

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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July 8, 2026

Swati Meshram, Deputy Director
Community Development - Planning
City of Downey
11111 Brookshire Avenue
Downey, CA 90241

RE: City of Downey – 10354 Downey Avenue – Letter of Support and Technical Assistance

Dear Swati Meshram:

The California Department of Housing and Community Development (HCD) received an inquiry from Abbey Road, Inc. / Penny Lane Centers (Applicant) regarding a partnership they are pursuing with St. Mark's Church to develop affordable housing on a portion of the church campus at 10354 Downey Avenue (Site). This letter expresses support for the proposed project and provides technical assistance to the City of Downey (City) regarding the application of state housing laws to the Site.

Background

HCD understands that the Applicant seeks to build 60 units of affordable housing on the Site. The project will serve households making 30 percent, 50 percent, and 60 percent of area median income. Half of the units will be permanent supportive housing. The project will serve special needs populations including homeless transition-aged youth and homeless/chronically homeless adults and families. Downey is home to 258 people experiencing homelessness,¹ many of whom could be served by this project.

Under the Affordable Housing on Faith and Higher Education Lands Act (SB 4 of 2023),² a local agency must ministerially approve 100 percent affordable developments located on sites owned by higher education and religious institutions as long as certain criteria are met. The Applicant proposes to use the SB 4 ministerial approval process.

¹ City of Downey 2021-2029 Housing Element, Table 2.6. Available at <https://www.downeyca.org/our-city/departments/community-development/planning/housing-element-update>.

² Gov. Code § 65913.16.

To construct the project, the Applicant will need to make some modifications to one or more existing structures on the Site, demolishing one structure and/or partially demolishing another structure. The church itself would continue to operate in the main church building.

The Site has a general plan land use designation of Medium Density Residential (MDR).³ According to the general plan, the corresponding zone for this designation is R-3, Medium Density Multiple-Family Residential.⁴ However, the zoning for the Site is R-1, Single-Family Residential.⁵

Religious uses are not permitted in the R-1 zone.⁶ Therefore, the existing St. Mark's Church is a non-conforming use on the Site. The Downey Code of Ordinances (DCO) states the following regarding continuation of a non-conforming use:

“The lawful use or occupancy of a use, building, or structure existing at the time this article or amendments thereto take effect may be continued provided there is no relocation of, *alteration* or addition to any use, building, or structure, nor any enlargement of area, space, or volume occupied by such nonconformity except as allowed in Section 9410.12.”⁷ (emphasis added)

HCD understands that the City's position is that, since the project as proposed would involve an “alteration” of one or more existing structures, that alteration would mean that the church could no longer continue to operate as a non-conforming use. The City has stated that, in order for the church to continue operating and the affordable housing to be built, the Applicant must first apply to rezone the site to R-3, after which the church could apply for a permit and no longer be a non-conforming use, thereby allowing the proposed affordable housing project to proceed under SB 4 and the church use to continue operating.

³ City of Downey General Plan land use map, available at <https://www.downeyca.org/our-city/departments/community-development/planning/general-plan-map>.

⁴ *Id.*

⁵ City of Downey zoning map, available at <https://www.downeyca.org/our-city/departments/community-development/planning/zoning-code-map>.

⁶ Downey Code of Ordinances (DCO), Table 9.3.2.

⁷ DCO, § 9410.06, subd. (a).

Analysis

SB 4

SB 4 explicitly allows the inclusion of religious uses in the by-right approval process:

“[A] development project that is eligible for approval as a use by right pursuant to this section *includes any religious institutional use* ... if all of the following criteria are met:

- (1) The total square footage of nonresidential space on the site does not exceed the amount previously existing or permitted in a conditional use permit.
- (2) The new uses abide by the same operational conditions as contained in the previous conditional use permit.”⁸ (emphasis added)

If a development project using the by-right approval process includes a religious institutional use, that religious use is also subject to the by-right approval process, so long as it meets the two criteria. In this case, the total square footage of nonresidential space on the site will not exceed the amount previously existing; the project will actually reduce total nonresidential space. And the church will continue to abide by the same operational conditions as it does now. Since both criteria are met, the church use may continue, despite the City’s conflicting objective standard about nonconforming uses. SB 4 requires a development project to comply “with all objective development standards of the city or county *that are not in conflict with this section.*”⁹ (emphasis added).

General Plan and Zoning Consistency

In addition, state law requires that city zoning ordinances be consistent with the general plan.¹⁰ The zoning for the Site (R-1) is inconsistent with the general plan land use designation (MDR). If the zoning matched the general plan land use designation, the Site would be zoned R-3. Religious uses are conditionally permitted in the R-3 zone.¹¹

If the City had complied with its obligation that its zoning ordinance be consistent with its general plan, the church could apply for a permit and no longer be a non-conforming use, thereby allowing the proposed affordable housing project to proceed under SB 4 and the church use to continue operating. HCD understands that City staff intends to propose rezoning the Site to align the zoning with the general plan land use designation as part of a larger comprehensive general plan update later this year. However, in the meantime, the Applicant should not be punished for the City’s failure to comply with state law in a timely manner.

⁸ Gov. Code § 65913.16, subd. (i).

⁹ Gov. Code § 65913.16, subd. (c)(10).

¹⁰ Gov. Code, § 65860, subd. (a).

¹¹ DCO, Table 9.3.2.

Housing Element Law

Program 1.3 of the City's housing element, Land Use Policy Changes, includes the following bullet point: "Resolve General Plan and Zoning Ordinance inconsistencies in residential land use designations."¹² The timeframe for implementing this program was "within three years of Housing Element adoption." The housing element was adopted on October 11, 2022. Therefore, this program should have been implemented by October 11, 2025. The City has failed to implement this program in a timely manner, as evidenced by the continued inconsistency between the general plan land use designation and zoning for the Site. Again, the Applicant should not be punished for the City's failure to implement this program and rezone the Site in a timely manner.

Please be aware, HCD must review any action or failure to act by a City that is inconsistent with an adopted housing element or section 65583 generally and may revoke its findings that the City's housing element substantially complies with State Housing Element Law.¹³

Conclusion

HCD reiterates its strong support for the proposed project and urges the City to process the project expeditiously under SB 4, without requiring a rezone, and allow the church to continue operating.

HCD has enforcement authority over SB 4 and Housing Element, among other laws. Accordingly, HCD may review local government actions to determine consistency with these laws. If HCD finds that a jurisdiction is in violation of state law, HCD may notify the California Office of the Attorney General.¹⁴

HCD requests a written response from the City by August 7, 2026, indicating how the City plans to implement the guidance provided in this letter. If you have any questions regarding this letter or require additional technical assistance, please contact Stephanie Reyes at stephanie.reyes@hcd.ca.gov.

Sincerely,



Melinda Coy
Housing Accountability Unit Chief

¹² City of Downey 2021-2029 Housing Element, p. 6-8.

¹³ Gov. Code, § 65585, subd. (i)(1)(C).

¹⁴ Gov. Code, § 65585, subds. (i) and (j).