



January 13, 2010

Mr. Jeff Smith, Chairman
Planning Commission
County of Humboldt
825 Fifth Street, Room 111
Eureka, California 95501

Subject: Housing Element Revisions

Dear Chairman Smith and Members of the Commission:

We direct your attention to the following issues related to the Housing Element:

- I Written Findings required by State Law
- II The Extensive Revisions being required by HCD and a Timeline Needed to Comply with those Requirements
- III Public Participation in the Revision Process
- IV Policies and Programs being Revised which require the Planning Commission’s Review and Recommendation
- V Required Action by the Planning Commission

I Written Findings required by State Law

State Gov. Code 65585 (f) states:

“If the department (HCD) finds that the draft element or draft amendment does not substantially comply with the requirements of this article, the legislative body shall take one of the following actions:

- (1) Change the draft element or draft amendment to substantially comply with the requirements of this article.*
- (2) Adopt the draft element or draft amendment without changes. **The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with the requirements of this article despite the findings of the department.**”*

The department (HCD) submitted to the County, a letter dated April 10, 2009 detailing the required changes to be made to the county’s draft element. Those changes were not made in the Housing Element adopted August 28, 2009, and the county failed to “explain the reasons” the County believed it did comply with State law. Obviously, based on HCD’s November 30, 2009, the County’s Housing Element did not comply with State laws. This lack of “written findings” was a material violation of State law.

II Extensive revisions required by HCD and a realistic timeline to comply

The minutes from your December 3, 2009 meeting state under OLD BUSINESS:

“Director Kirk Girard informed Commission of the status of the Housing Element review. The Department of Housing & Community Development has determined that we cannot have an approved Housing Element until HCOAG adopts their arena plan. In addition there was an issue with the housing inventory, specifically, analysis of non-vacant sites. Staff will be working on revisions to the Housing Element between now and February, and he suggests that it be taken directly to the Board of Supervisors when completed. The Commission indicated that if there are no policy changes they trust the board to handle.”

This is misleading and does not reflect the comprehensive revisions the State Housing and Community Development Department (HCD) is requiring of the County in order to comply with State housing laws. (See attached **Summary from HCD's 11-30-09 letter to Humboldt County**) The revisions are extensive and involve much more than changes to the land inventory.

III Public participation in the revision process

Mr. Girard's assertion that this work can be done by February is a distortion of reality if he has any intention of complying with HCD's requirements. He tells you that "staff" will be working on the revisions to the Housing Element. HCD's November 30, 2009 letter clearly states:

Public Participation *"As noted in the previous review, the county shall continue to engage the community, including FOL, through the revision and adoption of the housing element. These efforts are particularly important given community interest in identified sites in the previous and current planning period."*

Director Girard has done nothing to engage the community in this revision to the Housing Element. This violates State and County laws / policies:

(1) State Gov Code 65583,

(2) State HCD guidelines detailed at http://www.hcd.ca.gov/hpd/housing_element2/GS_publicparticipation.php

(3) County policies section 1500-1540 regarding public participation in the update of the General Plan, including the Housing Element.

IV Policies and Programs being revised which require the Planning Commission's review and recommendation

Director Girard recommends to you that the revised Housing Element, when the draft is complete, bypass your Commission and go directly to the Board of Supervisors.

The minutes of your December 3, 2009 meeting state:

"The Commission indicated that if there are no policy changes they trust the board to handle."

This is not a matter of "trusting" the Board of Supervisors. It is a matter of due process and providing the Commissioners as well as the public adequate opportunity to review and comment on the new revisions.

Mr. Girard wants you to believe there will be no new policies involved in the revision. If the revision to the Housing Element complies with HCD's requirements, there certainly will be policies and programs addressed and revised. As an example, the attached **Summary from HCD's 11-30-09 letter to Humboldt County** points to several such areas:

O Re: Affordable Multi-family: *"The element was not revised to address the requirement described in the previous review. These programs must be revised....."*

P *"The housing element shall contain **programs** which "assist in the development of adequate housing to meet the needs of extremely low-low and moderate income households. **Programs** were not revised to include specific actions to assist in the development of housing for ELI households."*

Q *“The housing element shall contain **programs** which “address and where appropriate and legally possible, remove government constraints to the maintenance, improvement, and development of housing.” “Depending on the results of that analysis, the county may need to add or revise programs and address and remove or mitigate any identified constraints.”*

R *“Please be aware, if the county adopts an Inclusionary ordinance, the **element will need revision** to evaluate the requirement for potential impacts on the cost and supply of housing.”*

V Required action by the Planning Commission

- 1 In conformance with existing County policies Section 1500-1540, establish a Community Advisory Committee to draft the required revisions to the Housing Element. The CAC to establish a timeline for accomplishing the draft revision and report progress back to the Planning Commission, as requested by the Commissioners.
- 2 Direct staff to bring the work of the CAC back to your Commission for public review and comment prior to your making recommendations to the Board of Supervisors.

Respectfully,

Kay Backer, representing
Humboldt Economic & Land Plan

cc: Bruce Emad, Planning Commissioner
Ralph Faust, Planning Commissioner
Mary Gearheart, Planning Commissioner
Mel Krebs, Planning Commissioner
Dennis Mayo, Planning Commissioner
Supervisor/Chair Jimmy Smith, District 1
Supervisor Clif Clendenen, District 2
Supervisor Mark Lovelace, District 3
Supervisor Bonnie Neely, District 4
Supervisor Jill Duffy, District 5
Wendy Chaitim, County Counsel
Carolyn Ruth, Deputy County Counsel
Phillip Smith-Hanes, County Administrative Officer
Kirk A. Girard, Community Development Services Director
Michael Richardson, Senior Planner
Kathy Hayes, Clerk of the Board
Norma Lorenzo / Sharyn Lodes, Planning Commission Clerk
Bonnie Blackberry, Civil Liberties Monitoring Project
FRC Chairman and Members
Lynn Jacobs, Director, State Housing & Community Development
Cathy Creswell, Deputy Director, State Housing & Community Development
Paul McDougall, Program Manager, State Housing & Community Development

helpcountyjeffsmith26

P O Box 168, Eureka CA 95502 + 707.834.8006 + help@helphumboldt.com + www.helphumboldt.com

Summary of HCD's 11-30-09 letter to Humboldt County:

- A Describe existing uses on improved sites and demonstrate development potential
- B Evaluate constraints on development potential on improved sites
- C Analyze suitability for sites planned for rezoning
- D Demonstrate appropriateness for development of low income projects on large sites
- E Address / analyze Martin Slough project and alternatives
- F ID development trends for Shelter Cove
- G Analyze AE and TPZ split zoned sites, for development potential
- H Analyze potential for development on sites with \$100,000+ improvements
- I Analyze the 2,500 sites added to the inventory which have not been analyzed
- J Analyze potential and actual government constraints on all types of housing
- K List and analyze all land-use controls and relevant standards. Analyze cumulative impacts on cost and supply of housing
- L Analyze Permit and Processing cost and timing, and supply impacts to housing
- M Analyze existing assisted housing which could convert to market rate housing during the next 10 years. Estimate level of risk of conversion, cost to replace, & ID qualified capacity to manage at-risk units
- N ID adequate sites through rezoning and analyze public services and infrastructure for all levels of income housing. *“The element does not include a complete sites inventory or analysis and the adequacy of sites and zoning was not established.”*
- O Re: Affordable Multi-family: *“The element was not revised to address the requirement described in the previous review. These programs must be revised.....”*
- P *“The housing element shall contain programs which “assist in the development of adequate housing to meet the needs of extremely low-low and moderate income households. **Programs** were not revised to include specific actions to assist in the development of housing for ELI households.”*
- Q *“The housing element shall contain programs which “address and where appropriate and legally possible, remove government constraints to the maintenance, improvement, and development of housing.” “Depending on the results of that analysis, the county may need to add or revise programs and address and remove or mitigate any identified constraints.”*
- R *“Please be aware, if the county adopts an Inclusionary ordinance, the element will need revision to evaluate the requirement for potential impacts on the cost and supply of housing.”*
- S **Public Participation** *“As noted in the previous review, the county shall continue to engage the community, including FOL, through the revision and adoption of the housing element. These efforts are particularly important given community interest in identified sites in the previous and current planning period.”*