However, there is no contract listed, no timeline, no measurable outcomes, no environmental report, and no access listed to grocery stores, schools, or pharmacies which is required for low-income developments to be viable. I feel this is simply a place holder that will prevent you from being held under the No Net Loss rule.

The other site that has a huge number of units is the Freeway Center and its surrounding area. This also would probably require the building of another entrance for safety. If you take these two sites away, you will be 325 units short in your very-low and low-income categories.

The Fair Housing Act says there shall be no housing discrimination. This is housing discrimination when you put the vast majority of low-income units on the two least desirable and non-feasible areas with no written plan or measurable guidelines as to why they were chosen or adequate.

The other concern is your confusion of RHNA numbers and an inclusionary housing policy. The fact is that if a developer were to buy a property and build on it, because you have no mandatory inclusionary housing policy, that developer can just take his profits from this now upzoned, more valuable land and ignore that requirement. All your leverage has disappeared. RHNA numbers are just numbers on a page that have no meaning unless the city has a policy to enforce them.

You only have this chance once every eight years so please write this document with integrity and show your understanding of the importance of the issue. These are not just cells in a spread sheet to be filled in. These decisions affect real, live people who would like to be an integral part of your community.

Sincerely,

Ann Owens

December 16, 2021

Mr. Colin Cross  
California Dept. of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

**RE: Comments Regarding the City of Mission Viejo's 2021-2029 2<sup>nd</sup> Revised Draft Housing Element (October 2021)**

Dear Mr. Cross,

As a resident of Mission Viejo, thank you for meaningfully engaging with the community and for providing an opportunity to submit comments. On July 27, 2021, the Mission Viejo Planning Partnership submitted a comment letter on the City of Mission Viejo's first draft Housing Element (July 2021) and it details the Partnership's serious concerns on the draft's deficiency. Since then, the City has provided a revised draft Housing Element (October 2021) and unfortunately, a majority of those issues have not been addressed. While the concerns from the first draft still remain, the following outlines the critical issues stemming from the revised draft:

1. The City's housing sites inventory is not adequate or realistic to encourage and facilitate the development of affordable housing for lower income households.
2. There is a lack of adequate programs to promote the production of affordable housing for lower income households.
3. Instead of leveraging land use controls (rezoning/upzoning/overlay), the City recently gave away these incentives for properties in the housing sites inventory and did not request for affordability in return.
4. The City is over-relying on the top 3 sites that is anticipated to yield the most lower income units: Vista Del Lago at 315 units, Macy's & The Shops at 283 units and Idyllwillow Apartments at 151 units. These three sites alone account for 70% of the City's lower income RHNA.
5. The City is also over-relying on sites with overlays and potential mixed-use developments to accommodate the lower income RHNA. Higher density alone or a rezone to mixed-use does not necessarily produce affordable housing.
6. A stand-alone program should commit to a schedule of actions to facilitate the development of lower income units in the planning period (i.e., incentives, expedited processing etc.). The program should also include alternative action and mid-year cycle adjustments if production falls short of the expected yield during the first half of the planning period.

### **ADDITIONAL DISCUSSION ON CONCERNS**

The City is not creating long-term and effective affordable housing strategies/programs such as by-right development, affordable housing overlays and an inclusionary housing ordinance to ensure affordable homes for lower income households will be developed. On October 12, 2021, the City rezoned and upzoned a majority of properties in the site inventory **without** requesting some type of community benefit in return such as affordable housing. Prior to this meeting and action, City Council Member Brian Goodell provided the following comment at an City Council meeting on June 22, 2021:

“... An overlay or rezone will be an upzone and increasing the potential future value of the property and the **owners don't even have to do ANYTHING**. It's a benefit to have an additional opportunity for future entitlement for higher and better and more valuable use.”

Based on this statement, the City essentially gave away density and development standards that will not only create an easy transition for an upgraded use, it also significantly increases the value of these properties. **It is very disappointing that the City gave away leverage and potential incentives to the property owners in exchange for nothing in return.** Our City missed out on creating a great opportunity to request for a set-aside of affordable units that would ensure that we can be more effective in achieving our city's lower income RHNA.

The City has a pending development project, the Garden Plaza, which ironically is NOT identified in the City's Housing Sites Inventory. The Garden Plaza is currently an existing commercial and office center and it is slated to be demolished to accommodate a new mixed-use project, which will include 234 new apartment units. At a density of 36 du/ac, the project will also include a Density Bonus for the provision of only 12 units (5%) that will be affordable to lower income households. It is important to note that the City's action to significantly upzone some of the properties in the housing sites inventory to 50 du to 80 du may eliminate the effectiveness of a Density Bonus and the intent to create more affordable housing.

### **SITE 4: IDYLLWILLOW APARTMENTS**



- ***Current use:*** Idyllwillow Apartments is an existing residential multi-family property with 400 apartment units on 23.7 acres. The land is owned by Saddleback College.

- ***Proposed:*** While there will be no rezoning on this site<sup>1</sup>, all 400 existing units will be removed to make way for 711 total new units, of which 151 units would be lower income.<sup>2</sup> Overall, there will be a net yield of 311 units.
  
- ***Areas of concern:***
  - Without a specific plan/policy (i.e., inclusionary; by-right development; affordable housing overlay), there is no way to ensure that affordable homes for lower income households will be built here. In addition, there is no incentive for affordable housing development because on October 12, 2021, the City upzoned the property from 16.9 du/ac to 30 du/ac.
  - The draft states “as a state-owned (Community College) asset, it is **HOPED** the housing duties of the state will further **COMPEL** the affordable housing development of this site... The main impediment to this site being developed for affordable housing use is the potential **reluctance of the state** to advance the improvement of this land.”<sup>3</sup> Based on these statements, it does not seem as if the property owner/ Saddleback College has shown real interest in redeveloping the property let alone building 151 lower income units. There should also be additional analysis on whether the reluctance of the state to advance the improvement of the site would be a barrier or constraint to the development of affordable housing.
  - Based on HCD’s review and recommendations<sup>4</sup>, the draft Housing Element did not address or provide the following analysis:
    - Describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential use.
    - Analyze the extent to which existing uses may impede additional residential development and include an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development (i.e., does the owner plan to continue to renew leases? Will there be a relocation plan in place for the removal of the existing 400 units to make way for 711 new units? When will affected residents be notified of redevelopment plans in this current planning period?
    - Demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period.

---

<sup>1</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p. 88, October 2021.

<sup>2</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p. 95, October 2021.

<sup>3</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p. 95, October 2021.

<sup>4</sup> Review of the City of Mission Viejo’s (2021-2029) Draft Housing Element, Department of Housing and Community Development, p. 3, September 7, 2021.

**SITE 8: MACY’S AND SIMON PROPERTY GROUP**

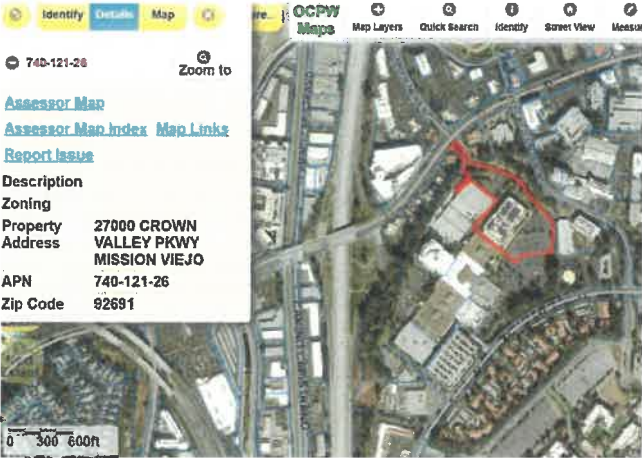


Image above is Macy’s parcel.

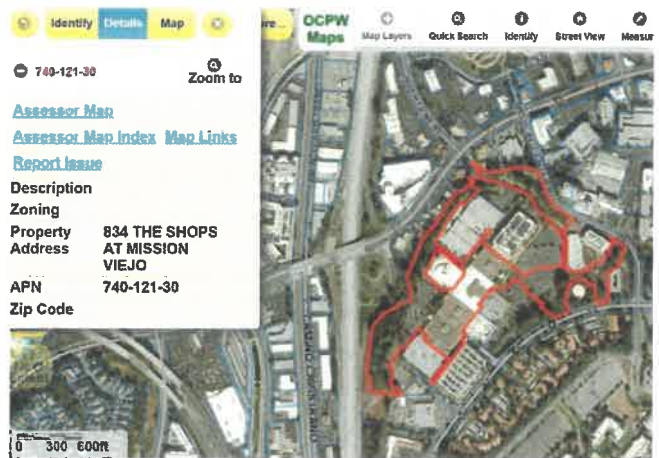


Image above is Simon Property Group’s parcel.

- **Current use:** Located at the Shops at Mission Viejo mall, the Macy’s parcel is 8.6 acres and the Simon Property Group’s portion of the mall is 6 acres. The entire mall is 67 acres.
- **Proposed:** With an overlay and a density of 80 du/ac, there will be a capacity of 584 units (344 units on the Macy’s parcel and 240 units on the Simon parcel) and of that, 283 units will be lower income.<sup>5</sup>
- **Areas of concern:**
  - Without a specific plan/policy (i.e., inclusionary; by-right development; affordable housing overlay), there is no way to ensure that affordable homes for lower income households will be built here. In addition, there is no incentive for affordable housing development because on October 12, 2021, the City rezoned the property to an overlay and substantially upzoned the property to 80 du/ac.
  - The draft does not specifically indicate that both property owners are interested in redeveloping the mall to include 283 lower income units. However, the draft states “The two property owners may work together or may develop their parcels separately within the planning period.”<sup>6</sup> If this is the case, the City should provide an analysis on how these scenarios will impact the development of lower income homes? Also, with two property owners, how will the 283 lower income units be facilitated for development between them?
  - According to the draft, “both Macy’s and Simon have demonstrated very successful record of converting old regional malls to housing and retail mixed use centers”<sup>7</sup>; however, how successful are both Macy’s and Simon in converting old

<sup>5</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p.100, October 2021.

<sup>6</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p.100, October 2021.

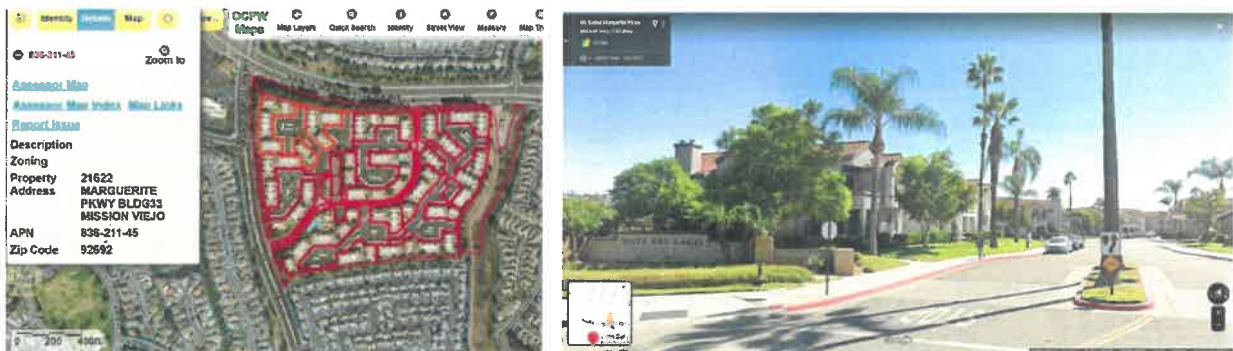
<sup>7</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p.100, October 2021.



regional malls to housing and mixed-use that is affordable to lower income households? In general, how successful has former malls that have been reconstructed as residential been in creating lower income housing?

- Currently, Simon Property Group has a proposed project at the Brea Mall in the City of Brea where a Sears store and auto center will be demolished to make way for a mixed-use development. Of the proposed 383 residential units, **ZERO UNITS** will be affordable to very low- or low-income households; however, 38 units will be set-aside as moderate because the City of Brea has an inclusionary requirement for moderate-income units.<sup>8</sup>

### **SITE 11- VISTA DEL LAGO**



- **Current use:** Vista Del Lago is an existing residential multi-family property with 608 apartment units. The site is a 17-acre portion of a larger 33.7 acre property.
- **Proposed:** With a rezone and at a density of 50 du/ac, 200 existing units will be removed to make way for 850 total new units, of which 315 units would be lower income.<sup>9</sup> Overall, there will be a net yield of 650 units.
- **Areas of concern:**
  - Without a specific plan/policy (i.e., inclusionary; by-right development; affordable housing overlay), there is no way to ensure that affordable homes for lower income households will be built here. In addition, there is no incentive for affordable housing development because on October 12, 2021, the City substantially upzoned the property from 17 du/ac to 50 du/ac.
  - Unless there is an inclusionary housing ordinance in place, the property owner Eqr-Del Lago Vistas Inc., does not have any experience in building affordable housing for lower income households in Orange County. Eqr-Del Lago Vistas Inc. owns several affordable housing developments in the City of Irvine; however,

<sup>8</sup> Imagine Brea: The City of Brea General Plan: 2021-2029 Housing Element, p. 3-106, September 21, 2021.

<sup>9</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p. 95, October 2021.

these developments are a product of the City of Irvine's inclusionary housing ordinance.

- The draft indicates "the property owner is interested and motivated to redevelop at a higher density within the planning period."<sup>10</sup> However, the statement does not specifically indicate that the property owner is interested in redeveloping the property to include 315 lower income units.
- Based on HCD's review and recommendations<sup>11</sup>, the draft Housing Element did not address or provide the following analysis:
  - Describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential use.
  - Analyze the extent to which existing uses may impede additional residential development and include an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development (i.e., does the owner plan to continue to renew leases? Will there be a relocation plan in place for the removal of the existing 200 units? When will affected residents be notified of redevelopment plans in this current planning period?
  - Demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period.

### **AESTHETICS- BARRIER TO AFFORDABLE HOUSING DEVELOPMENT?**

The City should provide an analysis on the following and whether Policy 3.7 of the General Plan regarding aesthetics would be a barrier or impede on the development of lower income units.

"...the demolition of existing buildings and site improvements on the developed sites and the construction of new residential units on all of the sites could result in aesthetic impacts. The future development of residential units on any of the sites would have to be consistent with and in compliance with Policy 3.7 of the General Plan to preserve views of significant scenic value and states, "Preserve views of significant value along streets and highways that adjoin such areas as a lake, hillside, ridgeline, creek, open space, or recreational area". Future development of the sites would also have to comply with all applicable development standards of the Mission Viejo Development Code to protect aesthetic qualities of the identified sites and adjacent surrounding properties."<sup>12</sup>

---

<sup>10</sup> Housing Element 2<sup>nd</sup> Revised Draft, City of Mission Viejo, p.105, October 2021.

<sup>11</sup> Review of the City of Mission Viejo's (2021-2029) Draft Housing Element, Department of Housing and Community Development, p. 3, September 7, 2021.

<sup>12</sup> City of Mission Viejo General Plan Housing Element Update, 2021-2029; 2013 Mission Viejo General Plan Program Environmental Impact Report Addendum, p. 13, October 2021.

Thank you and I look forward to continuing our discussion on how the City of Mission Viejo can be more effective at creating new affordable housing opportunities for lower income households. Please feel free to outreach to me if you have any questions.

Sincerely,

*Linda Tang*