

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

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January 12, 2009

Ms. Hilary Gitelman, Planning Director
Conservation Development and Planning
County of Napa
1195 Third Street, Room 210
Napa, CA 94559

Dear Ms. Gitelman:

RE: Review of the County of Napa's Draft Housing Element Update

Thank you for submitting Napa County's draft housing element update received for review on November 13, 2008. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). The review was facilitated by communications with you, Ms. Nancy Johnson, Housing and Community Development Coordinator, Department of Community and Intergovernmental Affairs, Ms. Silva Darbinian, Deputy, Office of County Counsel and your consultants Mr. Matt Kowta and Ms. Rebbecca Schenck.

The draft element addresses some statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must include analyses of identified sites and potential governmental constraints. The enclosed Appendix describes necessary revisions needed to comply with State housing element law.

The Department appreciates your cooperation and assistance through the review. If you have any questions or would like assistance, including a meeting in Napa, please contact Paul McDougall, of our staff, at (916) 322-7995.

Sincerely,

Cathy E. Creswell
Deputy Director

Enclosure

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APPENDIX

COUNTY OF NAPA

The following changes would bring the County of Napa's housing element into compliance with Article 10.6 of the Government Code. The pertinent Government Code Section is cited for each recommended change.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, please refer to the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements* (*Building Blocks*) at http://www.hcd.ca.gov/hpd/housing_element/index.html, the Government Code addressing State housing element law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element (Section 65588 (a) and (b)).

The review requirement is one of the most important features of the element update and necessary to evaluate the County's performance in addressing housing and land-use goals. This information provides the basis for developing an effective housing program. While the element describes some actions taken to implement programs, in some cases, it does not describe the results of the prior element's programs or compare those results to the planned objectives to evaluate effectiveness and improve programs as appropriate in the current planning period. The review requirement is particularly critical for Napa County given the importance of various programs, including those related to zoning for farmworkers and the affordable housing combination district in meeting statutory requirements in the previous planning period. For example, the element should include a detailed description of actual results (i.e., units produced), effectiveness and appropriateness of the following programs.

Program 2d (Affordable Housing Combination District): While the element indicates the zoning ordinance was amended with the combination district in 2004, it should also discuss whether the combination district has been utilized and evaluate its effectiveness in facilitating housing affordable to lower- and moderate-income households. Based on the analysis, the program should be revised to be more effective or alternative program(s) adopted.

Program 2f (Trust Funds for Category 4 Permits): Describe whether any units were produced and examine the effectiveness of the trust fund.

Program 3e (Fair Housing Education): The element indicates the County contributed to Fair Housing Napa Valley but does not evaluate the success of the effort including whether the County reviewed records of complaints or initiated an education campaign.

Program 3i (Zoning for Farmworkers): While the element indicates zoning was amended, it should analyze the effectiveness of the zoning amendments in encouraging housing for farmworkers and include, if necessary, revisions to the ordinance or add other programs based on the analysis.

Program 6b (Expedite Permit Processing): The element indicates permits are expedited by allowing multifamily by-right development through the affordable housing combination district. However, the combination district limits by-right development and requires a use permit if development exceed four units per acre in some areas (page 89). The element should evaluate the effectiveness of this program in encouraging the development of affordable housing and include revisions as appropriate.

Program 6d (Facilitate Multifamily Development): While multifamily was allowed by-right on identified sites, the element should evaluate the program's effectiveness based on the actual number of multifamily units permitted. This is particularly important since new multifamily development only represented seven percent of the housing unit production as noted in the element (page 36).

Program 6e (Review and Modify Use Permit Requirements for Multifamily): The element simply states multifamily is allowed by-right on sites identified in the element but does not describe the number of multifamily units approved, evaluate the use permit requirements or identify any modifications to zoning.

B. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

The County has a regional housing need of 569 housing units, of which 259 units are for lower-income households. To address this need, the element relies on sites zoned with the Affordable Housing Combination District and especially the "Napa Pipe" site. To demonstrate the adequacy of these sites and strategies, the element must provide analyses, as follows:

Zoning to Encourage and Facilitate Housing for Lower-Income Households: The element must identify and analyze the zones, densities and development standards appropriate to encourage and facilitate the development of housing for lower-income households based on factors such as market demand, financial feasibility and development experience within zones. For communities with densities that meet specific standards (at least 20 units per acre for Napa County), this analysis is not required (Section 65583.2(c)(3)(B)). For example, the element would not need to include an analysis of densities proposed to be permitted on the Napa Pipe site. The element concludes (page 104) development of housing affordable to lower-income households is potentially feasible at less than 20 units per acre but would require significant subsidy and anything less than 10 units per acre is essentially infeasible (page 103). In addition, the element shows, based on recent experience, the average density for affordable developments (pages 101 and 102) is approximately 20 units per

acre. However, the element indicates densities ranging from 5 to 10 units per acre are adequate to encourage housing for lower-income households describing units can be "feasibly built" at these lower densities (page H-42 of the policy document). This does not reflect the analysis in the element. While units may be feasibly built at lower densities (i.e., 5 to 10 units per acre), the amount of subsidy required is far greater compared to higher densities around 16 to 20 units per acre (page 102). As a result, the element should either demonstrate how the densities of 5-10 units per acre can encourage housing affordable to lower-income households based on factors identified above or designate sites at appropriate densities (i.e., 16 to 20 units per acre).

Most sites are identified with the County's Affordable Housing Combination District (AHCD) which could allow higher densities but only with a use permit (page 89). Subjecting higher density projects in the AHCD to a use permit appears to act as a constraint to development and not encourage and facilitate development of housing affordable to lower-income households. If the County intends to rely on sites allowing higher densities under the AHCD with a use permit, the element should include programs to address or otherwise mitigate the impacts of the use permit requirement.

Non-Vacant Sites: The element identifies nonvacant sites to address a portion of the regional housing need, but does not include the necessary analysis to demonstrate their potential for redevelopment in the planning period. Pursuant to recent changes to housing element law, the element must include an analysis demonstrating their feasibility for redevelopment in the planning period. The analysis must address the extent to which existing uses may impede additional residential development and include a description, relative to identified sites, of development trends, market conditions and regulatory incentives and standards to facilitate redevelopment or reuse. For RV and boat storage sites, the inventory should note whether the use is operating, marginal or discontinued, the condition of the structure or expressed interest in redevelopment. For the County Corporation Yard, the element should discuss what must be done to make the site available for development and the status of efforts to make it available. Refer to the sample analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_home.php.

Infrastructure: Except for the Napa Pipe site, identified sites are essentially in the communities of Angwin, Moscowite and Spanish Flats. The element includes a general discussion of infrastructure capacity (pages 82 to 84); however, the amount of available water and sewer capacity is unclear. As a result, the element should identify if sufficient total capacity is available or planned in these areas and include programs as appropriate to make capacity available in the planning period.

Zoning for a Variety of Housing Types (Emergency Shelters): Chapter 633, Statutes of 2007 (SB 2), requires the identification of a zone(s) where emergency shelters are permitted with sufficient capacity to accommodate at least one year-round emergency shelter without a conditional use permit (CUP) or other discretionary action. SB 2 provides flexibility and encourages multi-jurisdiction coordination by allowing local governments to address SB 2 through a multi-jurisdictional agreement with a maximum of two adjacent jurisdictions. The element indicates emergency shelters are allowed with a use permit in the Industrial and General Industrial zoning districts (page 104) and states the County will comply with SB 2 either by amending zoning or pursuing a multijurisdictional agreement. The element should clearly identify which strategy the

County will be implementing to comply with SB 2. If amending zoning, the element must specifically identify the zone(s) or potential zone(s) and demonstrate sufficient capacity to accommodate the need for emergency shelters. The element should also describe the characteristics and suitability of the zone(s) for emergency shelters. If pursuing a multijurisdictional agreement, the element must demonstrate compliance with all of the appropriate provisions including a commitment by each participating jurisdiction to develop at least one year-round shelter within two years of the housing element planning period (June 30, 2011). In addition, the element must describe the following:

- how the capacity of the emergency shelter will be allocated for each participating jurisdiction;
- how the joint facility will address the local government's need for emergency shelters;
- the local government's contribution for both the development and ongoing operation and management of the shelter;
- the amount and source of the funding to be contributed to the shelter; and
- how the aggregate capacity claimed by all of the participating jurisdictions does not exceed the actual capacity of the shelter facility.

For additional information, see the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels and persons with disabilities, including fees and other exactions required of developers (Section 65583(a)(4)).*

Land-Use Controls: While the element lists and describes various development standards (page 88 and Table 33), it should analyze their impact on the cost and supply of housing and the ability to achieve maximum densities. The element should also specifically identify and analyze parking requirements, especially multifamily, for potential impacts on the cost and supply of housing. This analysis is particularly important given the element identifies that lot coverage, heights and parking requirements have the greatest effect on development capacity (page H-30 of the policy document).

Processing and Permit Procedures: Although the element describes processing times and the County's pre-application process, it must specifically analyze these approval procedures and level of discretionary action for impacts on the cost and supply of housing, including approval certainty. The analysis must specifically address decision-making criteria, such as approval findings by permit type for residential uses, particularly multifamily. See the sample analysis in the *Building Blocks'* technical assistance tool at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php.

Also, the element indicates that multifamily is subject to a CUP (Table 32) in the RM zone and the Affordable Housing Combination District (AHCD) if exceeding specified densities ranging from 4 to 12 units per acre. Additional review and complex discretionary findings through a CUP can add significant time and uncertainty to the approval process and consequently can impact the cost and supply of housing, particularly housing affordable to low- and moderate-income households. The element should add programs to address the CUP procedure as a constraint.

Potential Constraints on Housing for Persons with Disabilities: The element describes the County must either analyze potential constraints on housing for persons with disabilities or establish a reasonable accommodation ordinance. The element generally describes the County's reasonable accommodation ordinance to address this requirement. However, pursuant to recent changes to housing element law, the element must both address how the County provides reasonable accommodation and include an analysis of potential constraints on housing for persons with disabilities. For example, the element must analyze: (1) any definitions of family in the zoning code; (2) spacing or concentration requirements; and (3) efforts to reduce or modify parking requirements for housing for persons with disabilities. Further, the element should identify approval findings under the reasonable accommodation ordinance and analyze their potential impact on housing for persons with disabilities. The element must include programs to address any identified constraints. Refer to the *Building Blocks'* website for a sample analysis at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php.

C. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by-right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in finding B1, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning for a variety of types and incomes has not been established. Based on the results of a complete sites inventory and analysis, the County may need to add or revise programs to address a shortfall of sites and zoning for a variety of housing types.

The County appears to be relying on some sites requiring rezoning. For example, the Napa Pipe site is not currently zoned to accommodate housing. If the County must rely on programs to make sites with appropriate zoning and development standards available to accommodate the County's remaining regional housing need for lower-

income households, the program must provide sites that permit owner-occupied and rental multifamily uses by-right sufficient to accommodate the remaining need for lower-income households. By-right, pursuant to Section 65583.2(i), means local government review must not require a CUP, planned unit development or other discretionary review or approval and must:

- permit a minimum of 16 units per site;
- require a minimum of density of 20 units per acre; and
- demonstrate at least 50 percent of the lower-income needs to be accommodated on sites designated for residential use only.

In addition, the element must be revised to address the following:

Emergency Shelters: While the element includes a program to either amend zoning for emergency shelters or pursue a multijurisdictional agreement, it should clearly identify which strategy. This is particularly important given the timing requirements of SB 2 to amend zoning within a year of adoption of the housing element or to develop an emergency shelter within the first two years of the housing element planning period. If amending zoning for emergency shelters, the program must:

- identify the specific zone(s) for permitting emergency shelters;
- clarify the use will be permitted without a CUP or other discretionary action; and
- ensure development standards will encourage and facilitate the use and only subject shelters to the same development and management standards that apply to other allowed uses within the identified zone.

If pursuing a multijurisdictional agreement, the program must demonstrate compliance with all of the requirements of multi-jurisdictional agreements (see finding B1).

Transitional and Supportive Housing: Pursuant to SB 2, the element must be revised to amend zoning to treat transitional and supportive housing as residential uses, only subject to those restrictions that apply to other residential uses of the same type in the same zone.

Single Room Occupancy Units (SROs): As noted in the element (page 104), the zoning code does not currently address SROs and should be amended to encourage and facilitate the use.

2. *Assist in the development of adequate housing to meet the needs of extremely low-, very low-, low-, and moderate-income households (Section 65583(c)(2)).*

Extremely Low-Income Households: In accordance with Chapter 891, Statutes of 2006, the element must include programs to assist in the development of housing for extremely low-income households. Existing programs should be modified or new strategies added to specifically assist in the development of a variety of housing types to meet the needs of these households.

Farmworkers: Given the strong need for farmworker housing in Napa County, the element should have specific actions with timelines and numerical objectives for Programs H-3e (Farmworker Preference) and H-3f (Funding for Farmworkers) to assist in the development of housing for farmworkers. For example, Program H-3F should describe when the County will form a partnership, when and how often funds will be allocated and how many units the County intends to assist in development and preservation. Both programs should also have monitoring components that takes necessary action if the programs are not effective in the planning period. Finally, as noted in the element (page 68), zoning needs to be amended to ensure compliance with the Employee Housing Act (Health and Safety code 17021). As a result, the element should include programs to amend zoning appropriately.

Program H-2b (Overlay Sites): The program should describe how and when the County will market the sites with numerical objectives for the planning period.

Program H-4b (Affordable Housing Fund): The program should include a timeline for allocating funds and numerical objectives for the planning period.

3. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in finding B2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability (Section 65583(c)(5)).*

Program H-3b (Fair Housing): In addition to resolving fair housing complaints, an adequate fair housing program must include proactive outreach for community education and ensure informational brochures are disseminated in a variety of public locations throughout the community. Program H-3b includes an action to initiate an educational campaign, "If warranted by the volume or severity of complaints,...". The element must include outreach to disseminate information about fair housing laws and resources regardless of the volume of complaints.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort (Section 65583(c)(6)(B)).

While the element discusses the County's efforts to reach interested parties and various stakeholders such as developers and agricultural industry representatives, it should also include a description of how comments were considered and incorporated in the element. For additional information, see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/GS_publicparticipation.php.

E. General Plan Consistency

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)).

While the element states internal consistency has been achieved, it must describe how internal consistency will be maintained throughout the planning period.