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July 12, 2021

Gustavo Velasquez, Interim Director  
California Department of Housing and Community Development  
2020 West El Camino Avenue  
Sacramento, CA 95833

**Re: Conflicting State Priorities Affecting Cities Ability to Meet Sixth Cycle RHNA**

Dear Mr. Velasquez,

I want to express the City's frustration with conflicting State priorities regarding affordable housing and the future of the Newport Banning Ranch. As you are well aware, the Governor, the State Legislature, and State Department of Housing and Community Development (HCD) require the City to plan for a significant amount affordable housing going forward. The City is committed to doing its part, but at the same time, various Departments of the California Resources Agency, including the State Department of Fish and Wildlife, and the California Coastal Commission are supporting an acquisition and conservation effort that would preclude housing altogether.

The City of Newport Beach (City) is nearly built out and it has many constraints that challenge housing production highlighted below. Most future housing opportunities will come at the expense of existing viable job-supporting commercial land and the City does not want to reduce opportunities for quality jobs. This change in land use also creates municipal service financing questions that must be considered carefully. In this context, the importance of Banning Ranch as well as other similarly constrained sites is heightened.

The Banning Ranch property is the only largely vacant property that is over 400 acres in size. It is primarily used for oil production and it can provide genuine affordable housing opportunities at a scale (potentially thousands of units) to significantly help the City meet its Regional Housing Needs Assessment (RHNA) targets. The City recognizes that any development on the Banning Ranch property would occur on portions of the site that are less environmentally constrained, but activities by State agencies will potentially eliminate all opportunities for housing development.

As you know, Governor Gavin Newsom declared a state housing crisis in 2019, calling for the construction of 3.5 million new homes. In response, the State Legislature has considered and passed numerous bills purporting to address housing supply. In addition, the State Department of Housing and Community Development (HCD) issued an unprecedented and extreme Regional Housing Needs Assessment (RHNA) of 1,341,827 new units for the 2021-2029 Planning Period (Sixth Cycle) for the Southern California Association of Governments (SCAG) region. It is the City's belief the allocation was developed inconsistent with applicable provisions of the Government Code as laid in the verified petition for writ of mandate brought by the Orange County Council of Governments filed in Los Angeles Superior Court (Case No. 21STCP01970).

Newport Beach was allocated 4,845 units by SCAG, which is nearly 1,000 times the City's 5<sup>th</sup> Cycle RHNA allocation. This extreme allocation for a City that has several major constraints that severely limit or totally restrict the City's ability to accommodate this level of growth. In order to understand the challenge of this task it is important to highlight the land use constraints and limitations that Newport Beach is facing:

- **Sea Level Rise & Storm Hazards** – 1,226 acres of the City are exposed to a variety of coastal hazards including beach erosion, bluff erosion, and coastal flooding due to sea level rise and storm inundation.
- **Flood Zone** – 479 acres of the City have been recently updated on FEMA's Flood Insurance Rate Maps (FIRMs). This mapping effort created a new flood zone called Coastal High Hazard Area, which is considered one of the highest risk zones depicted on FIRMs.
- **Airport Restrictions** – 91 acres of the City are within John Wayne Airport Environs Land Use Plan (AELUP). Residential development in the Airport Area is restricted due to the noise impacts as well as height limitations.
- **NCCP Conservation Areas** – 2,734 acres of the City's remaining open space land is designated and protected as environmentally sensitive habitat areas and cannot be utilized for residential development.
- **High Fire Severity Zone** – 3,227 acres of the City are designated as a High Fire Severity Zone and are highly prone to wildfire. Additionally, these high

fire severity zones are not compatible with development due to severe limitations of slope and natural features.

- **Seismic Hazards** – 4,107 acres of the City are susceptible to liquefaction and related ground failure. Underlying soil conditions coupled with known fault lines constrain development potential within this area.
- **Coastal Zone** – Over 63 percent of the City is within the Coastal Zone, density changes within the Coastal Zone would necessitate a comprehensive amendment to the City's certified Local Coastal Program and Coastal Commission approval to ensure compliance with the Coastal Act.
- **Lack of Available Vacant and Underutilized Land** – The majority of existing residential land consists of currently developed properties. Additionally, there is very little land in the City that contains obsolete commercial or industrial improvements or that is considered underutilized that would realistically convert to residential use due to high property values and rents.

Despite this incredibly challenging RHNA target, the preparation of a compliant Housing Element Update is one of the City Council's highest priorities and a significant amount of staff time and City's funds have been committed to achieve this effort. The City has been working with its residents and other stakeholders to identify suitable sites for the 6<sup>th</sup> Cycle RHNA allocation for over a year. The City intends to implement a variety of policies and zoning strategies to accommodate the 6<sup>th</sup> Cycle RHNA allocation, among them is pursuing development on portions of Banning Ranch given all the constraints the City faces. Unfortunately, Banning Ranch has also proven to be the poster child for the contradiction in competing State priorities.

Banning Ranch is a 401-acre property, currently used for oil production, that lies within the City and County of Orange (County). The County's current housing element plans for housing on Banning Ranch as an opportunity site to accommodate 494 moderate-income housing units and 567 low-income units. This is consistent with the approval of 1,375 homes, a small hotel, commercial space, parks, and open space approved by a unanimous Newport Beach City Council in July 2012. That project did not move forward after the California Coastal Commission rejected a smaller proposal in 2016. Given the major constraints outlined, the City remains committed to evaluating and rezoning a portion of Banning Ranch as a housing opportunity site since it represents the only remaining semi-vacant site available to accommodate a portion of growth in Newport Beach.

The City is supportive of preserving most of the property as a regional open space and recreational amenity, but we must also balance that goal considering the ongoing housing crisis. The City understands that the development of Banning Ranch will require careful consideration and planning to address the prior Coastal Commission environmental concerns, as well as concerns from the environmental

community. However, the City is shocked to learn that the State Department of Fish and Wildlife recently announced on June 15, 2021, that it has granted \$8 million to a local conservancy group to assist in the acquisition of Banning Ranch and preserving it, in its entirety, as a park with no potential for housing development. We are even more concerned with State legislators allocating an additional \$8 million, through the State's budget, put towards the purchase of the property.

***What is the State's priority on housing?***

The State has competing interests and sending mixed messages to cities. On one hand, there is a declared housing crisis with numerous "one-size-fits-all" bills to remedy it. Local jurisdictions in the Southern California region are being required to plan for an extreme amount of new housing units by HCD, which were distributed irrespective of land availability or other constraints.

On the other hand, State agencies with completely different missions are telling local jurisdictions that pieces of underutilized land, especially in the Coastal Zone, should not be developed and should instead be preserved as open space or park land.


Local jurisdictions are left with the burden of solving the State's contradicting and conflicting priorities.

As the City moves forward with planning for affordable housing units, we are requesting the following:

- 1) Reduce or eliminate competing State priorities and to support housing development where appropriate; and,
- 2) If the State continues down a path to allow all of Banning Ranch to be converted to a park then HCD must reduce the City's RHNA allocation equivalent to the number of housing units planned for the site.

Housing can be planned on Banning Ranch while maintaining our goals to conserve the environment. Thank you for your attention to this important issue.

Sincerely,



~~Brad Avery~~, Mayor

cc. Honorable Governor Gavin Newsom  
Honorable Toni G. Atkins, Senate President pro Tempore  
Honorable Anthony Rendon, Assembly Speaker  
Honorable Cottie Petrie-Norris, Assemblywoman, District 74

Honorable Dave Min, Senator, District 37  
Wade Crowfoot, Secretary for Natural Resources  
Charlton Bonham, Director Department of Fish and Wildlife  
Jack Ainsworth, Executive Director California Coastal Commission  
Samuel Schuchat, Executive Director State Coastal Conservancy