

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

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May 23, 2025

Mayor Andy Gilman
Mayor Pro Tem. Rachel Lang
Councilmembers Leslie Rule, Andrew Whitman, and Kim Mang
City of Ojai
401 S. Ventura Street
Ojai, CA 93023

Dear Mayor Andy Gilman, Mayor Pro Tem. Rachel Lang, and Councilmembers Leslie Rule, Andrew Whitman, and Kim Mang:

RE: Cabin Village Project – Letter of Support and Technical Assistance

The California Department of Housing and Community Development (HCD) is aware that the Ojai City Council (City) will be holding a public hearing on May 27, 2025 to consider a Design Review Permit for a 30-unit permanent supportive housing community at the City's Public Works Yard (Project), located at 408 S. Signal Street.

This letter expresses HCD's support for the Project in light of Housing Element Law,¹ the duty to Affirmatively Further Fair Housing (AFFH),² and the Anti-Discrimination in Land Use Law.³ In addition, this letter provides information regarding the HCD Encampment Resolution Funding (ERF) awarded to the City in connection with the Project and its associated outreach and services. HCD has not had the opportunity to review the full record but is providing the City with this technical assistance based on the information available at this time.

HCD commends the City on its solutions-oriented approach to addressing the ongoing housing crisis and encourages the City to continue advancing those efforts by approving the Project.

¹ Gov. Code, § 65580 et seq.

² Gov. Code, §§ 8899.50, 65583.

³ Gov. Code, § 65008.

Background

ERF Program and City's ERF Award for Ojai Tent Town Encampment

The ERF is a competitive grant program available to assist local jurisdictions (cities, counties, and Continuums of Care) to fund actionable, person-centered proposals that provide stable housing and address the immediate health and safety needs of the individuals residing in specific encampments. Funding proposals must demonstrate a plan to transition individuals within the encampment into interim housing with clear pathways to permanent housing or directly into permanent housing. Projects must resolve critical encampment concerns, such as immediate health and safety hazards and address the wellness of the people living in the encampment.⁴

On April 18, 2024, HCD awarded the City approximately \$12.7 million in ERF program funds based on the City's plans to fund a supportive housing village that would create long-term housing for people experiencing homelessness in the local encampment known as Ojai Tent Town (OTT).

Cabin Village Project

The Project's 30 supportive housing units are envisioned to serve the individuals currently residing in the OTT.⁵ In addition to housing, the Project would provide on-site supportive services, including case management, education and employment services, mental health and well-being counseling, physical and behavioral health services, substance abuse services, and peer support services. Additionally, the cabin village would include a community gathering space, laundry, kitchen/food preparation, storage facilities, and administrative offices. Based on the City's analysis, the Project appears to be designed for the "target population" for "supportive housing," as those terms are defined in Housing Element Law, with the intended occupants being individuals who are experiencing homelessness, many or all of whom have disabilities and very low or no incomes.⁶

HCD understands that the City has evaluated the feasibility and suitability of the Project site for supportive housing, including but not limited to, conducting Phase I and II Environmental Site Assessments, a soils report, a noise study, an arborist report, a traffic and vehicle miles traveled (VMT) analysis, a biological resource report, and a site survey. Additionally, HCD is aware that the City has found that lead concentration levels in the soil are acceptable for development and has committed to properly monitoring, managing, and disposing of any potential lead-impacted soil discovered during site development with the oversight of the Department of Toxic Substances Control (DTSC).⁷

⁴ Encampment Resolution Funding (ERF) Program | California Department of Housing and Community Development, available at <https://www.hcd.ca.gov/grants-and-funding/programs-active/encampment-resolution-funding-program>.

⁵ Ojai Administrative Report, March 25, 2024 (Administrative Report), at pp. 2-1-2-2.

⁶ Gov. Code, § 65582, subds. (k), (n), (p).

⁷ Administrative Report at. p. 2-8.

Ojai 6th Cycle Housing Element Commitments

Approval of the Project is consistent with several of the City's housing element policies, programs, and goals, including but not limited to:

- **Policy H-1:** The City will facilitate production of new affordable housing through direct involvement in the design-development process to best accomplish low-impact development principles.
- **Policy H-4:** The City shall adopt policies, programs and procedures to facilitate attainment of RHNA goals, with particular emphasis placed on the needs of persons and families of lower income households (including extremely low income) and those with special needs
- **Policy H-5:** The City shall actively seek and formulate partnerships with for-profit and non-profit developers to produce affordable housing and provide assistance in support of project applications to achieve development objectives.
- **Policy H-9:** The City will encourage the construction or conversion of existing facilities into emergency shelters, transitional housing and single room occupancy units to meet the needs of the homeless population and will likewise facilitate development of group homes, congregate care facilities and independent living units for persons with disabilities.
- **Policy H-13:** The City declares that all persons regardless of their special characteristics as protected under State and Federal fair housing laws shall have equal access to sound and affordable housing pursuant to State and Federal laws.
- **Policy H-14:** The City will actively promote enforcement of fair housing laws and continue its support of non-profit organizations that provide housing and other assistance to special needs groups in Ojai (e.g., homeless, disabled, etc.).
- **Program 6: Facilitate Affordable Housing Development**

The development of affordable housing, particularly for extremely low income and very low income households, as well as populations with special needs, generally requires collaboration among multiple parties In this regard, the City's contribution can take a number of forms:

- Utilizing the City's "police powers" (local control) to provide appropriate land use and zoning.
- Supporting applications submitted to funding agencies.
- Providing direct financial or development assistance when feasible. . . .
- Resource Development: "To augment local funding sources, the City will:

(i) actively pursue grant and loan funding to finance the various housing initiatives listed in the Housing Element Funding assistance and regulatory incentives will prioritize multi-family and supportive housing developments that include units for extremely low-income households.

- **Goal 3:** Remove impediments to the provision of affordable housing and provide reasonable accommodation for persons with disabilities.
- **Goal 5:** Affirmatively further fair housing and assure equal access to sound, affordable housing for all persons regardless of race, creed, age, or sex.

Approval of the Project presents a clear opportunity for the City to implement these housing element goals, policies, and programs, among others. Disapproval, in contrast, may conflict with or fail to implement these commitments, which could violate Housing Element Law.⁸

Supportive Housing Pursuant to Housing Element Law

It appears from the City's analysis that the Project meets Housing Element Law's general definition of "supportive housing."⁹ The City has also determined that the Project is similar to other residential or mixed-use developments that the City has allowed in the same P-L zone.¹⁰ Accordingly, if the Project is supportive housing, allowing it on this site would be required by Housing Element Law, which provides that "supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone."¹¹

In addition, supportive housing that meets the more specific requirements of sections 65650-65656 must be treated as "a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses."¹² By-right approval means that the use cannot require a conditional use permit or other discretionary review, even if a permit is required for other residential dwellings of the same type in the same zone.¹³ This nondiscretionary (i.e., ministerial) approval requirement renders the proposed use statutorily exempt from the California Environmental Quality Act if the project "complies with written, objective development standards and policies."¹⁴

⁸ Gov. Code, § 65585, subds. (i)(1)(A), (j).

⁹ Gov. Code, § 65582, subds. (k), (n), (p)

¹⁰ Administrative Report at p. 2-703.

¹¹ Gov. Code, § 65583, subd. (c)(3). If the City intends that residents only reside at the Project while they are transitioning to other, permanent housing, the same protections in subdivision (c)(3) apply to "transitional housing," as that term is defined in section 65582, subdivision (q).

¹² Gov. Code, § 65651, subd. (a).

¹³ Gov. Code, § 65650, subd. (e), citing § 65583.2, subd (i).

¹⁴ Gov. Code, § 65651, subd. (b)(2), citing Pub. Res. Code, § 21000 et seq.

It appears from the City's analysis that the Project may be designed to meet the requirements of section 65650-65656 and that it is located in a zone in which the City has allowed other multifamily and mixed-used developments.¹⁵ If this is accurate, the City should treat the Project as a use by right.

Affirmatively Furthering Fair Housing (AFFH)

Section 8899.50, the AFFH statute applicable to all public agencies in the state whose activities relate to housing and community development, requires the City to “tak[e] meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”¹⁶ More specifically, AFFH “means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”¹⁷

The duty to AFFH extends to all of the City's “activities and programs relating to housing and community development”¹⁸ and prohibits any “action that is materially inconsistent with the obligation to [AFFH].”¹⁹

To date, the City's actions regarding the Project appear consistent with its AFFH duties. The City's analysis of the Project shows that it is located in a high resource and opportunity area, is designed to meet the needs of persons with disabilities and who have experienced chronic homelessness and includes programs that will support their inclusion in the community and access to community resources. With the administrative record documenting the Project's merits and consistency with the City's land use policies and practices, disapproval of the Project at this stage would represent a notable shift in the City's actions, raising concerns about the City's compliance with its AFFH duties. Additionally, as described above, denial of the Project would fail to implement multiple housing element goals, policies and program actions, including but not limited to Program 6, which are intended to fulfill the City's AFFH duties.

Anti-Discrimination in Land Use Law

The Anti-Discrimination in Land Use Law prohibits discrimination in land use policies and practices. It deems any action taken by a city or county to be null and void if it denies an individual or group of individuals the enjoyment of residence, tenancy, or any other land use due to discrimination based on protected characteristics.²⁰ It further prohibits a City from enacting or administering its land use ordinances to “discriminate

¹⁵ Administrative Report at pp. 2-23-2-24, 2-703.

¹⁶ Gov. Code, § 8899.50, subds. (a)(1), (a)(2)(B).

¹⁷ *Id.* at subd. (a)(1).

¹⁸ *Id.*

¹⁹ *Id.* at subd. (b)(1).

²⁰ Gov. Code, § 65008, subd. (a).

against any residential development or emergency shelter . . . because of the method of financing" or because "the development . . . is intended for occupancy" by persons with protected characteristics.²¹ In addition, a City cannot impose requirements on a residential project or emergency shelter funded or assisted by a public agency other than those imposed on "nonassisted developments," and similarly cannot impose requirements on a project or shelter intended for use by persons with protected characteristics other than those generally imposed on other residential developments.²² The Anti-Discrimination in Land Use Law's protections would encompass the Project's intended occupants, who have disabilities and low or no incomes.²³ The law encompasses both intentional discrimination and policies or practices that have discriminatory effects.²⁴

The City's analysis of the Project confirms that residential uses have previously been allowed on other P-L zoned sites. This analysis also includes ample justifications for approving the Project, along with demographic information about the intended occupants that indicates that denying the Project would have disproportionate, if not exclusive, adverse impacts on persons with protected characteristics and impede their integration into the community. For these reasons, among others, the City should carefully consider whether denying the Project could potentially violate the Anti-Discrimination in Land Use Law.

ERF Program Requirements – Implications of Project Denial

Finally, the City of Ojai is required to implement their ERF-funded proposals in compliance with the terms and conditions of the contract, the Notice of Funding Availability, HCD's guidance and directives, and the requirements per the authorizing statutes. If a change is needed, the City may request a budget modification through the change request process. Denying the Project could potentially jeopardize the City's ERF award and result in a Breach of Agreement under the terms of the standard agreement.

As stated in the standard agreement for the award, "In addition to any other remedies that may be available to HCD in law or equity for breach of this agreement, HCD may:

- 1) Conduct program monitoring which will include a corrective action plan (CAP) with findings, remedies, and timelines for resolving the findings.
- 2) Bar the Grantee from applying for future ERF funds.
- 3) Revoke any other existing ERF award(s) to the Grantee.
- 4) Require the return of any unexpended ERF funds disbursed under this Agreement.
- 5) Require repayment of ERF funds disbursed and expended under this Agreement.
- 6) Require the immediate return to HCD of all funds derived from the use of ERF.
- 7) Seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or participation in the technical assistance in accordance with ERF requirements."

²¹ *Id.* at subd. (b).

²² *Id.* at subd. (d).

²³ *Id.* at subds. (a)(1)(A), (a)(3), (b)(1)(B)-(C), (b)(2)-(3), (d)(1)-(2).

²⁴ *Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193, 279, rev. denied.

Conclusion

HCD strongly supports the Project and urges the City to approve it. Approving the Project would comply with Housing Element Law, AFFH laws, and the Anti-Discrimination in Land Use Law, while helping to preserve the City's ERF award. In contrast, denying the Project could potentially violate these laws and jeopardize the City's ERF award. HCD reminds the City that under Government Code section 65585, subdivision (j), if HCD finds that a local government has violated state housing laws, HCD may notify the Office of the Attorney General.

While noting these potential legal consequences, HCD commends the City for this Project and is available to provide additional technical assistance to facilitate its success. If you need further assistance or have any questions regarding this letter, please contact Lisa Frank at Lisa.Frank@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a stylized flourish extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

cc: Ben Harvey, City Manager
Matthew Summers, City Attorney