



COUNTY OF PLACER
Community Development Resource Agency

John Marin, Agency Director

PLANNING

Michael J. Johnson
Planning Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, Director
Planning Department, Community Development Resource Agency

DATE: July 14, 2008

SUBJECT: Placer County Housing Element Update
Authorization to Submit Housing Element to California Department of Housing and
Community Development for Review and Certification

ACTION REQUESTED

The Planning Department is seeking authorization from the Board of Supervisors to submit the Draft Housing Element to the California Department of Housing and Community Development for review and certification. Once the State of California certifies the document, the Housing Element will be considered for final adoption by the Planning Commission and Placer County Board of Supervisors.

BACKGROUND

As required by California Government Code Article 10.6, commencing with section 65583 (see Exhibit B), staff has prepared a Draft Housing Element for consideration by the Board of Supervisors. The Draft Housing Element was prepared by a collaboration of County departments and Mintier & Associates, a planning consultant, along with input by the public. The Element provides goals, policies, and implementation programs for the planning and development of housing throughout unincorporated Placer County.

Every jurisdiction in California must adopt a General Plan, and every General Plan must contain a Housing Element. While jurisdictions review and revise all elements of their General Plan regularly to ensure that the documents remain up to date, California law is much more specific in regard to the schedule for updating the Housing Element, requiring an update at least every five years. Under California law (Govt. Code §65588 (e)(3)), Placer County's Housing Element has to be submitted to the California Department of Housing and Community Development for review and certification by June 30, 2008. The current Housing Element planning period runs from 2006 through 2013.

As set forth in section 65583 (Housing Element Content) of the California Government Code, the law is also specific in terms of the issues that the Housing Element must address, including:

1. An evaluation of the results from housing programs implemented during the previous review period; (i.e., with the County's current Housing Element);
2. An assessment of the County's existing and projected housing needs based on housing, land use, population, demographic and employment trends;

3. An analysis of housing opportunities within the County, including an inventory of suitable sites and the County's capacity to meet regional fair-share goals;
4. An analysis of constraints to providing housing and mitigating opportunities for those constraints; and,
5. A set of goals, policies, resources, and programs for the preservation, improvement and development of housing.

Failure to secure a certified Housing Element from HCD can result in loss of funding for housing and infrastructure related projects and potential legal challenges. The Redevelopment Agency and County have several potential infrastructure, economic development, community facilities and housing applications for approximately \$13 million that require a certified Housing Element for eligibility. The ramifications of a legal challenge range from court-mandated actions to a moratorium on development until the County's Housing Element is certified by the state.

FISCAL IMPACT

Approval of the Housing Element will have a positive fiscal impact on the County, as the County will be eligible to apply for various state and federal grants and programs with a certified Housing Element. For example, the June 2008 \$3.3 million infill infrastructure award to the Redevelopment Agency for the Kings Beach Scattered Sites initiative required a Housing Element deemed in compliance by HCD. The County and Agency will be ineligible to apply for the next round of funding in that program, estimated to be Dec. 2009, without a Housing Element deemed in compliance and adopted by the Board.

DISCUSSION OF HOUSING ELEMENT ISSUES

Regional Housing Needs Allocation

The California Department of Housing and Community Development (HCD) provided the Sacramento region with its projected increase in housing need for a seven and a half year period (2006-2013). This projected regional need is a portion of the State's housing goal for the same period. The projection is articulated in the Regional Housing Needs Assessment (RHNA) prepared by the Sacramento Area Council of Governments (SACOG). SACOG divides the total estimated housing need among the cities and the unincorporated areas within the six-county region. The RHNA identifies not only the number of housing units Placer County must plan for, but also the affordability level of those units.

HCD issued a regional allocation of 118,652 total residential units to the six-county region. Of this amount, unincorporated Placer County received an overall allocation of 6,229 units. The allocation specifies the number of units within four economic categories (measured as median family income or MFI) - Very Low, Low, Moderate and Above Moderate incomes - as defined by Govt. Code §65584(e):

- Very Low Income (less than 50 percent median household income [MFI]): 1,538 units or 24.6 percent of the County's total allocation
- Low Income (50 to 80 percent MFI) 1,178 units or 19 percent of the County's total allocation
- Moderate (80 to 120 percent MFI) 1,231 units or 19.8 percent of the County's total allocation
- Above Moderate (above 120 percent MFI) 2,282 units or 36.6 percent of the County's total allocation.

The intent of the allocations is to ensure that each agency provide adequate sites and adequately zoned land to accommodate, at a minimum, the 6,229 affordable units allowed by the County. Placer County must describe in its Housing Element how it will provide capacity in its General Plan land use diagram and zoning for these 6,229 units within the planning period.

Accommodating the State Housing Allocation

One of the most important aspects of the Draft Housing Element is to identify sufficient sites and provide land that is properly zoned to accommodate the County's fair-share of the region's affordable housing needs.

The Resource Inventory section of the Housing Element identifies vacant land that is suitable and available within unincorporated Placer County for higher-density residential development. The Housing Element compares this inventory to the County's RHNA-assigned need for new housing. Demonstrating that the County has sufficient land zoned to meet the County's fair-share of the region's affordable housing is essential for certification of the Housing Element by HCD. Land deemed suitable for residential development in the analysis includes:

- Vacant sites zoned for residential use;
- Vacant sites zoned for nonresidential use that allows residential development;
- Residentially zoned sites that are capable of being developed at a higher density; and
- Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for residential use.

Pursuant to California law (Govt. Code §65583.2), Placer County is now classified as a "suburban jurisdiction" and, consequently, the County's density standard is defined as "sites allowing at least 20 units per acre." HCD is required to accept sites that meet this density standard as appropriate for accommodating Placer County's share of the regional housing need for lower-income households.

As part of this Draft Housing Element, sites with a land use designation with an allowable density ranging from 15 to 19 units per acre were inventoried as being available for low-income residential development. In the future, if these sites were developed with affordable housing, the developers would be entitled to a density bonus of up to 35 percent which would change the maximum allowed density to 20 to 25 units per acre.

The Draft Housing Element Background Report also provides an inventory of the residential projects built or planned since the start of the Housing Element planning period that have an affordable housing component (January 1, 2006). As shown in the table below, there are a total of 2,882 planned and/or built affordable units: 725 Very Low Income housing units; 1,582 Low Income housing units, and 575 Moderate Income housing units.

| AFFORDABLE RESIDENTIAL HOLDING CAPACITY COMPARED TO RHNA BY INCOME | | | | |
|---|-----------------|------------|-----------------|-------------------------|
| Unincorporated Placer County | | | | |
| January 1, 2006 to June 30, 2013 | | | | |
| | Very Low | Low | Moderate | TOTAL AFFORDABLE |
| Regional Housing Needs Allocation (RHNA) | 1,538 | 1,178 | 1,231 | 3,947 |
| Affordable Residential Holding Capacity | 3,213 | 2,170 | 670 | 6,053 |
| Built and Planned Projects with an Affordability Component | 725 | 1,582 | 575 | 2,882 |
| Residential Holding Capacity on Vacant Land w/ Residential Designations | 348 | 196 | 80 | 624 |
| Residential Holding Capacity on Vacant Land w/ Non-Residential Designations | 2,140 | 0 | 0 | 2,140 |
| Residential Holding Capacity on Vacant Land in Tahoe Basin | 0 | 392 | 15 | 407 |

Source: Placer County, TRPA, Mintier & Associates

Total number of Affordable Units: 6,053 (RHNA: 3,947)

According to the analysis summarized in the table above, Placer County has 2,882 affordable housing units either built or planned, plus a holding capacity on vacant land with residential and non-residential designations available to accommodate 3,171 affordable housing units. This 6,053 unit holding capacity is 53 percent above the RHNA number assigned to Placer County.

PROPOSED POLICIES AND PROGRAMS

California housing law mandates that for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems which provide opportunities for, and do not unduly constrain, housing development. In drafting the proposed housing policy, staff has tried to strike a balance between protecting the existing housing stock and allowing for the development and production of new housing for all income groups, while at the same time protecting the quality of life within the County.

A number of the policies and programs contained in the proposed draft Housing Element have been carried forward from the current Housing Element. Other programs have been modified to comply with new State laws or changed local conditions.

The following describes the staff outreach to solicit input to the Draft Housing Element process.

Stakeholders Group

Consistent with the direction provided by the Board of Supervisors, a stakeholder group has been working to reach a consensus on affordable housing issues and towards the development of an affordable housing program. As set forth by the Board, the stakeholders for this group includes representatives from the Building Industry Association (BIA), local real estate interests and affordable housing advocacy groups. Based upon the initial work of this group, the Draft Housing Element incorporates several of the ideas the stakeholder group has suggested to help facilitate the development of affordable housing.

The stakeholder group's effort, to date, has focused on the development of a broad-based affordable housing program. The premise of the program is to spread the burden of responsibility for the production of affordable housing and to provide adequate flexibility in the permitting and development of affordable housing. The stakeholder group has not met since the last update to the Board of Supervisors in November 2007. The County's staff resources available for Housing Element implementation have been temporarily re-assigned to complete the Draft Housing Element. Once the Housing Element is certified by the State and adopted by the Board of Supervisors, the stakeholder's group efforts will be resumed.

Public Outreach

This 2006-2013 Draft Housing Element update was initiated in July 2007. In recognition of the different housing problems faced by Tahoe Basin area residents and residents of western Placer County, kick-off workshops were held in Kings Beach and Auburn in early November. Housing Element announcements and documents have been made available on the Placer County website. •

County staff and consultants distributed announcements of the community/stakeholder workshops to a mailing list of various stakeholders including local residents, housing developers, social service providers, neighborhood associations, and the business community. Furthermore, the County publicized the workshops in local newspapers and on the County website.

The Housing Element Draft Background Report was released for public review and comment in March 2008. Follow-up workshops in Auburn and Tahoe were held in April. Issues raised at the workshops, each of which was attended by 20 to 35 members of the public and stakeholders, have been summarized in the Introduction section of the Draft Housing Element.

In May 2008, the Program and Policy Document public review draft was released. Public workshops were held June 5 and 10, 2008 to receive public input and to foster a discussion on the housing issues and policies on the County.

To date, staff has conducted eight meetings and workshops with stakeholders and has made presentations to the Wiemar/Applegate/Colfax and Rural Lincoln MACs. A significant amount of public comment has been provided at the various meetings that have been held, and many of these comments have been included and addressed in the Draft Housing Element.

Public Comments on the Draft Housing Element

At the Planning Commission hearing on June 12, 2008, comments were received by three individuals representing organizations with interest in affordable housing. John Falk spoke to the Commission representing The Tahoe Sierra Board of Realtors; Herb Whitaker spoke representing Legal Services of Northern California; and Darin Gale spoke for the Building Industry Association.

Additional comment letters from the Tahoe Sierra Board of Realtors, Legal Services of Northern California, and others were received prior to the July 10, 2008 Planning Commission meeting. The Tahoe Sierra Board of Realtors is encouraging the County to place an emphasis on utilizing developer incentives to spur construction of affordable housing rather than using mandatory requirements. Staff has recognized the merit of this approach, along with other comments and feedback received at the public workshops, and has incorporated incentives into several Housing Element programs. The Legal Services representative, on the other hand, suggests that mandatory requirements to develop affordable housing are needed to ensure that affordable units are constructed.

KEY ISSUES RAISED IN THE DRAFT HOUSING ELEMENT

Mandatory vs. Voluntary Policies

The two opposing recommendations suggested by the Tahoe Sierra Board of Realtors and Legal Services of Northern California represent opposite ends of the spectrum of possible approaches to providing affordable housing in Placer County. Staff has attempted to balance these opposing views through a combination of strategies that attempt not to unduly impose upon any single entity or group. Through discussions with the affordable housing stakeholders group, staff recognizes that a modified approach that includes incentives to the extent available and allows flexibility in the way in which an affordable housing requirement might be met may represent a more balance approach. (This is reflected in the Draft Housing Element Update.)

Incentives are viewed favorably by development interests. However, there appear to be limitations. The most obvious is the limited ability of local government to fund incentive programs. Mr. Falk's letter dated May 8, 2008 points to King County, Washington's incentive-based program as an example. However, King County works with a consortium of a large number of cities and, by combining efforts have been not only better able to efficiently use locally available funds, but have also been very successful at leveraging those funds to obtain state and federal dollars. King County is also home to some of the largest and financially successful "high-tech" industries in the country (e.g., Microsoft). These industries have a large stake in providing affordable housing for their workers and donate generously to funds for affordable housing.

An example of an incentive-based Housing Element in California, cited by Mr. Falk, is the City of Pleasanton. Anxious to review an effective voluntary, incentive-based program that has been certified by HCD, staff looked at the Pleasanton housing program. However, Pleasanton has not been able to successfully implement its incentive-based programs, and the city currently has an inclusionary housing program in place, requiring 20 percent of the units be affordable in perpetuity and including a non-residential in-lieu fee component of in excess of two dollars a square foot.

Comments on Specific Policies and Programs

While the Draft Housing Element has generally been well received by the public, there are certain programs and policies identified in the document that have raised concerns with some members of the public. Those programs and policies are highlighted below.

Program A-7 - Minimum Density Standard: A comment was received stating that Program A-7, addressing the need to ensure that multiple-family zoned land is not developed at substantially lower densities, is too limiting with regard to land use options, alternatives, and property owner rights. It was suggested that staff develop a monitoring program that tracks the density allowed by existing zoning on a parcel and the density at which the parcel was actually developed. At such time as the disparity between the zoned density and the density at which a parcel develops is identified, the County would "up-zone" suitable lands to offset the imbalance.

Discussion: In conjunction with the preparation of the Draft Housing Element, staff is proposing changes to the development standards for multi-family (RM) zoning districts. The supply of RM-zoned land in Placer County is very limited. California General Plan law requires each city and county to have land zoned to accommodate its fair share of the regional housing need (Govt. Code §65583.2). Therefore, staff is recommending that the County consider requiring a minimum density requirement to preserve this inventory.

Currently, the County has no regulations to dictate minimum densities for properties. Accordingly, a property zoned for 20 dwelling units per acre could be developed with one single-family residence, resulting in the under-utilization of the parcel. To address this concern, many agencies throughout California have adopted minimum density requirements for their multiple-family zoning districts (i.e., developments must be within 80 percent of the minimum/base density).

Another challenge facing Placer County is that the County is now considered a "suburban" jurisdiction under AB 2348, whereby the minimum density requirement is 20 units per acre for land eligible to count toward meeting the sites requirement for housing affordable to low and very low income households. In the past, Placer County was considered a "rural" jurisdiction and was only required to provide sites zoned for a density of 15 dwelling units per acre.

To minimize the need for the County to rezone additional parcels to higher densities, staff has concluded that the existing high-density housing sites must be preserved. Staff is not proposing the prohibition of detached single family dwellings on multiple-family zoned parcels but, if constructed, the overall density would need to be within 80 percent of the minimum/base density. Staff will, however, investigate possible exceptions to any mandated minimum density requirement on a parcel that may be appropriate. Such exceptions may include parcels that have proven physical or environmental constraints and other additional exceptions as appropriate.

Policy B-15 – Requirement for Affordable Housing with General Plan Amendments: A comment was submitted that suggests that increasing the number of residential units on a given site through a rezoning should be rewarded and not punished. Policy B-15 was viewed as a backdoor attempt by staff to establish a mandatory inclusionary housing program and is more an anti-zoning change policy than an affordable housing development policy.

Discussion: Using the entitlement process to generate or produce new sources of housing, affordable to low and middle income groups, is one of several tools within the direct control of the County. As the members of the Board of Supervisors are aware, increasing the density on a parcel adds great value to the land. Staff believes there is merit to, in exchange for the increased value derived from rezoning for higher density residential purposes, requiring the property owner to include an affordable housing component. It is important to note that the policy does not apply to projects that simply increase residential density to provide an affordable housing component.

Similar Policy has been applied to Future Study Areas in the Placer County General Plan:

Section 5 in the Placer County General Plan's Standard for Consideration of General Plan Amendments specify that new development is "expected to provide a balanced complement of land use types, including residential (very low, low, and moderate cost)..."

In Section 6, "New development areas shall provide a range of housing types to serve all income groups in the county, and shall stage development such that a balance of housing types is maintained over time, consistent with the housing goals, objectives, policies and programs of the General Plan."

Program B-10: Affordable Housing Program: A comment was made that the program described in Policy B-10 represents a mandatory inclusionary provision. Concerns were raised that this is out-of-step with current market conditions, fails to recognize or acknowledge the unproductive and highly contentious nature of such proposals, and should be deleted from the Draft Housing Element.

Discussion: The language set forth in Program B-10 reiterates the direction previously set by the Board of Supervisors to study the merits of an affordable housing program. The Affordable Housing Program is an implementation measure currently under discussion by the County's Stakeholders Working Group. The details of such a program have not been determined, however the general goals of the program are consistent with SACOG's ten percent affordable housing goal as supported by the Board of Supervisors on May 25, 2004. The proposed program language set forth in B-10 does not commit the County to adopting an inclusionary ordinance but affirms the discussions currently underway. Also, it should be noted that the time frame for the Housing Element is 2006 to 2013. Since current market conditions can and do change quickly, Housing Element policy must not assume any particular current market condition.

Policy C-2, Program C-2 – Provision of Employee Housing at Tahoe: Policy C-2 requires new development in the Sierra Nevada and Lake Tahoe to provide employee housing equal to at least 50 percent of the increased housing demand generated by the project. A concern was raised that the requirement is infeasible and damages economic expansion and diversification.

Discussion: Stakeholders at the Kings Beach workshops expressed their growing concerns over the availability and affordability of homes in the Tahoe Basin and surrounding areas. Homeownership for working families has become an increasingly challenging prospect in the Tahoe area. Reasonably priced housing for such families to enable them to live in the communities in which they are employed is essential.

The imbalance between the income of the average worker and the cost of housing is growing and that the challenges of the availability of workforce housing are complicated. The lack of moderately priced and accessible housing affects a broad cross section of government, the business community and working class citizens.

In their deliberations on the Housing Element in 1993, the Board of Supervisors recognized that a requirement for workforce housing in the Tahoe area is needed. The prior adoption of the workforce housing requirement recognized the unique circumstances of the Tahoe area.

SCHEDULE FOR THE COMPLETION OF HOUSING ELEMENT

Once the Board of Supervisors takes action to authorize the Planning Department to submit the Draft Housing Element to HCD, the State is required by California law to review the draft Housing Element and report its findings to the County within 60 days. Revisions may be needed to the document, based upon comments from HCD.

Staff will present HCD's comments and any corresponding changes to the Housing Element at public workshops and at Planning Commission and Board of Supervisors hearings expected in early fall.

Housing Element certification is important for several reasons: to maintain eligibility for certain grant funding programs, to ensure the legal adequacy of the General Plan, and to preserve local control of land use decisions.

PLANNING COMMISSION RECOMMENDATION On July 10, 2008, the Planning Commission unanimously adopted a motion to recommend the Draft Housing Element to the Board of Supervisors with no changes.

CEQA COMPLIANCE Authorization of submission of the Draft Housing Element to HCD does not trigger the requirement for environmental review. After HCD certifies the Draft Housing Element, the document will be returned to the Planning Department and Board of Supervisors for formal action, which will require environmental review. A Mitigated Negative Declaration is currently being prepared by staff and will be circulated for public review prior to subsequent hearings.

RECOMMENDATION

Authorize the Director of Planning to submit the Draft Housing Element to the California Department of Housing and Community Development for review and certification.

Respectfully submitted,



MICHAEL J. JOHNSON, AICP
Director of Planning

Attachments:

- Exhibit A: Draft Housing Element Background Report and Policy Document
- Exhibit B: California Government Code Article 10.6
- Exhibit C: Correspondence

ref. t1...christopher/housingelement/housingelementstaffreport

PLACER COUNTY
HOUSING ELEMENT POLICY DOCUMENT
PRELIMINARY HCD REVIEW DRAFT

prepared by:

Mintier & Associates

June 14, 2008



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INTRODUCTION

Under California law, the housing element must include the community's goals, policies, quantified objectives, and housing programs for the maintenance, improvement, and development of housing.

This Housing Element includes ten goal statements. Under each goal statement, the element sets out policies that amplify each goal statement. Implementation programs are listed at the end of the corresponding group of policies and describe briefly the proposed action, the County agencies or departments with primary responsibility for carrying out the program, the funding source, and the time frame for accomplishing the program. Several of the implementation programs also identify quantified objectives.

The following definitions describe the nature of the statements of goals, policies, implementation programs, and quantified objectives as they are used in the Housing Element Policy Document:

Goal: Ultimate purpose of an effort stated in a way that is general in nature and immeasurable.

Policy: Specific statement guiding action and implying clear commitment.

Implementation Program: An action, procedure, program, or technique that carries out policy. Implementation programs also specify primary responsibility for carrying out the action and an estimated time frame for its accomplishment. The time frame indicates the fiscal year in which the activity is scheduled to be completed. These time frames are general guidelines and may be adjusted based on County staffing and budgetary considerations.

Quantified Objective: The number of housing units that the County expects to be constructed, conserved, or rehabilitated, or the number of households the County expects will be assisted through Housing Element programs based on general market conditions during the time frame of the Housing Element.

Housing element law recognizes that in developing housing policy and programs, identified housing needs may exceed available resources and the community's ability to satisfy these needs. The quantified objectives of the housing element, therefore, need not be identical to the identified housing need, but should establish the maximum number of housing units that can be constructed, rehabilitated, and conserved, or households assisted over a five-year time frame.



A. NEW RESIDENTIAL CONSTRUCTION

Goal A

To provide new housing opportunities to meet the needs of existing and future Placer County residents in all income categories.

POLICIES

- Policy A-1** The County shall maintain an adequate supply of appropriately zoned land with public services to accommodate housing needs of existing and future residents.
- Policy A-2** The County shall ensure that its adopted policies, regulations, and procedures do not add unnecessarily to the cost of housing while still attaining other important County objectives.
- Policy A-3** The County shall encourage innovative subdivision design and a range of housing types within larger-scale development projects to encourage mixed-income communities (e.g., single-family detached homes, second units, duplexes, live-work units).
- Policy A-4** The County shall encourage mixed-use and transit-oriented development projects where housing is provided in conjunction with compatible non-residential uses.
- Policy A-5** The County shall encourage residential infill development through flexible development standards, and other incentives in areas of the county where adequate public facilities and services are already in place.
- Policy A-6** The County shall encourage residential development of high architectural and physical quality.
- Policy A-7** The County shall encourage the development of multi-family dwellings in locations where adequate infrastructure and public services are available.
- Policy A-8** Placer County shall continue to implement the policies and requirements of the Placer County Design Guidelines Manual and community design elements of the various community plans.

PROGRAMS

Program A-1 LAND SUPPLY

As part of a General Plan update or amendment, and as part of each community plan update, the County shall review land use patterns, existing densities, the location of job centers, and the availability of services to identify additional areas that may be suitable for higher density residential development to ensure that a sufficient supply of



residentially-zoned land is available to achieve the County's housing objectives.

Responsible Agency/Department: Planning Department

Timeframe: Ongoing

Funding: General Fund

Program A-2 DEVELOPMENT STANDARDS

The County shall amend land use regulations and development standards (e.g., Department of Public Works and Fire Department regulations), where feasible to remove unnecessary impediments to and reduce the cost of the production of housing.

Responsible Agency/Department: Planning Department, Department of Public Works

Timeframe: FY 2008/2009

Funding: General Fund

Program A-3 PUBLIC FACILITIES

The County shall periodically review and update, as necessary, the Public Facilities and Services Element of the General Plan, which is a strategy for extending services and facilities to areas that are designated for residential development but do not currently have access to public facilities.

Responsible Agency/Department: Planning Department, Public Works Department

Timeframe: Ongoing

Funding: General Fund

Program A-4 MIXED-USE DEVELOPMENT

The County shall create a mixed-use zoning overlay district and prepare related design guidelines. The County shall also adopt incentives for residential development that is part of a mixed-use project, including but not limited to relaxed development standards, reduced parking requirements, and expedited development review procedures.

Responsible Agency/Department: Planning Department

Timeframe: FY 2008/2009

Funding: General Fund



Quantified Objective: 425 units in mixed-use projects (352 affordable units)

Program A-5 INFILL DEVELOPMENT

The County shall create an infill development overlay district and prepare related guidelines that allow flexibility in lot sizes, building height, setbacks, site planning, parking requirements, and other development standards to encourage high-density and affordable housing in proximity to transit services.

Responsible Agency/Department: Planning Department

Timeframe: FY 2009/2010

Funding: General Fund

Program A-6 INFILL PROJECTS

To facilitate development of infill projects, the County shall adopt an Infill Incentive Ordinance to assist developers in addressing barriers to infill development. Incentives could include, but are not limited to, modifications of development standards, such as reduced parking, increased building height, reduced street width, and relaxed setback requirements to accommodate smaller or odd-shaped parcels; waivers or deferrals of certain development fees, helping to decrease or defer the costs of development; or direct grants from the County.

Responsible Agency/Department: Planning Department

Timeframe: 2009/2010

Funding: General Fund

Quantified Objective: 160 units (110 affordable units)

Program A-7 MINIMUM DENSITY STANDARD

Due to the loss of multi-family sites to single-family construction, the County shall adopt a Zoning Ordinance amendment to set a minimum density standard for single-family homes in the Multi-Family Residential (RM) zoning district, and prohibit the development of single-family homes in the zoning district unless built to the new minimum density.

Responsible Agency/Department: Planning Department

Timeframe: 2008/2009

Funding: General Fund



Program A-8 FEES

The County shall conduct a nexus study to analyze impact fees and planning-related fees associated with residential and non-residential development. The County shall determine whether or not the fees collected in the county are appropriate and fair. In conducting the study, the County shall compare Placer County's fee structure with fees collected in other nearby jurisdictions.

Responsible Agency/Department: Planning Department
Timeframe: FY 2008/2009
Funding: General Fund



B. AFFORDABLE HOUSING

| | |
|---------------|---|
| Goal B | To encourage construction and maintenance of safe, decent and sound affordable housing in the county. |
|---------------|---|

POLICIES

- Policy B-1** The County shall give highest priority for permit processing to development projects that include an affordable residential component.
- Policy B-2** The County shall consider the appropriateness of County-owned surplus land for affordable housing. If found appropriate for housing, the County may lease, sell or grant such property to facilitate the construction of affordable housing.
- Policy B-3** The County shall continue to apply for funds from the State and Federal government to construct and preserve affordable housing.
- Policy B-4** The County shall require housing for low-income households that is required to be constructed on-site in a new residential project to be dispersed throughout the project to the extent practical given the size of the project and other site constraints
- Policy B-5** Affordable housing produced through government subsidies and/or through incentives or regulatory programs shall be distributed throughout the County and not concentrated in a particular area or community.
- Policy B-6** The County shall require low-income-housing units in density bonus, or other projects that may be required to provide affordable housing, to be developed in a timely manner with the market-rate units in the project to avoid delaying the construction of the affordable units to the end of the project.
- Policy B-7** The County shall facilitate expanded housing opportunities that are affordable to the workforce of Placer County.
- Policy B-8** The Redevelopment Agency shall utilize at least 20 percent of all tax increment proceeds for low-income housing, in accordance with State law. Furthermore, a portion of all units built in the redevelopment area shall be affordable to very low-, low- and moderate-income households, as required by State law.
- Policy B-9** For residential projects outside of a specific plan area where more than 10 percent of the units are affordable to very low-income households, or 20 percent are affordable to low-income households, or 30 percent are affordable to moderate-income households, 100 percent of the



development-related fees over which the County has direct control shall be waived.

Policy B-10 On a case-by-case basis, when evaluating possible reductions in development standards to encourage affordable housing, the County shall also consider public health, safety, and other important standards such as adequate open space in developments.

Policy B-11 The County shall continue efforts to streamline and improve the development review process, and to eliminate any unnecessary delays in the processing of development applications.

Policy B-12 The County shall continue to give highest priority in the development review process to senior housing, very low-, low- and moderate-income housing projects.

Policy B-13 The County shall continue to implement the following incentive programs for the construction of affordable housing:

- Allow second residential units with single-family residences;
- Allow mobile homes and manufactured housing in all residential zoning districts;
- Allow “hardship mobile homes” as second residential units in residential and/or agricultural zones; and
- Allow relief from parking standards and other specified development standards on developments for seniors and for low and very low-income residents.

Policy B-14 To preserve homeownership and promote neighborhood stability, the County shall attempt to alleviate individual and community issues associated with foreclosures.

Policy B-15 The County shall require that any privately-initiated proposal to amend a General Plan or Community Plan land use designation of Agricultural/Timberland, Resort and Recreation, Open Space, General Commercial, Tourist/Resort Commercial, or Business Park/Industrial to a land use designation of Residential or Specific Plan shall include an affordable housing component subject to approval by County and/or comply with any adopted County affordable housing program.

PROGRAMS

Program B-1 SURPLUS COUNTY LAND

The County shall evaluate all County-owned surplus land to determine its suitability for workforce and affordable housing. This evaluation should include the identification of appropriate entities to hold or acquire



such land. The County shall also identify a process for transferring the properties to these entities, including procedures for land exchanges if sites more suitable for affordable and workforce housing are to be identified. Affordable housing developed under this program shall have 55-year affordability covenants for multi-family rental units and 45-year affordability covenants for ownership units.

Responsible Agency/Department: Planning Department
Timeframe: FY 2009/2010
Funding: General Fund

Program B-2 ASSISTING AFFORDABLE HOUSING DEVELOPERS

The County shall partner with existing non-profit and for-profit corporations that are interested and able to construct and manage workforce and affordable housing. The County may provide technical and/or financial assistance, such as, site identification, site acquisition, and identification of subsidy sources including HOME funds, CDBG monies, fee waivers, and permit processing.

Responsible Agency/Department: Redevelopment Agency
Timing: Ongoing
Funding: General Fund, HOME funds, CDBG funds
Quantified Objective: 300 units

Program B-3 FLEXIBLE DEVELOPMENT STANDARDS

The County shall amend engineering standards and the subdivision and zoning ordinances to allow flexibility in certain development standards as incentives for affordable housing developments. The County shall ensure that adjusting development standards for affordable housing does not result in lower quality housing or higher replacement or maintenance costs in the future. The County shall consider site and potential occupancy characteristics when amending development standards. The specific standards which shall be evaluated include, but are not limited to, the following:

- Reduction in the area of paved surfaces through the use of angled parking and one-way circulation;
- Reduction in street widths;
- Reduction in turning radius on cul-de-sacs;
- Reduction in pavement thickness when it can be demonstrated that soils and geotechnical conditions can permit a lesser thickness, subject to fire department approval;
- Limiting the requirement for sidewalks to one side of the street and reducing the width requirement;



- Reduction in the number of landscaped islands required in parking areas;
- Reduction in the open space/recreational area requirements by 25 percent for high-density, affordable residential developments when the project is located within ½ mile of public open space areas that may include schools, parks, passive recreation areas, etc;
- Increased flexibility in evaluating a project's architectural conformity to the Placer County Design Guidelines Manual. Increase in the allowable height of buildings for affordable housing developments;
- Increase in the allowable lot coverage for affordable housing developments, and
- Consideration of cluster development particularly where either more open space is achieved or existing requirements increase costs or reduce density.

Responsible Agency/Department: Planning Department
Timeframe: FY 2008/2009
Funding: General Fund

Program B-4 DENSITY BONUS

The County shall use the density bonus ordinance to encourage rental and for-sale housing. Developments with more than four units that provide at least 20 percent of the units as affordable to low-income households or 10 percent of the units as affordable to very low-income households may be eligible for a density bonus of 25 percent. As a condition of approval for the density bonus, the units must remain affordable for at least 30 years. The County shall promote the benefits of this program to the development community by posting information on their web page and creating a handout to be distributed with land development applications.

Responsible Agency/Department: Planning Department
Timeframe: Ongoing
Promotional material will be prepared and utilized within six months after adoption of the Housing Element
Funding: General Fund
Quantified Objective: 50 units

Program B-5 FEE WAIVERS

The County shall adopt a resolution waiving 100 percent of the application processing fees for developments in which 10 percent of the units are affordable to very low-income households, 20 percent of the



units are affordable to low-income households, or 30 percent of the units are affordable to moderate-income households. Additionally, the County shall evaluate waiving environmental review staff time charges for projects containing affordable housing units. To be eligible for fee waiver, the units shall be affordable by affordability covenant. The waiving or reduction of service mitigation fees may also be considered when an alternative funding source is identified to pay these fees. The County may use either redevelopment set-aside funds or the Housing Trust Fund to subsidize the service and mitigation fees for affordable housing developments. The County shall promote the benefits of this program to the development community by posting information on their web page and creating a handout to be distributed with land development applications.

Responsible Agency/Department: County Executive Office, Planning Department, Building Department, Public Works, Parks and Grounds Division, and Health and Human Services (HHS)

Timeframe: FY 2008/2009

Promotional material will be prepared and utilized within six months after adoption of the Housing Element

Funding: General Fund, Redevelopment set-asides, Housing Trust Fund

Program B-6 REDEVELOPMENT SET-ASIDE FUNDS

Consistent with State law, twenty percent of the tax increment funds accruing to the Redevelopment Agency shall be directed to affordable housing.

Responsible Agency/Department: Redevelopment Agency

Timeframe: Ongoing

Funding: Tax increment

Quantified Objective: 425 units

Program B-7 HOUSING TRUST FUND

The County shall continue to use the Housing Trust Fund to acquire building sites for affordable housing, to provide "gap" financing, to leverage funds for acquiring or constructing affordable housing, to continue to provide secured loans to affordable housing developers for up-front costs, or to subsidize the service and mitigation fee waivers for affordable housing developments.

Responsible Agency/Department: Redevelopment Agency

Timing: Ongoing

Funding: In-lieu fees

Quantified Objective: 350 units



Program B-8 PRIVATE FINANCING

Placer County shall continue to identify financial institutions operating in the county that fall under the requirements of the Community Reinvestment Act and work with these institutions to provide financing for low- and moderate-income housing.

Responsible Agency/Department: Redevelopment Agency

Timing: Ongoing

Funding: General Fund

Program B-9 STATE AND FEDERAL FUNDS

The County shall investigate and, where deemed eligible, apply for State and Federal monies for direct support of low-income housing construction and rehabilitation. The Redevelopment Agency, the Planning Department, and Health and Human Services shall continue to assess potential funding sources, such as, but not limited to, the Community Development Block Grant (CDBG), and HOME. The County shall promote the benefits of this program to the development community by posting information on their web page and creating a handout to be distributed with land development applications.

Responsible Agency/Department: Redevelopment Agency, Health and Human Services/Adult System of Care

Timeframe: Ongoing, depending on funding programs

Promotional material will be prepared and utilized within six months after adoption of the Housing Element

Funding: General Fund, Technical Assistance Grants

Quantified Objective: 100 units

Program B-10 AFFORDABLE HOUSING PROGRAM

The County shall consider adopting an affordable housing program that applies to areas of the County under 5,000 feet in elevation. If adopted, this program will identify acceptable methods for new residential developments to provide affordable housing which may include a) construction of housing on-site, b) construction of housing off-site; c) dedication of land for housing, and d) payment of an in-lieu fee.

The program would consider a range of other programs for non-residential development, County partnerships with a housing land trust or other non-profit organizations, and development of outside funding sources.



It is the overarching intent of the program to provide flexibility in its approach to providing for affordable housing opportunities. To the extent that public/private funding is available, incentives can be utilized to implement core elements of the affordable housing program.

Responsible Agency/Department: Planning Department

Timeframe: FY 2008/2009

Funding: General Fund

Program B-11 PRIORITY PROCESSING

Although the County currently offers permit streamlining, priority processing, and concurrent processing for senior and affordable housing developments, the County shall review its residential processing procedures, as appropriate, to identify opportunities to further streamline processing procedures while maintaining adequate levels of public review. The review shall include, but is not limited to:

- Evaluating critical land use processes and working with a consultant to identify possible improvements;
- Developing a land development issues oversight committee and interdepartmental land development teams, with regular briefings on key issues;
- Training and cross-training for new tools and processes. Greater public outreach and education;
- Using new technology including on-line permitting, expanded use of geographic information systems, and greater use of the County web site; and,
- Purchasing and installing an automated permit routing and tracking system.

Responsible Agency/Department: Planning Department, Public Works, Environmental Health, Economic Development, Building and Facility Services

Timeframe: FY 2009/2010

Funding: General Fund



Program B-12 SECOND UNITS

The County shall amend the zoning ordinance to allow accessory apartments, such as detached units over garages, by right within all residential zones to provide another source of affordable housing. The amendments will ensure that the County's Zoning Ordinance is consistent with State law requirements for second units. Additionally, the County shall consider streamlining the approval process for secondary units, as well as allowing second units on smaller parcels than what is currently allowed.

Responsible Agency/Department: Planning Department

Timeframe: FY 2008/2009

Funding: General Fund

Quantified Objective: 250 units

Program B-13 LAND BANKING

The County shall investigate land banking as a method to provide sites for affordable housing by undertaking the following process:

- Updating the County-owned sites inventory;
- Conducting a land inventory of publicly owned land and examine the feasibility of use for housing development;
- Contacting other agencies and organizations, such as public agencies, lending institutions, school districts, service organizations, religious institutions, and other landowners, to identify potential sites for acquisition;
- Continuing to work with the Placer Collaborative Network on establishing a Housing Land Trust;
- Including land donations as an option to developers in meeting inclusionary housing requirements;
- Evaluating the use of redevelopment set-aside funds and housing trust funds for securing sites;
- Evaluating how appropriate sites would be made available to developers at a reduced cost in exchange for the provision of affordable housing units; and,
- Seeking input from housing developers and the community on program objectives and constraints.

Responsible Agency/Department: Planning Department;
Redevelopment Agency

Timeframe: FY 2009/2010

Funding: General Fund, Housing Trust Fund



Program B-14 PUBLICIZE FORECLOSURE ASSISTANCE PROGRAMS

The County shall publicize information on the County website about existing toll-free foreclosure assistance hotlines, foreclosure counseling, foreclosure prevention programs, and other resources available for residents facing possible foreclosures.

Responsible Agency/Department: Health and Human Services
Department

Timeframe: FY 2008/2009

Funding: General Fund



C. HOUSING IN THE TAHOE BASIN

Goal C

To promote housing opportunities that meet the specific needs of residents and workers in the Tahoe Basin portion of Placer County.

POLICIES

Policy C-1 The County shall encourage the Tahoe Regional Planning Agency (TRPA) to: (a) strengthen the effectiveness of existing incentive programs for the production of affordable housing in the Lake Tahoe Region and (b) change its regulations to permit second residential units.

Policy C-2 The County shall require new development in the Sierra Nevada and Lake Tahoe areas to provide for employee housing equal to at least 50 percent of the housing demand generated by the project. If the project is an expansion of an existing use, the requirement shall only apply to that portion of the project that is expanded (e.g, the physical footprint of the project or an intensification of the use).

Employee housing shall be provided for in one of the following ways:

- Construction of on-site employee housing;
- Construction of off-site employee housing;
- Dedication of land for needed units; and/or
- Payment of an in-lieu fee.

Policy C-3 The County shall work with the Tahoe Regional Planning Agency (TRPA) to encourage the construction of larger units (i.e., three or more bedrooms) for families in the Kings Beach area.

PROGRAMS

Program C-1 TRPA CODE CHANGES

The County shall continue to work with TRPA to establish a framework for consideration of changes to the TRPA Code of Ordinances that will facilitate the construction of affordable and workforce housing. Such efforts may include:

- Relaxing TRPA development codes for affordable housing developments and second residential units;
- Increasing the density bonus and base land coverage for affordable housing developments to make them more financially



- feasible;
- PAS amendments to allow more opportunities for multi-family housing in the basin; and/or
- Flexibility in applying the October to May building ban to rehabilitation of affordable housing, such as low-income households served in the CDBG program.

Responsible Agency/Department: Planning Department, Redevelopment Agency,
Timeframe: FY 2008/2009 and ongoing
Funding: General Fund

Program C-2 EMPLOYEE HOUSING PROGRAM

The County shall initiate a review of Policy C-2 to consider specific issues including: the appropriateness of the application of the same requirement to both small (i.e. under 2 acres in project area) commercial/professional office projects, the financial feasibility of requiring 50 percent of the housing demand and the impact of the requirement on attracting new commercial projects.

The review shall also consider formalizing procedures for calculating employee housing obligations and assess the need to require the submittal of a housing mitigation plan by project applicants. If such a submittal is required, the following methods of providing housing shall be considered: a) Construction of housing on site; b) Construction of housing off site; c) Dedication of land for housing; and d) Payment of an in-lieu fee.

Responsible Agency/Department: Planning Department
Timeframe: FY 2008/2009
Funding: General Fund

Program C-3 LEGISLATIVE PLATFORM

The County shall continue to support a legislative platform to facilitate the development of affordable housing, especially in Lake Tahoe and the surrounding Sierra Region. The legislative platform includes, but is not limited to, the following items:

- Revision of Federal and State statutes and regulations to allow dormitories to be considered housing for resort workers. Federal and state funds are available to build housing for farmworkers, but the same provisions cannot be used to serve resort communities, which also rely on a seasonal and transitory workforce.
- Amend Federal and State low-income housing tax credit programs to allow developers to earn "points" toward winning the tax credits for



high-cost areas in the rural set-aside, because currently "points" cannot be obtained in both categories.

- Allow affordable housing outside of TRPA's urban limit line. Some sites, such as surplus school sites, that could be good sites for affordable housing are unavailable for development, because they are outside the urban limit line, a growth control boundary.
- Grant the Lake Tahoe basin entitlement status for CDBG funds. This would result in a more flexible and dependable source of funds.
- Exempt affordable housing from the State prevailing wage law.

Responsible Agency/Department: County Executive Office, Planning Department, Redevelopment Agency, HHS

Timeframe: FY 2008/2009 and ongoing

Funding: General Fund

Program C-4 NEW MECHANISMS FOR WORKFORCE HOUSING

The County shall investigate additional mechanisms to facilitate the production of workforce housing in the Lake Tahoe area. These mechanisms include, but are not limited to, the creation of an assessment district(s) and/or an amnesty period for illegal secondary dwelling units.

Responsible Agency/Department: Planning Department, Redevelopment Agency

Timeframe: FY 2008/2009

Funding: General Fund

Program C-5 COOPERATION FOR WORKFORCE HOUSING

The County shall continue to meet with surrounding jurisdictions in the Tahoe Basin to discuss workforce housing issues and develop cooperative strategies that address identified workforce housing needs.

Responsible Agency/Department: Planning Department, Redevelopment Agency

Timeframe: FY 2008/2009 and ongoing

Funding: General Fund



Program C-6 DOWN-PAYMENT ASSISTANCE PILOT PROGRAM

The County shall work with employers in the Eastern Sierra portion of the county to establish a down payment assistance program in which employers provide deferred mortgages for workers who wish to purchase existing homes in the Eastern Sierra and are qualified first-time homebuyers. Workers participating in the pilot program shall agree to share the future equity from market appreciation with the employer sponsoring the mortgage.

Responsible Agency/Department: Planning Department

Timeframe: FY 2009/2010

Funding: General Fund

Quantified Objective: 15 units

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D. CONSERVATION/REHABILITATION

Goal D

To improve the County's existing stock of affordable housing.

POLICIES

- Policy D-1** The County shall continue to make rehabilitation loans to low-income households from its CDBG program revolving loan funds.
- Policy D-2** The County shall continue to apply for CDBG, HOME, and other similar State and Federal funding for the purpose of rehabilitating low-cost, owner-occupied, and rental housing. Additionally, the County shall seek to obtain additional Section 8 Housing Choice Vouchers.
- Policy D-3** The County shall discourage the conversion of mobile home parks to other types of housing and to other land uses except where the living conditions within such parks are such that an alternative land use will better serve the community and/or the residents of the mobile home park or the conversion results in the replacement of such affordable housing.
- Policy D-4** The County shall require the abatement of unsafe housing conditions while giving property owners adequate time to correct deficiencies.
- Policy D-5** The County shall allow the demolition of existing multi-family units only when a structure is found to be substandard and unsuitable for rehabilitation.
- Policy D-6** The County shall support efforts to convert mobile home parks where residents lease their spaces to parks where residents own their spaces.
- Policy D-7** The County shall continue to provide Section 8 Housing Choice Voucher assistance to eligible households and pursue funding for additional vouchers.
- Policy D-8** The County shall allow dwellings to be rehabilitated that do not meet current lot size, setback, or other current zoning standards, so long as the non-conformity is not increased and there is no threat to public health and/or safety.
- Policy D-9** The County shall adhere to State law requiring tenant notice and landlord relocation assistance in cases of demolition of multi-family housing.
- Policy D-10** The County shall adhere to the requirements of State law regarding mobile home conversions.



Policy D-11 The County's Code Enforcement Officers shall continue to work with property owners to preserve the existing housing stock.

PROGRAMS

Program D-1 CDBG REHABILITATION FUNDS

The County shall apply annually for CDBG rehabilitation funds to provide housing rehabilitation services and weatherization services to very low- and low-income households. To improve effectiveness of this program, the County shall advertise rehabilitation and weatherization programs through a variety of methods including, but not limited to:

- the County website;
- brochures available at the permit counter; and
- in collaboration with non-profits, local realtors, lenders, and escrow companies;

Responsible Agency/Department: Redevelopment Agency

Timeframe: Ongoing

Funding: CDBG funds

Quantified Objective: 50 units rehabilitated

Program D-2 HOUSING CHOICE VOUCHERS PROGRAM

The County shall continue to administer the Housing Choice Voucher Program (Section 8 assistance) through the Placer County Housing Authority.

Responsible Agency/Department: Placer County Housing Authority/
Health and Human Services

Timeframe: Ongoing

Funding: Section 8 Federal Choice Voucher Funds/US Department of
Housing and Urban Development (HUD)

Quantified Objective: 250 units

Program D-3 MOBILE HOME PARK CONVERSION ORDINANCE

The County shall consider providing incentives for the preservation of mobile home parks. Incentives may include the following:

- waiver of building permit and other processing and inspection fees for maintaining or improving a mobile home park;
- financial assistance for infrastructure and other park improvements through local, State, and Federal funds;



- technical and financial assistance (e.g., state aid from the Mobilehome Park Resident Ownership Program) to park residents who wish to purchase, improve, and manage their mobile home parks; and/or
- relocation assistance.

Responsible Agency/Department: Planning Department

Timeframe: Ongoing

Funding: General Fund, HOME funds, CDBG funds, and Mobilehome Park Resident Ownership Program funds



E. PRESERVATION OF AT-RISK UNITS

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| Goal E | Preserve all at-risk units within the unincorporated County. |
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POLICIES

Policy E-1 The County shall strive to preserve all at-risk dwelling units in the unincorporated County.

Policy E-2 The County shall require at least two years notice prior to the conversion of any deed-restricted affordable units to market rate in any of the following circumstances:

- The units were constructed with the aid of government funding;
- The units were required by an affordable housing program;
- The project was granted a density bonus; and/or
- The project received other incentives.

Such notice will be given, at a minimum, to the California Department of Housing and Community Development (HCD), the Placer County Housing Authority, the Placer County Redevelopment Agency, and the residents of at-risk units.

PROGRAMS

Program E-1 TRACKING AT-RISK PROPERTIES

The County shall continually update the list of all dwellings within the unincorporated County that are currently subsidized by government funding or low-income housing developed through local regulations or incentives. The list shall include, at a minimum, the number of units, the type of government assistance, and the date at which the units may convert to market-rate dwellings. The Redevelopment Agency shall act as a clearinghouse for information regarding the promotion and maintenance of government subsidized low-income housing.

Responsible Agency/Department: Redevelopment Agency
Timeframe: Ongoing
Funding: General Fund

Program E-2 NOTICE OF CONVERSION

The County shall include in all existing and new incentive or regulatory program requirements to give notice prior to the conversion of any deed-restricted affordable units to market-rate units as described in Policy E-2.



Responsible Agency/Department: Planning Department, Placer County
Housing Authority/Health and Human Services

Timeframe: FY 2009/2010

Funding: General Fund

Program E-3 PRESERVATION OF AT-RISK PROPERTIES

To maintain and improve the existing supply of affordable rental housing, the County shall work with local public agencies, public and private non-profit organizations, and for-profit corporations with the legal and managerial capacity to acquire and manage at-risk affordable properties. The County shall work with property owners and the identified agencies and organizations to ensure continued affordability of subsidized units, and shall provide technical and financial assistance for the acquisition and rehabilitation of at-risk properties.

Responsible Agency/Department: Planning Department, Placer County
Housing Authority/Health and Human Services

Timeframe: As needed

Funding: General Fund, CDBG and HOME funds, set-aside funds



F. SPECIAL NEEDS

Goal F

To meet the housing needs of special groups of County residents, including a growing senior population, large families, single mothers, farmworkers, and persons with disabilities. (Homeless persons are addressed under Goal G.)

POLICIES

- Policy F-1** The County shall encourage the development of housing for seniors, including congregate care facilities.
- Policy F-2** County policies, programs and ordinances shall provide opportunities for persons with disabilities to reside in all neighborhoods.
- Policy F-3** The County shall reduce parking requirements for special needs housing if a proponent can demonstrate a reduced parking need.
- Policy F-4** In accordance with the Reasonable Accommodation Ordinance, the County shall continue to streamline County procedures related to accessibility and adaptability of housing for persons with disabilities.
- Policy F-5** The County shall continue to facilitate efforts of individuals, private organizations, and public agencies to provide safe and adequate housing for farmworkers.
- Policy F-6** The County shall support appropriate amounts of farmworker and farm family housing in agriculturally-zoned areas where it promotes efficiency in the farming operation and has minimal impact on productive farmland.
- Policy F-7** The County shall continue to implement the incentive programs for senior housing, including the density bonus ordinance and priority processing.



PROGRAMS

Program F-1 GROUP HOMES

The County shall evaluate increasing the by-right occupancy of small group housing developments and residential care facilities from group homes with six or fewer residents to group homes with eight or fewer residents in all residential zones subject to the same rules that apply to single-family dwellings.

Responsible Agency/Department: Planning Department

Timeframe: Ongoing

Funding: General Fund

Program F-2 UNIVERSAL DESIGN ORDINANCE

The County shall consider requiring developers to offer a “universal design package” as an option to homebuyers. The County shall determine the most appropriate application of the ordinance, such as the size of residential projects and the type of residential dwellings that will be subject to the ordinance. The “universal design package” shall include features such as:

- Entrances to homes without steps;
- Hallways and doors that comfortably accommodate strollers and wheelchairs;
- Lever door handles and doors of the appropriate weight;
- Electrical outlets that can be accessed without having to move furniture;
- Rocker action light switches to aide people with a loss of finger dexterity;
- Showers that can accommodate a wheel chair, and that have adjustable showerheads to accommodate people of different heights; and
- Kitchens with varying counter heights.

Responsible Agency/Department: Planning Department, Building Department

Timeframe: FY 2009/2010 and ongoing

Funding: General Fund

Program F-3 COMPLIANCE WITH FAIR HOUSING LAWS

The County shall review the Zoning Ordinance, land use policies, permitting practices, and building codes to identify provisions that could pose constraints to the development of housing for persons with



disabilities, and amend the documents, as needed, for compliance with Federal and State fair housing laws .

Responsible Agency/Department: Planning and Building Department

Timeframe: FY 2008/2009 and ongoing

Funding: General Fund

Program F-4 ZONING FOR FARMWORKER HOUSING

The County shall amend the zoning ordinance to ensure that permit processing procedures for farmworker housing do not conflict with Health and Safety Code Section 17021.6 which states that "Any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be deemed an agricultural land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone." The County shall also ensure that such procedures encourage and facilitate the development of housing for farmworkers.

Responsible Agency/Department: Planning Department

Timeframe: September 2008

Funding: General Fund



G. HOMELESS PERSONS

Goal G

To alleviate homelessness in the County through a variety of programs, including increased affordable housing opportunities and the provision of emergency shelter for all persons in need.

POLICIES

- Policy G-1** The County shall continue to support emergency shelter programs, such as the Gathering Inn, that provide shelter in centralized locations, which are accessible to the majority of homeless persons in the County.
- Policy G-2** The County shall continue to assist various non-profit organizations involved with emergency shelter(s) and other aids to homeless persons.
- Policy G-3** The County shall assess the system-wide delivery of services and expenditures aimed at assisting those who are homeless to ensure that funding is appropriated judiciously and local efforts are not duplicated.
- Policy G-4** The County shall continue to work with local organizations at the community level through the Continuum of Care strategy to address homelessness and associated services issue, which may include a homeless crisis intake center to better assist those who wish to move from homelessness to self-sufficiency.

PROGRAMS

Program G-1 FUNDING FOR EMERGENCY SHELTERS

The County shall continue to support emergency shelter programs, including consideration of funding for programs developed through inter-jurisdictional cooperation.

Responsible Agency/Department: Health and Human Services

Timeframe: Ongoing

Funding: General Fund, State Emergency Shelter Program, HUD, other specialized funding

Program G-2 SITES FOR TRANSITIONAL HOUSING

The County shall continue to provide transitional and permanent supportive housing in the form of group housing. Additionally, the County shall identify sites for use as transitional and permanent



supportive housing to address the unmet need for these services. Appropriate sites shall have the following characteristics:

- Close to public services and facilities;
- Zoning classifications that allow the siting of transitional housing and permanent supportive housing, and zoning regulations that do not impede their development, the use of the facility, or the conversion of an existing structure for such use; and
- Development standards, such as parking requirements, fire regulations, and design standards, that do not impede the efficient use of the site.

Responsible Agency/Department: Planning Department, Redevelopment Agency, Health and Human Services

Timeframe: FY 2009/2010

Funding: General Fund/other

Program G-3 ZONING FOR EMERGENCY AND TRANSITIONAL HOUSING

The County shall amend the Zoning Ordinance to include emergency and transitional housing as an allowed land use in the following zoning districts with the indicated permit requirements:

- Residential Multi-family (RM) - Zoning Clearance
- Neighborhood Commercial (C1) - Minor Use Permit
- General Commercial (C2) - Conditional Use Permit
- Commercial Planned Development (CPD) - Conditional Use Permit
- Highway Service (HS) - Minor Use Permit
- Resort (RES) - Minor Use Permit

Emergency or transitional housing proposed in these districts should follow the prescribed development standards. These standards shall not pose a constraint to the development of these types of facilities.

Responsible Agency/Department: Planning Department

Timeframe: FY 2008/2009

Funding: General Fund



H. ENERGY CONSERVATION

Goal H

To increase the efficiency of energy use in new and existing homes with a concurrent reduction in housing costs for Placer County residents.

POLICIES

- Policy H-1** The County shall require that all new dwelling units meet current State requirements for energy efficiency, and encourage developers to exceed Title 24 requirements. Retrofitting of existing units shall be encouraged.
- Policy H-2** The County shall promote land use patterns that encourage energy efficiency, to the extent feasible.
- Policy H-3** The County shall provide incentives, such as streamlined and expedited approval processes, for housing built using green building standards.
- Policy H-4** The County shall continue to implement provisions of the Subdivision Map Act that require subdivisions to be oriented for solar access, to the extent practical.

PROGRAMS

Program H-1 ENERGY EFFICIENT HOMES

The County shall provide information to the public regarding the efficient use of energy in the home and ways to improve the energy efficiency of new construction. The County shall promote this program by posting information on their web page and creating a handout to be distributed with land development applications.

Responsible Agency/Department: Building Department

Timeframe: Ongoing - Promotional material will be prepared and utilized within six months after adoption of the Housing Element

Funding: General Fund

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**Program H-2 ENERGY EFFICIENT LAND USE**

The County shall encourage efficient energy use in new development, such as compact urban form, access to non-auto transit, use of traffic demand management, water-efficient landscaping, among other possibilities. The County shall promote this program by incorporating policies that encourage efficient energy use into new and updated land use plans.

Responsible Agency/Department: Planning Department

Timeframe: Ongoing

Funding: General Fund

Program H-3 GREEN BUILDING INCENTIVE PROGRAM

The County shall develop a green building incentive program to promote the provision of green building practices in new residential development. The "green incentive" program shall establish a point system that rates new residential development by assigning value to certain green building practices including, but not limited to:

- Installation of photovoltaic and "cool" roofs;
- Solar water heating;
- Use of recycled and renewable building materials;
- Energy Star appliances;
- Energy-efficient lighting;
- Location near public transportation and other services;
- Shade trees;
- Low or no-VOC finishes; and
- Water-efficient landscaping.

Based on the rating, the County shall award incentives to developers of green residential buildings, including, but not limited to:

- Streamlined permitting and approval procedures;
- Fee waivers;
- Density bonuses; and
- Reduced parking requirements.

Responsible Agency/Department: Planning Department, Building Department

Timeframe: FY 2009/2010

Funding: General Fund



I. EQUAL OPPORTUNITY

Goal 1

To assure equal access to sound, affordable housing for all persons regardless of age, race, religion, color, ancestry, national origin, sex, disability, familial status, or sexual orientation.

POLICIES

- Policy I-1** The County shall promote housing opportunities for all persons regardless of race, religion, color, ancestry, national origin, sex, disability, family status, income, sexual orientation, or other barriers that prevent choice in housing.
- Policy I-2** The County shall promote the enforcement of the policies of the State Fair Employment and Housing Commission.

PROGRAMS

Program I-1 FAIR HOUSING

The County shall continue to be the local contact point for the Department of Fair Employment and Housing, and provide resource and referral information regarding housing and tenant rights through brochures available at the Housing Authority, the Placer County Library, and other local social services offices. In addition, the County shall post this information on the County website.

Responsible Agency/Department: Placer County Housing Authority/Health and Human Services

Timeframe: Ongoing

Promotional material will be prepared and utilized within six months after adoption of the Housing Element

Funding: General Fund

Program I-2 LEGAL ASSISTANCE FOR FAIR HOUSING

Since Placer County does not have a fair employment and housing board, the County shall refer people who suspect discrimination in housing to Legal Services of Northern California.

Responsible Agency/Department: Housing Authority/Health and Human Services

Timeframe: Ongoing

Funding: General Fund



J. IMPLEMENTATION MONITORING

Goal J

To ensure that Housing Element programs are implemented on a timely basis and progress of each program is monitored and evaluated regularly.

POLICIES

Policy J-1 The County shall continuously work to improve the day-to-day implementation of Housing Element programs.

PROGRAMS

Program J-1 HOUSING COORDINATOR

The County shall name a housing coordinator/point-person to oversee the implementation of Housing Element policies and programs, facilitate permit processing of affordable housing developments and oversee workforce housing programs.

Responsible Agency/Department: Community Development Resources Agency, County Executive Office, Redevelopment Agency

Timeframe: FY 2009/2010

Funding: General Fund

Program J-2 INTER-DEPARTMENTAL COORDINATION

The County shall establish an inter-departmental housing committee/working group to ensure that the Planning Department, Health and Human Services, and the Redevelopment Agency continue to work together in all aspects of housing production in order to ensure that housing policies and programs are implemented as efficiently and effectively as possible, and to ensure that funding is judiciously managed. Such interdepartmental coordination could include periodic meetings with the Chief Executive Officer, and an annual workshop with the Board of Supervisors.

Responsible Agency/Department: Community Development Resources Agency, Redevelopment Agency, Health and Human Services

Timeframe: FY 2008/2009 and ongoing

Funding: General Fund



Program J-3 REDEVELOPMENT AGENCY HOUSING PLAN

The County shall review the Redevelopment Agency Project Areas Housing Production Plan to determine consistency with this updated Housing Element.

Responsible Agency/Department: Planning Department, Redevelopment Agency

Timeframe: FY 2009/2010 and ongoing

Funding: General Fund



QUANTIFIED OBJECTIVES

One of the requirements of State law (California Government Code Section 65583(b)) is that the Housing Element contain quantified objectives for the maintenance, preservation, improvement, and development of housing. State law recognizes that the total housing needs identified by a community may exceed available resources and the community's ability to satisfy this need. Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall, however, establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

Table 1 summarizes the quantified objectives for the construction, rehabilitation, or conservation of units during the remaining time frame of the Housing Element (2008-2013).



**TABLE 1
SUMMARY OF QUANTIFIED OBJECTIVES**

**Placer County
2008-2013**

| Objective Category/Program | Extremely Low | Very Low | Low | Moderate | Total Affordable | Above-Moderate |
|---|---------------|------------|------------|------------|------------------|----------------|
| New Residential Construction | | | | | | |
| Program A-4: Mixed Use Development ¹ | - | 152 | 100 | 100 | 352 | 73 |
| Program A-6: Infill Projects ² | - | 35 | 25 | 50 | 110 | 50 |
| <i>Subtotal</i> | | 187 | 125 | 150 | 462 | 123 |
| Affordable Housing | | | | | | |
| Program B-2: Assisting Affordable Housing Developers ³ | - | 125 | 125 | 50 | 300 | - |
| Program B-4: Density Bonus ⁴ | - | 20 | 30 | - | 50 | - |
| Program B-6: Redevelopment Set-Aside Funds ⁵ | 25 | 150 | 175 | 75 | 425 | - |
| Program B-7: Housing Trust Fund ⁶ | - | 200 | 150 | - | 350 | - |
| Program B-9: State and Federal Funds ⁷ | 25 | 35 | 40 | - | 100 | - |
| Program B-12: Second Units ⁸ | - | - | - | 250 | 250 | - |
| Program C-6: Down-Payment Assistance Pilot Program ⁹ | - | - | - | 10 | 10 | 5 |
| <i>Subtotal</i> | 50 | 530 | 520 | 385 | 1,485 | 5 |
| Rehabilitation | | | | | | |
| Program D-1: CDBG Rehabilitation Funds ¹⁰ | - | 25 | 25 | - | 50 | - |
| Program D-2: Housing Choice Vouchers Program ¹¹ | 100 | 100 | 50 | - | 250 | - |
| <i>Subtotal</i> | 100 | 125 | 75 | - | 300 | - |
| TOTAL | 150 | 842 | 720 | 535 | 2,247 | 128 |

Notes:

- ¹ Estimated based on adoption of new Mixed Use Overlay zoning designation and incentives for mixed-use development
- ² Estimated based on adoption of new Infill Overlay zoning designation and Infill Incentive Ordinance
- ³ Estimated units generated by available Community Development Block Grant (CDBG) funds, HOME funds, and incentives for affordable housing.
- ⁴ Estimated based on historical use of the density bonus.
- ⁵ Estimated based on available Redevelopment Agency set-aside funds
- ⁶ Estimated based on available funds in the Housing Trust Fund
- ⁷ Estimated units generated by available Community Development Block Grant (CDBG) funds, HOME funds, and other State and Federal affordable housing funding programs.
- ⁸ Assumes all second units will be affordable to moderate-income households.
- ⁹ Assumes that homebuyers in the Eastern Sierra participating in the Pilot Program will have moderate and above moderate incomes.
- ¹⁰ Estimated units rehabilitated by funding under the Community Development Block Grant (CDBG) Program
- ¹¹ Estimated based on current number of households served by the Housing Choice Vouchers (HCV) Program

Source: Placer County, and Mintier & Associates

**State Housing Element Law
Article 10.6 of the Government Code
Sections 65580-65589.8
January 1, 2007**

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GOVERNMENT CODE SECTIONS 65580-65589.8*

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Legislative Findings and Declarations

65580. The Legislature finds and declares as follows:

(a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

Legislative Intent

65581. It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

Definitions

65582. As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

Housing Element Content

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

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(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

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(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing single-room occupancy units, emergency shelters, and transitional housing.

(A) 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 identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

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

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing

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for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

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

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government 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 program shall describe this effort.

(d) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, where a city, county, or city and county submits a first draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, where the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

Housing Element Contents: Adequate Sites Options; Closed Military Bases

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

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(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located in a multifamily rental housing complex of four or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

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- (i) The unit is made available at a cost affordable to low- or very low income households.
 - (ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:
 - (I) Low-income households, if the unit will be made affordable to low-income households.
 - (II) Very low income households, if the unit will be made affordable to very low income households.
 - (iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.
 - (iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.
 - (v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.
- (C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:
- (i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to and reserved for occupancy by persons of the same or lower income group as the current occupants for a period of at least 40 years.
 - (ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.
 - (iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.
 - (iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.
 - (v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.
- (3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.
- (4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the first two years of the housing element planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.
- (5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.
- (6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

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(7) On July 1 of the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

Housing Element Contents: Residential Sites Inventory

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

- (1) Vacant sites zoned for residential use.
- (2) Vacant sites zoned for nonresidential use that allows residential development.
- (3) Residentially zoned sites that are capable of being developed at a higher density.
- (4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.
- (b) The inventory of land shall include all of the following:
 - (1) A listing of properties by parcel number or other unique reference.
 - (2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.
 - (3) For nonvacant sites, a description of the existing use of each property.
 - (4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.
 - (5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.
 - (6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.
 - (7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.
- (c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the

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inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (4) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau. Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph

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(3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

Regional Housing Need Allocation (RHNA) Objectives

65584. (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.

(b) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05 with the advice of the department.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall be consistent with all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

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(3) Promoting an improved intraregional relationship between jobs and housing.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census.

(e) For purposes of this section, "household income levels" are as determined by the department as of the most recent decennial census pursuant to the following code sections:

(1) Very low incomes as defined by Section 50105 of the Health and Safety Code.

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.

(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

(f) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Determination of Regional Housing Need

65584.01. (a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(b) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(c) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

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(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (E), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

Alternative RHNA Process for Coordination with Regional Transportation Plan (RTP)

65584.02. (a) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the existing and projected need for housing may be determined for each region by the department as follows, as an alternative to the process pursuant to Section 65584.01:

(1) In a region in which at least one subregion has accepted delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 26 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the department's determination of regional housing need pursuant to paragraph (1), a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. For a housing element update due date pursuant to Section 65588 that is prior to January 2007, the department may approve a request that is submitted prior to December 31, 2004, notwithstanding the deadline in this paragraph. This request shall include all of the following:

(A) Proposed data and assumptions for factors contributing to housing need beyond household growth identified in the forecast. These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527, but a period not less than five years, and not longer than six years.

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(C) A comparison between the population and household assumptions used for the Regional Transportation Plan with population and household estimates and projections of the Department of Finance.

The council of governments may include a request to extend the housing element deadline pursuant to Section 65588 to a date not to exceed two years, for the purpose of coordination with the scheduled update of a regional transportation plan pursuant to federal law.

(b) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(c) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request of the council of governments, the determination for the region shall be made pursuant to Sections 65584 and 65584.01.

RHNA Process: Subregional Delegation

65584.03. (a) At least 28 months prior to the scheduled housing element update required by Section 65588, at least two or more cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote as provided for in rules adopted by the local governments comprising the subregion or shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or counties.

(b) Upon formation of the subregional entity, the entity shall notify the council of governments of this formation. If the council of governments has not received notification from an eligible subregional entity at least 28 months prior to the scheduled housing element update required by Section 65588, the council of governments shall implement the provisions of Sections 65584 and 65584.04. The delegate subregion and the council of governments shall enter into an agreement that sets forth the process, timing, and other terms and conditions of the delegation of responsibility by the council of governments to the subregion.

(c) At least 25 months prior to the scheduled revision, the council of governments shall determine the share of regional housing need assigned to each delegate subregion. The share or shares allocated to the delegate subregion or subregions by a council of governments shall be in a proportion consistent with the distribution of households assumed for the comparable time period of the applicable regional transportation plan. Prior to allocating the regional housing needs to any delegate subregion or subregions, the council of governments shall hold at least one public hearing, and may consider requests for revision of the proposed allocation to a subregion. If a proposed revision is rejected, the council of governments shall respond with a written explanation of why the proposed revised share has not been accepted.

(d) Each delegate subregion shall fully allocate its share of the regional housing need to local governments within its subregion. If a delegate subregion fails to complete the regional housing need allocation process among its member jurisdictions in a manner consistent with this article and with the delegation agreement

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between the subregion and the council of governments, the allocations to member jurisdictions shall be made by the council of governments.

Council of Governments Allocation Methodology

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to

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existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing costs burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

RHNA Process: Appeals of Draft Allocations

65584.05. (a) At least one and one-half years prior to the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, based on the methodology adopted pursuant to Section 65584.04. The draft allocation shall include the underlying data and methodology on which the allocation is based. It is the intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need

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determined pursuant to Section 65584.01 or within subregions, as applicable, the subregion's entire share of the regional housing need determined pursuant to Section 65584.03.

(b) Within 60 days following receipt of the draft allocation, a local government may request from the council of governments or the delegate subregion, as applicable, a revision of its share of the regional housing need in accordance with the factors described in paragraphs (1) to (9), inclusive, of subdivision (d) of Section 65584.04, including any information submitted by the local government to the council of governments pursuant to subdivision (b) of that section. The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

(c) Within 60 days after the request submitted pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall accept the proposed revision, modify its earlier determination, or indicate, based upon the information and methodology described in Section 65584.04, why the proposed revision is inconsistent with the regional housing need.

(d) If the council of governments or delegate subregion, as applicable, does not accept the proposed revised share or modify the revised share to the satisfaction of the requesting party, the local government, may appeal its draft allocation based upon either or both of the following criteria:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04, or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The council of governments or delegate subregion, as applicable, failed to determine its share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04.

(e) The council of governments or delegate subregion, as applicable, shall conduct public hearings to hear all appeals within 60 days of the date established to file appeals. The local government shall be notified within 10 days by certified mail, return receipt requested, of at least one public hearing on its appeal. The date of the hearing shall be at least 30 days and not more than 35 days from the date of the notification. Before taking action on an appeal, the council of governments or delegate subregion, as applicable, shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant. The final action of the council of governments or delegate subregion, as applicable, on an appeal shall be in writing and shall include information and other evidence explaining how its action is consistent with this article. The final action on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the allocation of a local government that is not the subject of an appeal.

(f) The council of governments or delegate subregion, as applicable, shall issue a proposed final allocation within 45 days of the completion of the 60-day period for hearing appeals. The proposed final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

(g) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the appeals process specified in this section. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. In no event shall the total distribution of housing need equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03. Two or more local

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governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the council of governments shall include the alternative distribution in the final allocation plan.

(h) Within 45 days of the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. Within 60 days of adoption by the council of governments, the department shall determine whether or not the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(i) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

RHNA Process: Non-COG Areas

65584.06. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but shall include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(c) Within 90 days following the department's determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

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(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department's final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

RHNA Process: Transfers 65584.07.

(a) During the period between adoption of a final regional housing needs allocation until the due date of the housing element update under Section 65588, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(2) The transfer of shares shall only occur between a county and cities within that county.

(3) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(4) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), and (3) above have been satisfied. The county and city or cities proposing the transfer shall submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to the council of governments or the department. The council of governments shall submit a copy of its decision regarding the proposed reduction to the department.

(b) (1) The county and cities that have executed transfers of regional housing needs under this section shall amend their housing elements and submit them to the department for review under Section 65585.

(2) All materials and data used to justify any revision shall be made available upon request to any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship. A fee may be charged to interested parties for any additional costs caused by the amendments made to former subdivision (c) of Section 65584 that reduced from 45 to 7 days the time within which materials and data were required to be made available to interested parties.

(c) (1) If an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under Section 65584, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination.

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(2) The revised determination shall be made within six months after receipt of the written request, based upon the methodology adopted under Section 65584.04, and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

(d) (1) If an annexation of unincorporated land to a city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under Section 65584, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination.

(2) (A) Except as provided under subparagraph (B), the revised determination shall be made within six months after receipt of the written request, based upon the methodology adopted under Section 65584.04, and shall reallocate a portion of the affected county's share of regional housing needs, if appropriate, to the annexing city. The revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

(B) If the annexed land is subject to a development agreement authorized under subdivision (b) of Section 65865 that was entered into by a city and a landowner prior to January 1, 2008, the revised determination shall be based upon the number of units allowed by the development agreement.

(3) A revised determination shall not be made if all of the following apply:

(A) The annexed land was within the city's sphere of influence when the regional housing need was allocated by the council of governments under Section 65584.05 or by the department under Section 65584.06.

(B) The council of governments or the department certifies that the annexed land was fully incorporated into the methodology for purposes of determining the city's share of the regional housing need.

(C) The area covered by the annexation is the same as the area that was incorporated into the methodology.

RHNA Process: Southern California Association of Governments

65584.08. (a) For the purposes of this section the "association" is the Southern California Association of Governments.

(b) For the fourth revision of the housing element pursuant to Section 65588 within the region of the association, the existing and projected need for housing for the region as a whole and each jurisdiction within the region shall be determined according to the provisions of this article except as those provisions are specifically modified by this section.

(c) The existing and projected housing need for the region shall be determined in the following manner:

(1) The association shall develop an integrated long-term growth forecast by five-year increments. The growth forecast is not a regional housing needs allocation plan.

(2) The forecast shall consist of the following three major variables by geographic area throughout the region:

(A) Population.

(B) Employment.

(C) Households.

(3) The association shall convert households into housing units using replacement rates from the Department of Finance, and county level vacancy rates, by weighing vacancy rates of for-sale and for-rent units.

(4) The association shall transmit the forecast to the department with the following variables:

(A) Population.

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- (B) Employment.
- (C) Households.
- (D) Housing units.
- (E) Household formation ratios.
- (F) Replacement rates.
- (G) Owner and renter vacancy rates.

(5) Upon receiving the forecast, the department shall determine the existing and projected housing need for the region in accordance with paragraph (2) of subdivision (c) of, and with subdivision (d) of, Section 65584.04.

(d) The association shall conduct a public workshop for the purpose of surveying its member jurisdictions pursuant to subdivision (b) of Section 65584.04. Not less than 30 days prior to the date of commencement of the public workshop, the association shall notify affected jurisdictions about the manner in which it proposes to consider the factors specified in subdivision (d) of Section 65584.04 in the housing allocation process. Local governments may submit information about the factors before the workshop for consideration by the association and incorporation into the discussion of the methodology at the workshop.

(e) The association shall delegate development of the housing need allocation plan to the subregional entities, if the association and the subregional entities agree in writing to that delegation and the association ensures that the total regional housing need, by income category, is maintained.

(f) The association shall conduct a minimum of 14 public workshops to discuss the regional growth forecast and the methodology, including the factors, by which housing needs are proposed to be allocated to subregions, or, in the absence of a subregion, to individual jurisdictions. The workshops shall also present opportunities for jurisdictions and members of the public or relevant stakeholders to provide information to the association on local conditions and factors. Following the workshops, and concurrent with the adoption of its draft housing allocation plan, the association shall describe the following:

(1) The manner in which the plan is consistent with the housing, employment, transportation, and environmental needs of the region.

(2) The manner in which the methodology that produced the plan complies with subdivision (e) of Section 65584.04.

(3) The manner in which the information received in the public workshops was considered in the methodology used to allocate the regional housing need.

(g) Following the adoption of the draft housing allocation plan, a local government may request from the association or the delegate subregion, as applicable, a revision of its share of the regional housing need in accordance with the factors described in subdivision (d) of Section 65584.04, including any information submitted by the local government pursuant to subdivision (d). The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and shall be supported by adequate documentation. The association or delegate subregion, as applicable, shall establish a timeline for accepting and reviewing revision requests. However, revision requests shall not be accepted after the deadline for filing an appeal pursuant to subdivision (i). The association or delegate subregion shall respond to the request in writing no later than the close of the appeal process, and shall describe the rationale for its decision.

(h) Both the methodology and allocation process shall consider the factors listed under subdivision (d) of Section 65584.04 and promote the goals and objectives of subdivision (d) of Section 65584 and the regional transportation plan growth forecasting process to integrate housing planning with projected population growth and transportation. The association shall complete the final housing need allocation plan on or before June 30, 2007. It is the intent of the Legislature that the housing element update deadlines, as required under Section 65588, and as modified by the department under paragraph (2) of subdivision (a) of Section 65584.02, will not be extended. The association shall submit a report to the Legislature on or before March 30, 2007, describing the progress it has made in completing the final need allocation plan.

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(i) A city or county may file one appeal of its draft allocation to the association, or a delegate subregion, pursuant to subdivision (e) of Section 65584.05, based upon any of the following criteria:

(1) The association or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (d), or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The association or delegate subregion, as applicable, failed to determine the local government's share of the regional housing need in accordance with the information described in, and the methodology established pursuant to subdivision (f).

(j) A city or county shall not be allowed to file more than one appeal under subdivision (i), and no appeals may be filed relating to any adjustments made pursuant to subdivision (g) of Section 65584.05.

(k) The final allocation plan shall be subject to the provisions of subdivision (h) of Section 65584.05.

(l) The final allocation plan adopted by the association shall ensure that the total regional housing need, by income category, as determined under subdivision (c), is maintained. The resolution adopted by the association approving the final housing need allocation plan shall show how the plan:

(1) Is consistent with the objectives of this section and article.

(2) Is consistent with the pending update of the regional transportation plan.

(3) Takes into account the information provided to the association by its member jurisdictions and members of the public pursuant to subdivisions (d) and (f).

(m) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

Rezoning of Adequate Sites for Prior Planning Period

65584.09. (a) For housing elements due pursuant to Section 65588 on or after January 1, 2006, if a city or county in the prior planning period failed to identify or make available adequate sites to accommodate that portion of the regional housing need allocated pursuant to Section 65584, then the city or county shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period.

(b) The requirements under subdivision (a) shall be in addition to any zoning or rezoning required to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584 for the new planning period.

(c) Nothing in this section shall be construed to diminish the requirement of a city or county to accommodate its share of the regional housing need for each income level during the planning period set forth in Section 65588, including the obligations to (1) implement programs included pursuant to Section 65583 to achieve the goals and objectives, including programs to zone or rezone land, and (2) timely adopt a housing element with an inventory described in paragraph (3) of subdivision (a) of Section 65583 and a program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583, which can accommodate the jurisdiction's share of the regional housing need.

Authorization of Fees for RHNA Process

65584.1. Councils of government may charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs pursuant to this article. Any fee shall not exceed the estimated amount required to implement its obligations pursuant to Sections 65584, 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, and 65584.07. A city, county, or city and county may charge a fee, not to exceed the amount charged in the aggregate to the city, county, or city and county by the council of governments, to reimburse it for the cost of the fee charged by the council of government to cover the council's actual costs in distributing regional housing needs. The legislative body of the city, county, or city and county

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shall impose the fee pursuant to Section 66016, except that if the fee creates revenue in excess of actual costs, those revenues shall be refunded to the payers of the fee.

Local Governments Not Required to Review or Appeal Draft RHNA

65584.2. A local government may, but is not required to, conduct a review or appeal regarding allocation data provided by the department or the council of governments pertaining the locality's share of the regional housing need or the submittal of data or information for a proposed allocation, as permitted by this article.

Section 65584.3 omitted: Applicable to City of Industry only

Section 65584.5 omitted: RHNA Transfer Option no longer in effect (provisions were in effect prior to 1/1/00)

Section 65584.6 omitted: Relevant to Napa County Only

Review of Housing Elements by HCD

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department. The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with the requirements of this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department 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.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

Section 65585.1 and Section 65585.2 omitted; Relevant only to SANDAG

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Housing Element Conformity

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

(c) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days. However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.

Review and Revision of Housing Element: Coastal Zone Requirements

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, each city, county, and city and county shall revise its housing element according to the following schedule:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2000, for the third revision, and June 30, 2006, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2001, for the third revision, and June 30, 2007, for the fourth revision.

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(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 1999, for the third revision cycle ending June 30, 1999, and June 30, 2005, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

(7) Subsequent revisions shall be completed not less often than at five-year intervals following the fourth revision.

Exclusions

65589. (a) Nothing in this article shall require a city, county, or city and county to do any of the following:

(1) Expend local revenues for the construction of housing, housing subsidies, or land acquisition.

(2) Disapprove any residential development which is consistent with the general plan.

(b) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government to impose rent controls or restrictions on the sale of real property.

(c) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government with respect to measures that may be undertaken or required by a local government to be undertaken to implement the housing element of the local general plan.

(d) The provisions of this article shall be construed consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians.

Rebuttable Presentation of Validity

65589.3. In any action filed on or after January 1, 1991, taken to challenge the validity of a housing element, there shall be a rebuttable presumption of the validity of the element or amendment if, pursuant to Section 65585, the department has found that the element or amendment substantially complies with the requirements of this article.

Exemption from Conditional Use Permit for Attached Housing Development

65589.4. (a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The attached housing development is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that an attached housing development shall not be deemed to be inconsistent with the zoning designation for the site if that zoning

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designation is inconsistent with the general plan only because the attached housing development site has not been rezoned to conform with the most recent adopted general plan.

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the attached housing development was deemed complete:

- (i) A general plan.
- (ii) A revision or update to the general plan that includes at least the land use and circulation elements.
- (iii) An applicable community plan.
- (iv) An applicable specific plan.

(D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

(E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

(d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

(g) This section is applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance, and thus a matter of statewide concern.

(h) For purposes of this section, "attached housing development" means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include a second unit, as defined by paragraph (4) of subdivision (h) of Section 65852.2, or the conversion of an existing structure to condominiums.

Limitations on Disapproval of a Housing Project

65589.5. (a) The Legislature finds and declares all of the following:

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(1) The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

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(4) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(e) This section does not relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). This section also does not relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) This section does not prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of either of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

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(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low-, or moderate-income households, including farmworker housing,

GOVERNMENT CODE SECTIONS 65580-65589.8*

without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

Action to Challenge Validity of Project Approval/Disapproval

65589.6. In any action taken to challenge the validity of a decision by a city, county, or city and county to disapprove a project or approve a project upon the condition that it be developed at a lower density pursuant to Section 65589.5, the city, county, or city and county shall bear the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5.

GOVERNMENT CODE SECTIONS 65580-65589.8*

Water and Sewer Service Priority

65589.7. (a) The housing element adopted by the legislative body and any amendments made to that element shall be immediately delivered to all public agencies or private entities that provide water or sewer services for municipal and industrial uses, including residential, within the territory of the legislative body. Each public agency or private entity providing water or sewer services shall grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households.

(b) A public agency or private entity providing water or sewer services shall adopt written policies and procedures, not later than July 1, 2006, and at least once every five years thereafter, with specific objective standards for provision of services in conformance with this section. For private water and sewer companies regulated by the Public Utilities Commission, the commission shall adopt written policies and procedures for use by those companies in a manner consistent with this section. The policies and procedures shall take into account all of the following:

(1) Regulations and restrictions adopted pursuant to Chapter 3 (commencing with Section 350) of Division 1 of the Water Code, relating to water shortage emergencies.

(2) The availability of water supplies as determined by the public agency or private entity pursuant to an urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(3) Plans, documents, and information relied upon by the public agency or private entity that is not an "urban water supplier," as defined in Section 10617 of the Water Code, or that provides sewer service, that provide a reasonable basis for making service determinations.

(c) A public agency or private entity that provides water or sewer services shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the public agency or private entity makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:

(1) The public agency or private entity providing water service does not have "sufficient water supply," as defined in paragraph (2) of subdivision (a) of Section 66473.7, or is operating under a water shortage emergency as defined in Section 350 of the Water Code, or does not have sufficient water treatment or distribution capacity, to serve the needs of the proposed development, as demonstrated by a written engineering analysis and report.

(2) The public agency or private entity providing water service is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections.

(3) The public agency or private entity providing sewer service does not have sufficient treatment or collection capacity, as demonstrated by a written engineering analysis and report on the condition of the treatment or collection works, to serve the needs of the proposed development.

(4) The public agency or private entity providing sewer service is under an order issued by a regional water quality control board that prohibits new sewer connections.

(5) The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking service from the public agency or private entity, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of a fee or charge imposed pursuant to Section 66013.

(d) The following definitions apply for purposes of this section:

(1) "Proposed developments that include housing units affordable to lower income households" means that dwelling units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code.

GOVERNMENT CODE SECTIONS 65580-65589.8*

(2) "Water or sewer services" means supplying service through a pipe or other constructed conveyance for a residential purpose, and does not include the sale of water for human consumption by a water supplier to another water supplier for resale. As used in this section, "water service" provided by a public agency or private entity applies only to water supplied from public water systems subject to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code.

(e) This section is intended to neither enlarge nor diminish the existing authority of a city, county, or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a public agency or private entity providing water or sewer services shall neither invalidate any action or approval of a development project nor exempt a public agency or private entity from the obligations under this section. The special districts which provide water or sewer services related to development, as defined in subdivision (e) of Section 56426, are included within this section.

(f) The Legislature finds and declares that this section shall be applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is a matter of vital statewide importance.

Affordable Housing Requirements

65589.8. A local government which adopts a requirement in its housing element that a housing development contain a fixed percentage of affordable housing units, shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

Nothing in this section shall be construed to expand or contract the authority of a local government to adopt an ordinance, charter amendment, or policy requiring that any housing development contain a fixed percentage of affordable housing units.



10150 17th Street, Suite 100, Truckee, CA 96161

05 May 2008

Ms. Ann Baker, Principal Planner
The County of Placer
3091 County Center Drive
Auburn, CA 95603

Delivered electronically on Monday, May 5th, 1430 hrs., with 'hard-copy' to follow via U.S. Mail.

Re: **Requested revisions to the draft Housing Element Update** – Removal of all references to *mandatory* inclusionary and/or workforce/employee housing policies or practices, to be replaced with voluntary incentive-based language for both policy objectives.

Dear Ms. Baker:

Introductory Remarks

Thank you for providing the organization I represent, the Tahoe Sierra Board of Realtors® (TSBOR), with this opportunity to comment upon the draft Background Report, developed in the service of updating the Housing Element of the county's General Plan. TSBOR, with well over 1,000 members and affiliates, is *the* professional trade association for the real estate community in the High Sierra portion of Placer County (*see endnotes for a more detailed overview*).¹ Realtors® are advocates for increased housing options and opportunities across the income/needs spectrum.² Increasing the overall housing stock is a necessary prerequisite to addressing any particular aspect/need within that market. The substance of the Housing Element sets the stage for success or for failure in the provision of additional housing opportunities. Artificial impediments to satisfying market demand has a deleterious impact upon new housing starts, discourages existing unit rehabilitation or reuse, adversely affects housing affordability, reduces access to available units, ultimately damaging the economy generally. Governmental actions can serve to expand opportunities, or they can act to limit options, add burdens, and decrease interest in participation. The General Planning process is a central example of how local government shapes the jurisdiction's future. At its best, such planning reflects, respects, and protects the rights/beliefs/policies that made America great; at its worst, such planning either consciously subverts these core principles or imposes social engineering burdens with unintended consequences that have much the same effect. Some aspects of the county's Housing Element have proven their merit. Other well-intentioned policies and programs in the current Housing Element have fallen short of their objectives.³

Using the current Plan as the working base upon which to build an updated element, there are some significant policy shifts that can and should be reflected in the updated Housing Element. Given all the other impediments in place that thwart the creation of additional housing opportunities, mandating that project proponents finance a significant portion of the County's unmet affordable housing need is fatally flawed. Such provisions fail the test of logic ⁴, which leads to questions regarding the adequacy of the "nexus" between what is required and who is responsible for meeting that need ⁵, representing a fundamental shift in the burden to the private sector by the public sector, an unsound unfunded mandate if you will. To remedy this situation, we urge you in the strongest terms possible to reject and remove the mandatory inclusionary and employee-housing provisions, recasting them as voluntary incentive-based programs designed to encourage participation by the private sector.

Overarching Objectives

Removing impediments, reducing the burdens imposed upon any one class or subgroup, increasing incentives, these are the methods to shape Placer County's future for the better. We seek to remove imprudent, unfair, and ineffective policy elements that act as impediments to the generation of housing for all. Concurrently, we seek to increase options and opportunities to broaden the motivation to participate in housing solutions, expanding types of housing constructed and range of populations served by this updated Housing Element.

Philosophical Shift Needed in Who/How Provides Social Services

It's time to reassess the Housing Element's approach to addressing its "fair share" housing allocation; consider what has been widely embraced by the communities served, set against those aspects that have been roundly criticized, then demonstrate the character and fortitude necessary to discard flawed and failed policies, to be replaced with alternative solutions that will better serve their intended objectives. Chief among these needed changes are found in the inequitable and dysfunctional policy approach to affordable and workforce housing currently in-place. These policies are vaguely articulated in the current G.P. Housing Element, to which poorly constructed implementation strategies were attempted, with very limited success in achieving the desired outcome. ⁶

With a "course correction" underway in pricing for the housing market, a tightening up of access to the mortgage/lending market, and the downturn in the economy generally, the outlook for the productivity/functionality of the existing affordable and workforce housing policy mandates becomes all the more bleak. ⁷ These trends demand that upcoming planning horizon be restructured in a fundamental way to better address the existing and anticipated housing needs of the region. We implore you to refocus the way housing needs are to be addressed, moving away from the punitive and counter-productive mandated participation approach; towards an incentive-based approach, substantial in form and content, so as to provide compelling reasons for voluntary participation in increasing the region's housing

options. Economic, environmental, and social conditions and trends lead us to conclude that the current approach to meeting the county's housing needs are inappropriate, and will become increasingly dysfunctional (i.e., failing to put much needed housing on the ground) in the months and years ahead. The "carrot" approach to shaping land use patterns is a more collaborative and ultimately productive way to achieve the desired outcome; while the "stick" approach represents a minefield of unintended consequences, not the least of which is a failure to generate additional commercial and residential development. ⁸

Specific Commentary - Public Review Draft Background Report - Placer County Housing Element, Dated April 2008

Rather than attempting to present the specific issues of interest or concern in a narrative format, this section of the correspondence will utilize a modified "bullets" approach, with the Background Report page number cited serving as the "bullet". The Report's introduction sets the stage for our core contention, namely that current policies do damage to the production of additional housing. Such imposed subsidies exacerbate the already high price point of market rate housing, driving folks who want true ownership opportunities (not resale deed restricted) out of the area; concurrently, forcing business related projects to become housing providers discourages much-needed new commercial ventures.

Page 7 – Highlighting the State's requirements in addressing housing needs, "(t)he law acknowledges that in order for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems that provide *opportunities* for, and do *not unduly constrain*, affordable housing development." (emphasis added). It is the thesis of this correspondence that the mandatory provisions demonstrated in the inclusionary, employee, and Redevelopment Agency policies, are fundamentally at odds with the above cited State guideline. When the High Sierra is singled out for differential treatment, it is almost always in the service of adding burdensome mandates and ill-conceived programs to an already extensively overburdened sub-region of the County. The Housing Element Update provides an opportunity to correct these ill-fated measures and reestablish a productive course for the County and its residents.

Page 27 – The employment projections as shown in Table 11 of the draft document add further support to the argument that, while important, workforce housing is over-represented in the county's housing needs assessment and plans. Specifically, the table cited suggests that for all of unincorporated Placer County employment will experience an anemic growth rate of less than one percent (0.9%) for the fifteen year AAGR projection, 2000-2015. To add any additional burdens to new commercial ventures would be fiscal suicide. ⁹

Pages 97/99 – Addresses the local agency efforts to increase housing. Of these, Placer County Redevelopment Agency is highlighted as having in place an overlay of rules, regulations, and ordinances designed to address housing needs. For the three North Tahoe Redevelopment Areas, the Article 15 Ordinances are in direct

conflict with the policy information provided throughout this correspondence, and specifically when Endnotes 9 and 10 are taken into consideration. When County staff gets an ordinance in place well in advance of the issue being resolved at the policy level by the Supervisors, it should be regarded among the worst examples of ordinance implementation preceding policy resolution. With the Western portion of the County inclusionary stakeholders group unable to achieve consensus on implementation, and NO Eastern County stakeholders group even seated much less active, putting a mandatory inclusionary ordinance on the books is undoubtedly one of the more concerning aspects of the way business is conducted. In fact, the employee-housing ordinance, intended to implement the concept of commercial projects housing the workers whose jobs are produced by their investment, went down in flames due to repeated vehement opposition. Yet, it appears that the employee-housing mandate is being implemented anyway, at least in the High Sierra. These Redevelopment Agency ordinances should, in good faith, be overturned. It's time to rein in such code provisions, concurrently amending the General Plan Housing Element to reflect this more affirming and productive incentive-based focus. Of course, when Redevelopment set-aside monies are involved in a project, then it compels you to meet certain State standards. Such tax incremental hold-back funds are significant, and should alone be dedicated to addressing the inclusionary and employee housing needs for the area.⁸

Page 99 – In looking at the two “forty percent/sixty percent” provisions outlined, one must question the wisdom, indeed the feasibility, of requiring any affordable rent burden upon a market-rate rental housing project. Knowing how difficult it is for market-rate multi-family rental projects to ‘pencil out’, such a demand by the county almost assuredly curtails any interest in the pursuit of such projects. One also must question how this demand squares up with the Costa-Hawkins Act. In regard to for-sale construction, the inclusionary requirement to make 40% of the for-sale affordable dwellings “available at affordable sales prices to very low-income households” is just not sustainable. This segment of the community is in need of rental housing, not for-purchase units.^{8,10,11}

Page 102 – The employee housing program in its current form lacks fiscal prudence, economic awareness, or social fairness. The net effect requiring employers to house at least 50% of their workforce is an economy killer, a jobs killer, and becomes nothing more than de-facto moratorium on new commercial ventures. This hurdle is raised all the more during a period economic uncertainty.⁹ We urge you in the strongest terms possible to reject the mandatory focus of this provision. Rather, create a valuable set of incentives that the developer can secure at various “trigger” points in relation to the size and nature of their project. We must encourage economic expansion, reward those who are willing to take the risks associated with a start-up or expansion of their commercial venture. The current policy/program punishes these economic drivers, and adds to, rather than subtracts from, their risk profile. Put simply, this current approach is not business-friendly, it's business adversarial.

Page 124 – In discussing required on-site and/or off-site improvements required as a condition of development, it cannot be over-emphasized just how significant these fees, exactions, mitigations, dedications, and actions are to the “build – no build” decision point. The average cost in development fees alone for a single-family residential project is cited as being \$23,640. In the Tahoe Basin such fees are at or above double that for the county as a whole. This has a massive adverse impact upon new construction projects, and in many ways these fees are “regressive”, causing more damage the closer one gets towards the affordable end of the housing scale. When the “answer” is to offset this burden on the affordable end of the market by placing some or all of it on the shoulders of unrestricted market-rate units built, it simply artificially raises the price point for market-rates units; further widening the gap between the “haves” and “have-nots”. Transitioning from one’s first home to the next level up on the ladder of the American Dream becomes all but impossible. Deed restrictions on the affordable units limit the return on initial investment, and the ever-expanding burdens placed on market-rate units leaves them out-of-reach. The draft Report admits as much, in saying, “(t)ypically, on-site and off-site improvement costs associated with residential projects are passed on to the homebuyer as part of the final cost of the home.”¹²

Page 128 – The mandatory inclusionary provisions are impractical, in many instances infeasible, and must be revised. The “Conclusion” is inaccurate. It states, “Placer County’s inclusionary housing requirements within redevelopment project areas do not represent an undue constraint on the development of affordable housing...” First, the conclusion is tautological, for it begins with affordable housing as both its premise and ends with affordable housing being undamaged in its conclusion. It’s meaningless. Perhaps taking the broader more all-encompassing view towards the provision of all types of housing would better frame the impact. From this frame of reference, inclusionary provisions as currently proposed *do* adversely impact housing affordability. The County should step up to the affordable issue by offering a tangible and substantial set of incentives for those who *choose* to provide additional housing opportunities.^{13, 14}

Page 135 – The Building Allocations discussion underestimates the number and degree of burden TRPA’s codes place on the provision of housing, especially along the affordable end of the spectrum. For instance, the Report states that, “TRPA does not require allocations for the construction of deed restricted housing units that meet the criteria of affordable housing (low- and very low-income categories).” However, what is not mentioned is that all such deed restricted units, including second units, are restricted *in perpetuity*, outstripping the useful life of any conceivable structure, and serving as a major disincentive to the production of additional housing in this category. Another fact, mentioned only in passing in the report, is that moderate-income housing does require the project proponent to acquire a building allocation, an artificially created ‘paper’ commodity that induces scarcity.¹⁵

Page 137 – The Local Efforts to Remove Barriers contains aspects of which the County should be proud; however, in relation to the treatment the High Sierra portion of the County has received under the guise of Redevelopment leaves much to be desired. The County's efforts to reduce or remove the burdens imposed by TRPA's Code that negatively impact the development of second units is to be applauded. Indeed, State law requires that impediments to the approval of second unit construction be eliminated. Yet, TRPA continues to assert preeminence over many aspects of land use planning. ¹⁶ Most distressing and desperately in need of change is how the Redevelopment Agency has interpreted its mission and advanced its position via ordinances that are out-of-step with the sentiments of the residents. Each time the County lets it be clearly known that they are looking at possibly imposing an employee-housing requirement, or an inclusionary mandate, the reaction has been overwhelmingly negative. In fact, Page 128 of the Report acknowledges this, "There are no inclusionary requirements for the remainder of the unincorporated county [outside of Redevelopment Areas]. The Placer County Planning Commission recently (2007) rejected a proposed countywide inclusionary zoning ordinance." The same overwhelming rejection of an employee-housing mandate was seen when the Planning Commission held a hearing on the matter in Kings Beach. Undeterred, staff appears to be forging ahead with its internal vision of how the County should operate. On that same page (128), it goes on to state, "While The County is not likely to adopt such an ordinance within the next five years, it is exploring the possibility of providing affordable housing through an impact fee. Roseville is the only city in the county with an inclusionary ordinance." Returning to the page under consideration here, Page 137, the Report states, "A Redevelopment Inclusionary Housing Ordinance was adopted in 2001, which requires residential developers in the area to set aside 15 percent of the units built as affordable to very low- and moderate-income households. The County will also continue to implement the employee housing requirements established on new commercial developments in the Tahoe region." Our hope is that the County Board of Supervisors, acting as the Redevelopment Agency Board, respond to this statement of continuation with a resounding NO. Our understanding, accurate or errant, was that the 15% set-aside inclusionary requirement was only to apply to projects that accepted Redevelopment Agency money, not all projects. If the inclusionary provision noted above was/is intended to apply to all projects in the area/region, irrespective of accepting assistance from the RDA, then this represents a wholly unacceptable state-of-affairs the needs to be redefined during this Housing Element Update process and its resultant amendments to County Ordinances to reflect the policies of the General Plan Housing Element. Equally troubling is the fact that the employee-housing mandate is being applied absent an ordinance in which to implement it. Perhaps this is due to the fact that when an implementing ordinance was brought forward by the County is was resoundingly defeated. The underlying policy in the Housing Element is flawed, and we urge its removal during this update. It would also be valuable to communicate a "cease and desist" message to the RDA, who appear to be doing an 'end-run' around the process of public

hearings and consent, via simply implementing the G.P. policy without the guidance or authority an implementing ordinance would provide. ¹⁷

Page 141 – Policy A.1 is laudable as expressed in its “policies” column, “...adopt programs and procedures with the intent of achieving its fair share regional housing allocation.” However, it is in the “evaluation” column, more accurately referred to as the “Implementation” column, that brings to light the ill-conceived methods pursued in the service of the policy objective. Is the policy flawed? No. Is its implementation strategy flawed? Absolutely. To establish a mandatory countywide inclusionary ordinance and a High Sierra workforce housing (i.e., employee generating venture) ordinance in actuality reduces opportunities and significantly burdens/constrains development proposals. ^{9, 10} The report’s recommendation to ‘retain’ the policy seems hollow or disingenuous, for it is in its “evaluation” (a.k.a. implementation) where one can truly discern the policy in practice. This is a prime example of an area requiring leadership. Our duly elected Board of Supervisors are placed in an otherwise untenable position of continuing to support a policy which is out-of-step with the political, economic, and social realities which have demonstrated that these mandatory provisions are fatally flawed. The devil is indeed in the details. The way the matter is framed in the report misdirects the policy-maker into tacit acceptance of the real underlying policy which is to be found under the “Evaluation” heading. We urge you to reframe the issue so as to wrest back control over the embedded policies. So, to retain the policy in a manner that is both fair and functional will require that language be added to the policy itself; language that both retains the spirit of the policy and adds clarity regarding its intent. As revised, it might read “A.1 The County shall adopt voluntary incentive-based programs and procedures...”. Thus, nullifying the implicit acceptance of the “Evaluation” as the correct course, and at the same time providing staff with more specific guidance in regard to the intent of the policy.

Page 142 – Policy A.8 is in need of revision. It should reflect a conscious effort and intent to establish a voluntary incentive-based inclusionary housing policy. The resultant ordinances would then reflect this more productive and positive approach to involvement in the provision of additional affordable housing opportunities in the region. Under the “Evaluation” of this same policy, again it could mislead the reader into believing that the “stakeholders” group is an inclusive county-wide effort, which it is not. The Recommendation to modify the policy is a good one, but not in the direction promoted by staff.

Policy A.9 on the same page should simply be discarded. Such a cookie-cutter ‘one-size-fits-all’ approach to the placement of affordable housing is unduly restrictive and inflexible. In concert with the more fundamental policy changes advocated throughout this correspondence, to use a voluntary incentive-based approach to both inclusionary and employee housing provisions, the form and content of policy A.9 is counter-productive and worthy of removal.

Page 143 – Policy A.13 is a great example of how a good policy can turn bad in its implementation. The policy itself, “The County shall facilitate expanded housing opportunities that are affordable to the workforce of Placer County” is fine; and if “facilitate” had been employed in the service of “encouraging” additional housing opportunities then we would be in a much better position than it finds itself today. So, where’s the flaw? Again, it can be found in the policy’s “Evaluation” (a.k.a. Implementation), which offers that, “The County has completed a draft employee housing ordinance that has not been adopted. In the meantime, the policy is being applied to non-residential projects in the Tahoe area.” The Policy is a worthy one, its implementation is abysmal. As such, the implementation measures as expressed in the Evaluation are in dire need of complete rejection. To accomplish this it is suggested that the Policy statement read something like “The County shall facilitate, through the provision of incentives, expanded housing...” This would preserve the policy, while rejecting the overreaching attempt to implement the draconian measures outlined within the evaluation.

Policy A.14 on the same page should either be subject to revisions as proposed for inclusionary policies (i.e., voluntary incentive-based), or simply and perhaps more cleanly rejected in total and purged from the document.¹⁰ Please do not destroy the prospects for new commerce activities, a diversified economy, small locally owned & operated business ventures, and long-term economic vitality of the region by imposing an employee housing mandate that has been overwhelmingly discredited. Policy A. 14 is not progressive, it’s regressive, it is not innovative, it’s stifling, it is not a housing creator, it’s a business breaker. To reiterate, please remove this policy in its entirety.

Policy A.16 which begins on page 143 and continues to page 144 is yet another example of how a policy of “encouragement” as become an implementation of demand. The policy itself is sound. However, the “Evaluation” reintroduces the out-of-context deployment of a mandatory inclusionary provision. It states, in pertinent part, “...along with an affordable housing requirement.” To ‘back-door’ this offensive approach into an area of policy in which the intent is clearly “to encourage” does not bode well for other sections and how staff might interpret them. Even the Recommendation subverts the intent, “Consider adoption of an infill ordinance which *may* include incentives.” (italics added). By default, the proposed recommendation would be formed around a core set of mandates, requirements, and demands; while the concept of incentives might, or might not, be included within this framework. This is simply disingenuous. An infill ordinance should be comprised exclusively of incentives and concessions designed to shape development, not authoritarian mandates to which one must comply. If this is how “encourage” is implemented, then the policy issues in play go far deeper than simply wording, they go to who sets County policy and who implements it, and the distinct roles that appear to be blurred. Retain the policy, reject its current and anticipated implementation features.

Page 150 – Table 59, the evaluation of 2003 Housing Element Programs, item 1, the Program as described is fair and reasonable. As in other instances, it's when one delves into the "Evaluation" that problematic features associated with its implementation are brought to light. In this case, "Specific plans are required to provide ten percent of units affordable." The program, with refinements, is a fine approach; the cookie-cutter mandate that Specific Plans provide 10% of their units within the affordable range is ill-conceived and should be discarded. ¹⁸

*Page 156 – Items 18 and 19 are at the core, the very heart of what so urgently needs to be rectified in this upcoming iteration of the Housing Element. The programs to "prepare an ordinance requiring new development in the Sierra region to provide employee housing consistent with Policy A. 14. The Planning Department will have a draft employee housing ordinance for public review no later than December 31, 2002..." and that "The County has adopted a mandatory inclusionary housing ordinance that requires 15 percent of units in market-rate developments to be affordable to very low, low, and moderate-income households in the North Lake Tahoe and North Auburn redevelopment project areas. The Planning Department has drafted an inclusionary housing ordinance that applies to the County under 5000 feet in elevation..." are respectively the two most ill-conceived, ill-advised, and improperly implemented aspects in the entirety of the G.P. Housing Element. The tired and unproductive mandated actions have proven themselves worthy of but one fate, removal. ⁸

These suspect programs have shown their inherent weaknesses in the evaluation of their implementation failures to-date. Opposition to these provisions has been strong, while their implementation has proceeded unabated by the protests of many; indeed even in the absence of an implementing ordinance in some instances that would allow staff to proceed with implementation. Why have these programs been allowed to move ahead in the face of a recurrent inability to secure enabling action (ordinance approval)? It is noteworthy that, in the case of item 18 (employee-housing), the Report overtly states that the, "Draft Ordinance [was] Prepared, [but] Not Adopted. In lieu of an adopted ordinance, major projects have been required to meet this policy." (bracketed language added) It speaks volumes that the employee-housing ordinance has been rejected by our elected officials and their appointed representatives each time the issue is heard. Public testimony on the matter has been clear, cogent, and compelling – do not foist such a burden upon new development. The recommendation in the Report to "Modify [the] Program. [and] Adopt [the] ordinance" (bracketed language added) is so out-of-touch with current conditions and unresponsive to recurrent protests as to be offensive. The notion requires purging from the final document. It would be tantamount to 'bad faith' to continue to pursue a course of action that has been formally considered, reconsidered, and rejected. ¹⁹

Program 19 deserves a fate similar to that proposed for Program 18 as described immediately above, namely a complete purging of the approach from the upcoming plan document. The mandatory inclusionary program within the Redevelopment

Areas appears to have been misrepresented, or at a minimum misunderstood, by the public at-large. Generally, it was construed (or misconstrued) to require 15% inclusionary construction in conjunction with projects that made use of redevelopment funds; not to be attached to development projects that were fully financed by private sources. If indeed the ordinance is intended to subject all residential construction to the inclusionary provisions simply because of geographic location (i.e., within the large boundaries of the Redevelopment Project Areas), it should be removed by the Board of Supervisors.²⁰ Alternatively, the RDA project area boundaries should be reassessed in light of this oppressive mandate, with the likely outcome being a substantial shrinkage of the landmass in which the RDA is allowed to ply its trade.

It is also telling, perhaps disturbing, that Program 19 (page 156) retains the notion of a Western Placer inclusionary ordinance. After eight (8) plus iterations of a Western Slope Mandatory Inclusionary Ordinance, the matter remains hotly contested. Why would the Update recommend to continue the failed policies, programs, and pursuits of the past five-year time period? In fact, in forwarding the recommendation that the County press ahead and adopt an ordinance is imprudent, unproductive, and completely unresponsive to the situation. Reject this program and its proposal.

Page 157 – Program 21 is similar in many ways, both in form and in probable outcome, as the PAHA designation has been in the Tahoe Basin (ref. draft Report p. 137 and Side Bar Items commentary below). To set aside zoning for a more restrictive use will not lead to increased production of that type or overall. Such acts only serve to further constrain housing opportunities and options. The hammer that would “...prohibit the development of single-family residential in the Residential Multi-family zoning district...” is counter-productive. Given the need for multi-family rentals, and their difficulty in ‘penciling out’ at present, to add “...and only when low or moderate-income housing is guaranteed” is as an effective open space measure as you might have otherwise come up with overtly. If fallow lands is your objective, Program 21 will meet that goal. If increasing housing opportunities and removing constraints to the provision of additional housing is your objective, then purging this program and its conceptual genesis is required. Don’t look into a site analysis to determine on which parcels this prohibition is feasible, as is the Report’s next step proposal; its not reasonable nor feasible. Don’t modify the program, drop it.

Page 161 – Program 28 is, for the most part laudable. When outlining possible mechanisms to create additional affordable housing, one option in particular caught our eye, namely the creation of assessment districts. In some respects this focal point exposes the embedded but incorrect belief that housing is the cause of the problem, and should pay to rectify it. If anything, tourism increases the demand for affordable housing, and a sales tax override would better capture the visitor’s participation in the solution. Nevertheless, on balance, the approaches mentioned

in the program description section are worthy of further effort. What needs to be removed in total from this program is the "evaluation" / implementation provision to, "...implement Housing Element Policy A. 14 requiring new development in the Sierra Nevada and Lake Tahoe area to provide for employee housing equal to at least 50 percent of the housing demand generated by the project." For reasons that have been cited and reinforced throughout this correspondence, this approach must be stricken from the Update in form, content, and language. Please purge this ill-conceived language from the Housing Element Update.⁹

Please reference ATTACHMENTS I & II to this correspondence, as well as the extensive Endnotes contained within.

Side Bar Items

The issues discussed under this heading are of interest and importance, but are not central to our two principle policy points. In the service of attempting to make the updated plan the best it can be, we call out a few points to fine-tune the narrative.

Page 9 -- The State law's public participation requirements in the development of a Housing Element or its Update [Gov. Code Sect. 65583(c)(7)] seems to be inadequately addressed with but two High Sierra workshops in place. When set against the closed-door Western County inclusionary housing stakeholders meetings, which now appear to be influencing the entire County's policies, the matter takes on even greater significance.

Page 10 -- Interestingly, the "Community/Stakeholder Input" fails to include any mention of the inclusionary incentive-based approach to take the place of the mandatory inclusionary and employee proposals. Such commentary was offered up repeatedly -- support voluntary incentive-based approaches; oppose mandated proposals as inequitable and ineffective.

Page 13 -- In discussing various rates of growth across time for the County in-total and breaking out incorporated versus unincorporated growth, an extremely important point is brought to the fore that dramatically decreases housing opportunities; namely, that "(i)t has been a Placer County General Plan policy to steer urban growth to the cities." There are no incorporated areas in the High Sierra portion of Placer County. Such a policy is just short of creating a formal urban limit line (ULL), which is a clear undue constraint upon the creation of additional housing opportunities. The urbanized areas throughout the North Shore of Lake Tahoe already face overwhelming artificially created hurdles to development, notably the Tahoe Regional Planning Agency as well as the ill-advised Article 15 components of the county's Redevelopment Agency. This policy of directing growth to incorporated areas within the county is overly restrictive, shortsighted, and completely fails to take into account the housing challenges faced in the incorporated portions of the county. The underlying policy should be removed; perhaps replaced with the concept of 'access to infrastructure' as a guide.

Page 14 -- The rate of growth implications of the overarching policy as noted immediately above are laid bare in the concluding paragraph of this section of the Report. It states, "Housing units in the incorporated areas grew at a rate of 6.8 percent, while housing units in the unincorporated areas of the county grew at a much slower rate of 1.6%" With this information in hand, how could the county in good faith even consider imposing mandatory inclusionary or employee housing requirements on this scarce new construction, the scarcity of which in large measure is a result of policies that act as an impediment to production? The trend is not favorable to the introduction or maintenance of such

affordable housing mandates, at least if one truly wants to add to the housing stock as opposed to having a hollow paper-only policy that generates little in the way of added housing.

Page 18 – This graph is instructive in that it demonstrates that much of the housing stock in the unincorporated portion of the county existed on or before the year 2000, with only a small fraction of the total units being put on line between 2000 and 2007. Two points are noteworthy in reference to this state-of-affairs: a) unless the county shifts its direction of growth policy, the unincorporated area is nearing build-out, and b) the housing stock is aging in this same area. To consider retaining any inclusionary or workforce housing mandates, much less to draft new ones, would be to both punish future projects for past inadequacies for which they had no connection/nexus, and to discourage new project development.

Page 19 – While the section in question addresses the age demographics of the county and its sub-regions, it brings to light a more sweeping concern, namely the overly narrow focus of much of the report on the need for additional workforce housing. The Housing Element is intended to address the housing needs of *all* segments of the county's current and projected population. This focus should reflect market rate housing as well, hopefully in sufficient numbers to actually increase housing affordability across the spectrum of the market. Even in the 'affordable' low-income discussions, the focal point for much of the discussion is on younger individuals or families. A complete plan should address these important aspects in much greater depth. For example, not only is our housing stock aging, so is our population. Apparently, as noted in the draft Report, "Residents between the age of 45 and 64 make up a larger percentage of the unincorporated county population than the population in the county's incorporated areas. ...with seniors over 65 years of age making up approximately 13 percent of the population..." Given this set of facts, the intense focus upon so-called workforce housing needs leads, at a minimum, to inadequate attention given to other important housing needs segments, such as retirees.

Page 20 – Though vacancy rates are oftentimes viewed negatively by affordable housing activists and some policy wonks, vacation homes have a much more favorable profile when it comes to environmental protection and resource/energy conservation. Consider the unintended consequences of actually filling all the second homes with full-time year-round occupants; the demand for services and environmental impacts would be immense by comparison.

Page 26 – Job growth should not be viewed negatively, cast in the shadow of an "impact" that requires "mitigation measures" to offset this adverse impact. Job growth is good, it is used nationally and internationally as an indicator of wealth and prosperity. Economic development should be encouraged, 'incentivized', not punished via some workforce housing mandated burden.

Page 29 – States, "that almost 30 percent of the housing stock in the areas surveyed in Placer County in 1995 was in need of structural repair in order for the dwelling to remain habitable." This fact should be uppermost in the minds of our policy-makers when they attach side-mandates to the act of pulling a permit. If major repairs are indicated, and the County wants to encourage that these rehabilitation activities occur, then one must be ultra-sensitive to the unintended consequence of having a permit pulled "triggering" retrofit 'x', removal of 'y', or payment of 'x' fee.

Page 45 – This 'ability to pay for housing' mischaracterizes the areas of need, the challenges faced on-the-ground in the Tahoe Basin. Example, "Since above moderate-income households do not generally have problems in locating affordable units, affordable units are frequently defined as those reasonably priced for households that are low- to moderate-income." In the Basin, the gap, or massive chasm if more accurately envisioned, is between rental rates and market rates for our

essential public service workers. Sheriff's Deputies, Fire Fighters, Public Utility personnel, teachers... these are the folks who can't bridge the gap between rents, which they can afford, and market rate home mortgages, which that can't afford. These same folks are often too savvy to buy-in to resale restricted properties, for they cannot become their first ownership rung on the housing ladder (they become 'trapped' in the resale restricted unit). The "Above Moderate-Income" segment of our market is perhaps the most underserved group/need in the region.

Page 51 – A special note to TRPA and others who view second homes, vacation homes, as a (or the) driving force behind the high prices of properties in the region, especially in reference to rental opportunities for our workforce... the Report states, "Placer County's rent levels shown in Table 27 are not influenced by the large number of seasonal homes, some of which are vacation rentals."

Page 85 – The confounding variable in Table 45 is the stagnation of the IPES line in Placer County at 726+ to build.

Page 92 – Draws out many of the unnecessary additional restrictions on second unit construction, which ultimately reduces the number of units put in place; these include: "Secondary dwellings on parcels smaller than one acre in size shall either be attached to the primary unit or integrated with a detached accessory building (such as a garage); (Tahoe) The minimum lot area required to allow a secondary dwelling under this section is ten thousand (10,000) square feet. TRPA limits the construction of second units to lots larger than one acre."

Page 96 – The sentence in the middle of the page regarding waste water in Tahoe is incomplete. It should read: "The North Tahoe Public Utilities District and Tahoe City Public Utility District collect and transport wastewater; the wastewater is directed outside the Basin to the Truckee Tahoe Sanitary Agency treatment plant.

Page 117 – Growth management is mentioned as a "tool" to prevent sprawl and preserve natural resources. The discussion then goes on to explain that some, "measures, such as urban limit lines (ULLs), can in some instances increase the cost of affordable housing..." Perhaps this 'soft sell' understates the impact that such growth boundaries have upon housing cost; over time, ULLs will adversely affect the pricing and available of all housing types, most deeply negatively impacting the affordable segment of the market. The same section goes on to mention that, "(w)hile Placer County does not have a ULL, it does have a policy in its 1994 General Plan that references growth management. Policy I.M.1 in the Land Use Element". Growth management policies, especially as reflected in the County's directing growth to currently existing incorporated areas, is an Urban Limit Line in all but name. This too deserves reconsideration.

Page 127 – The Summary Conclusion in reference to development fees and required actions is endemic of a problematic theme seen throughout the document, namely the weak logic of "other's are doing it" so it's not so bad. The citation in this instance reads, "The requirements for on- and off-site improvements are similar to those of many other communities across California, and as such do not represent an undue constraint on the development of affordable housing." This conclusion is unsound. Irrespective of what other communities in California are doing, Placer County in general, and Tahoe in the specific, have a fee structure that does do damage to housing affordability.¹²

Page 134 – The draft Report's treatment of housing opportunities in the Tahoe Basin is unrealistic, and thus over-represents the opportunities present, and under-represents the impediments to the creation of housing in the Tahoe portion of Placer County. On Page 13 of the draft Report it is noted that formal urban limit lines (ULLs) are not in place in the county as-a-whole, and goes on to concede that such land use restrictions can adversely affect affordable housing objectives. Well, in

the Tahoe Basin, Placer included, urban limit lines are a long-standing fact of life. This ratcheting down of available lands for improvement has had a profound impact upon both development potential overall, and affordable development in particular. It creates yet another layer of artificial scarcity. Continuing, Table 57 lays out the "Land Area in PASs and CPs Permitting Residential Uses". It identifies some seven land-use types or designations – Single Family, Multiple Family, Multi-person, Employee Housing, Mobile Home, Residential Care, and Nursing & Personal Care. Of these seven categories, the table then distinguishes between Allowed uses (A) or Special uses (S); providing land mass available by acres and by percentage of the total area. What can be misleading to the reader is the totals derived for each land use type, which combines A and S. For example, in the Single Family Use Category, the total acreage in the Basin portion of Placer County is listed as 32,207 acres, or 69% of the total area; however, when one breaks out the Allowed use component of 7,576 acres, or 16% of the total area, from the Special use component which represents 24,631 acres, or 53% of the total area, a more accurate appraisal of truly available lands can be made. The Report does not appear to distinguish the impediments associated with development under the "Special Use" designation from what can be accomplished under the "Allowed Use" designation within TRPA's jurisdiction/oversight. It might be more reasonable to assume, conservatively, that only the "A" Use parcels are likely to see development, while the "S" Use lands are not nearly as likely to be successfully improved. Even when Special Use projects are approved, it usually entails longer delays, additional review and conditions, and increased cost to achieve approval, thus damaging affordability. This reassessment dramatically reduces the real potential for additional development within the Lake Tahoe Basin. This recasting of available land also more closely approximates the impression expressed throughout the TRPA Regional Plan Update process, namely that the Basin is nearing build-out. As such, the Report's Conclusions are out-of-touch with the realities in the Basin. It states, "TRPA's PAS system of land use designations and zoning does not serve as a constraint to affordable housing in the Tahoe Basin. The flexible zoning mechanism provides for a wide range of permissible uses. While multi-family development is permitted in only 2.4 percent of the area, the areas that do permit multi-family development are generally close to public transportation and services, and have the infrastructure to support higher density development." Quite to the contrary, TRPA's system of land use designations and zoning dramatically constrains development within the Basin. Additionally, the rigidity/inflexibility in the TRPA Codes further hampers housing opportunities within the Basin.

Pages 135/136 – In discussing Land Coverage Limitations, as imposed by the implementation of the Bailey Land Classification System and the Individual Parcel Evaluation System (IPES) scores of environmental sensitivity, there is no mention of the single greatest impediment to residential land development in the Basin portion of Placer County, namely the stagnant minimum IPES score of 726 to obtain an allocation and build. The process, established as a component of the 1987 "Settlement Agreement", was intended to allow for a gradual incremental reduction of the eligibility line to build, until eventually the score would drop to "1". Five findings are required to be made by the TRPA Governing Board to begin or continue the process of reducing the minimum score eligible to build. Some years ago, most of the jurisdictions in the Basin began to record IPES line adjustments downward; that is, except Placer County. At present, every jurisdiction in the Tahoe Basin, with the notable exception of Placer, has had its minimum IPES score reduced from the 726+ starting point to the numeric value of one (1). Placer is alone sitting stagnant at its 1987 IPES setting of 726+. This state-of-affairs in and of itself is a unique and disadvantageous position for Placer County to be in relative to housing opportunities expansion. Therefore, the Settlement Agreement and its application in Placer County have resulted in yet another impediment/constraint, diminished the available land that is eligible for improvement/development. ²¹

Page 136 – The incentives that TRPA has offered up to encourage the creation of affordable housing have been overshadowed by the disincentives that are attached/linked to each offer. This is not to suggest that the Agency is ignoring the issue; far from it, in recent years TRPA has made an earnest effort to seek out new and innovative ways to increase housing opportunities, especially in the low-income affordable realm. Unfortunately, with each good faith effort to add a ‘fix’, this unit of government has included a condition/requirement that devalues the incentive. The example at the bottom of this page of the draft Report is a case in point. TRPA amended its Code in 2004 to give moderate-income housing projects access to the pool of “bonus units” for multi-family residential construction or rehabilitation. Setting aside for the moment the fact that “bonus units” are in and of themselves an artificially create commodity that impedes housing expansion and increases costs, the improved access to this pool of entitlements was a step in the right direction. So why haven’t these bonus units been “flying off the shelves”? The answer is to be found, in part, in the final sentence on this page of the Report. It says, in pertinent part, “...to qualify, local jurisdictions must deed restrict eligible moderate-income units in perpetuity.”¹⁷ Again, government actions have created the problem, then in attempting to reduce or eliminate the problem, the government ‘fix’ is in many ways just adding another insurmountable barrier to reaching the objective. The unintended consequence of attaching an ‘in perpetuity’ deed restriction to the incentive is to in actuality create a larger disincentive.

Page 137 – The Preferred Affordable Housing Areas as designated by TRPA have not served their intended purpose of directing and encouraging additional affordable unit construction. Whether intentional or an untended consequence, the outcome on the ground is the same, the PAHA designation was viewed as a further restriction on the use of private property. The net result has been to reduce overall development, not expand it. The classification is damaging at best, a disingenuous back-door tool to “take” property without compensation at worst, but in either case it’s dysfunctional. One point of additional disincentive, requiring a correction in the Report, is the nature and extent/duration of the affordable housing deed restrictions. The Report states, “However, once the low-income deed restriction expires and the project is eligible to convert to market rate...”, when in point-of-fact the deed restrictions are designed never to expire, they run in perpetuity. A massive constraint in itself!

Page 146 – Policy C.6 Seems designed to thwart the intentions of the Costa-Hawkins Rent Control Act, and the freedoms/rights of the private property owner to exercise some level of control of its preferred use. Policy D.1 would raise the same concerns.

Page 148 – Policy G.2 correctly uses the terminology of “encourage energy efficiency”, but the staff recommendation introduces “Solar Requirements”, which violate the spirit, intent, and policy direction established by our elected Supervisors.

Page 151 – Program 6 seems overly narrow in its focus. Why only evaluate county-owned land for sites suitable for low-income workforce housing? It seems more prudent to retain flexibility in this assessment, to include retiree housing, assisted living, and perhaps even above moderate-income essential public servants housing opportunities. The same commentary applies to Program 7 on the following page of the report, and Program 14 a few pages further. Be inclusive.

Pages 159, 160, et cet. Remove all references to “required housing” or “inclusionary requirements” to retain consistency with the substantive change in policy to operate from an incentive frame of reference.

Page 161 – Program 27 mentions “Possible ‘Housing Czar’ position” which seems in keeping with the current approach to housing matters (i.e., top-down authoritarian, mandates, with a redistribution of wealth undercurrent), but would be completely out-of-step and out-of-character with the Housing Element Update if the County chooses to embrace the alternative productive future we propose. In short, remove any mention of the creation of yet another bureaucratic impediment to individual private property rights and usage.

Pages 197/207 – Please amend the Glossary to reflect the more productive and affirming approaches to housing (i.e., purge mandated inclusionary, employee, or affordable mitigations required). Such as in, “Assisted Housing”, “Dedication, In-Lieu of”, “Inclusionary Zoning”, “Jobs/Housing Linkage Fee”, among others.

Closing Remarks

While the focus of this extensive review of the Housing Element Update Background Report has been primarily in the service of calling out what is in need of change, there are many, many positive and productive components contained within this plan. Please do not view this commentary as an indictment of the entire county and its plan, for it is not. What this correspondence is intended to do is urge you to change, to fundamentally alter the approach that has been pursued in the past; to provide the leadership and vision to do things differently, better. The inclusionary and employee housing provisions are adversarial at present as mandates, but these unproductive ‘sticks’ can be discarded in favor of carrots, with voluntary incentive-based inclusionary and employee-housing given a chance to prove their worth. Thank you for considering our comments, and for amending the Update to inspire.

All the best,
St John R. Falk
John R. Falk, Legislative Advocate
for Tahoe Sierra Board of Realtors®, Inc.

enc. Endnotes

attachments: Reason Study findings
Independent Institute Report findings

cc: The Honorable Jim Holmes, Chairperson, Board of Supervisors
The Honorable Bruce Kranz, Supervisor, Dist. # 5
Larry Sevison, Planning Commissioner, at-large
Laurence P. Farinha, Planning Commissioner, Dist. # 5 Appt.
Tom Miller, County Executive Officer
Alex Crecl, Lead Lobbyist, California Association of Realtors®
Susan Rohan, Government Affairs Director, Placer County Association of Realtors®
Pat Davison, Executive Officer, Contractors Association of Truckee Tahoe
Steve Teshara, Chief Executive Officer, North Lake Tahoe Resort Association

Endnotes

¹ Established in 1958, the Tahoe Sierra Board of Realtors® is one of the most senior continuously operating professional associations in the region. Having been involved in the General Planning process for Placer County, past and present, its Housing Element Updates, the Tahoe Basin Regional Plan, Pathway 2007 Lake Tahoe Basin Plan Update, as well as the Eastern Nevada County and Town of Truckee General Plan development has afforded us a unique vantage point in considering the challenges and opportunities presented in crafting a functional updated Housing Element for The County of Placer.

² Our local association was intimately involved in the region's first attempt to bring together diverse interests in the service of achieving housing affordability. In 1995, a member of our Board, Ms. Ruth Frishman, spearheaded the creation of the Tahoe-Truckee Housing Development Corporation. She asked that we work with her as the group's Legislative/Political Affairs Advisor, to which we gladly agreed. The organization struggled to gain a foothold, and within a couple of years it was forced to cease operations. The next affordable housing start-up was in the form of the Workforce Housing Association of Truckee Tahoe, or WHATT. TSBOR provided seed money to assist in the organization's formation, and became a charter member of said organization. TSBOR continued to contribute financially, and with personnel/resources, as an active member without interruption, even when we found serious fault in their advocacy objectives related to influencing governmental policies on how best to address the affordable housing issues facing our region. TSBOR has served on WHATT's governing board from its inception, and will continue to serve in this capacity until its operations are suspended on 30 June of this year. TSBOR was not, and is not a fan of mandatory inclusionary housing provisions; nor does our group find the strained employee-generating housing requirement functional. We opposed these provisions in the Town of Truckee General Plan Update. The Town Council did not heed our warnings, and approved the Plan with these objectionable components intact. Post-adoption, the Council created an Affordable Housing Working Group (AHWG) to draft the implementing ordinances needed to transform these policies into actions. We were asked by the Council to accept a seat on this working group, which we gladly filled. Then, the stakeholders that comprise the AHWG elected TSBOR's representative to Chair the group! Internally, TSBOR created its own Housing Opportunities Committee, which meets on a monthly basis, to discuss housing affordability issues, ideas, and trends. TSBOR is actively working towards the creation of a mortgage downpayment assistance program (a.k.a. 'silent second'); with grant consideration to be submitted to the California Association of Realtors® Housing Affordability Fund. The Tahoe Sierra Board of Realtors® has been, is, and will continue to be leaders in the affordable housing arena. Our willingness to participate in good faith, even after stinging defeats on a given policy issue, speaks volumes as to TSBOR's ongoing commitment to affordable housing and to work with whomever and whatever is placed before us.

³ The reasons for any real or perceived "gaps" in the housing stock are many and complex, some of which are well outside your control. Nevertheless, county government and its policies do have a profound affect on construction considerations and the perceived economic climate of the region. Mandatory inclusionary provisions for residential projects, and mandatory housing requirements for commercial projects are two such policies that do damage to housing affordability, economic expansion, and reduce the total number of potential new housing units entering the stock. Mandatory provisions only serve to widen

the gap; in the long-run subverting the underlying objective of putting more people in more housing at a lower cost.

⁴ How does the creation of additional housing at any price-point do further damage to the state of affordable housing opportunities in the county? In point of fact, expanding the housing stock serves to increase the number of options, freeing up some of the existing units that would serve first-time homebuyers, encourage renovation/redevelopment, and promote additional family rental/lease opportunities as folks move up the property ladder. The economic laws of supply and demand are readily applicable in the provision of housing and its pricing; to increase housing affordability one must increase the sheer numbers of units available, thus encouraging competition and resultant price reductions.

⁵ Whether in the form of in-lieu fees, mitigation fees, dedication of land, or actual construction of affordable units either on- or off-site, the burden assigned to new development is dependant upon the strained argument that somehow the act of providing new housing opportunities obligates the project proponent to subsidize a specific type of housing, namely affordable units to very-low, low, and moderate income individuals or families. If the need for affordable units is an existing, indeed long-standing underserved population in terms of housing availability, then it is unjust to foist any of the burden upon new projects, for it represents a community-wide problem demanding community-wide participation in the 'fix'.

⁶ One need only review the Western slope inclusionary housing ordinance development working group to grasp the dissatisfaction amongst all stakeholders for the present framework. After some four years and eight iterations of a draft inclusionary ordinance it has still failed to achieve agreement among the working group, much less passage at the Supervisorial level. The situation is much the same for the Eastern "workforce" ordinance, with draft after draft failing to achieve even a modicum of consensus, much less support for its passage into law.

⁷ Housing experts and economists from both the public and private sector have presented relatively grim forecasts for the immediate-to-intermediate timeframe. These unfavorable forecasts generally reflect the same timeframe as the County's Housing Element planning horizon. As such, these informed assessments should be part-and-parcel to any decision-making in the policy arena. Such mandates are only marginally acceptable/profitable to the project proponent during a "hot" market with high consumer demand and ease of access to loan products; the impact of such a required subsidy or 'tax' during a slowdown in the market will pull many a project back across that "go - no go" threshold due to the high risk/low return profile. Inclusionary-type mandates might well become nothing more than a 'paper tiger', appearing to represent progress towards meeting one's housing goals, while in reality creating such an undue burden and additional constraint that in actuality will damage the pace/rate of housing construction. The reasoning to shift from mandated to incentive-based policies for affordable/workforce housing is made clear in these expert forecasts, and should serve as a basis upon which you can make the findings to facilitate this necessary 'sea change'.

Experts from various fields/perspectives have weighed in on this state-of-affairs, including: (*California Association of Realtors® Research & Economics Dept.*) "Sales of existing detached single-family homes, which declined 23.6 percent for the year 2006, were projected to decrease another 26.0 percent to 353,200 homes for the year 2007. Sales fell steeply in

the last quarter of the year as the liquidity crunch severely constrained availability of funds for mortgage loans. Monthly sales fell below 300,000 units on a seasonally adjusted and annualized basis, levels that had not been seen in over 20 years." "The housing market is unlikely to see significant recovery in 2008. A further six percent decline in sales is expected for the year 2008. Peak to trough, annual sales are expected to decline 47 percent from peak levels of approximately 625,000 homes in 2004 and 2005 to 332,000 homes in 2008. Meanwhile, the statewide median price will show its first decline since 1996, with a projected 5.5 percent annual decline in 2008..." "The median price continued to decline by record margins in February [2008]." "Sales could decline more steeply in 2008 if the current liquidity crunch in the mortgage markets has a longer-than-expected duration or if interest rates unexpectedly increase."

(panel of economists at the University of California Los Angeles, collectively known as the Anderson Forecast) "Over the next six months, the U.S. economy will be at a near-recessionary stall, with unemployment rising and the real estate market still staggering, according to projections released today by a panel of economists at the University of California Los Angeles. ...economic performance is almost as close as you can get to avoid the technical definition of a recession: UCLA economist David Shulman- with growth dipping so low, the economy runs the risk of falling into an actual recession." "Other economists have quibbles with some details of the forecast. But they agree that the economic picture is likely to worsen in coming months because of a rising number of foreclosures, more layoffs in the real estate industry and cutbacks in consumer spending." "As has been true for the past couple of years, problems with the residential real estate market are at the center of the Anderson Forecast's glum report. And the economists say the market looks worse than it did just a few months ago." "Those declines represent only the beginning – not the end – of the woes for the real estate market, the UCLA economists said."

(National Public Radio interview with Greg Geiber, a housing analyst from AG Edwards) "A record number of houses are currently on the market, according to real estate analysts. ...more homes are vacant and for sale right now than at any time since at least 1956."

(report "Housing at the Tipping Point" from Moody's Economy.com, Inc.) "...predicts the first national decline in home prices since the Great Depression, and several northern California cities lead the way." "...home prices in those markets hit their peak at the end of 2005."

(California Building Industry Association, economic report) "California single-family home construction in 2007 fell to the lowest level in 25 years as builders around the state dramatically ratcheted back production in response to a softer sales environment." "CBIA President and CEO Robert Rivinius said the sharp drop-off in construction has severely affected the state economy and had a major impact on state and local government budgets."

(Construction Industry Research Board) "...permits for 112,300 new homes, condominiums, townhomes and apartments were issued statewide, down nearly 32 percent from 2006 and 100,000 units less than recorded in the most recent peak year of 2004." "While multifamily construction – both for-sale and rental properties – was down 21 percent, to 44,307, single-family construction dropped by 37 percent to 67,993, the lowest number of starts since the 51,160 recorded in 1982."

⁸ The Reason Institute for Public Policy, an independent research and analysis group, provides insights into why inclusionary provisions are poor performers. In a paper released in April of 2004, by: Benjamin Powell, Ph.D & Edward Stringham, Ph.D; under Project Director: Adrian T. Moore, Ph.D., entitled "Housing Supply and Affordability: Do

Affordable Housing Mandates Work?" Their conclusions, restated in the simplest of form, is, "NO". Their conclusions are presented in a more complete/comprehensive fashion as ATTACHMENT I to this correspondence. It is also noteworthy that, once released for public consumption, inclusionary activists began attacking the document on all sorts of spurious grounds. Calmer, more considered criticism was forwarded by others, who questioned if the study's emphasis on the San Francisco Bay Area was sufficiently comprehensive to support the strong and sweeping conclusions of the report. While there was reason to believe that the study's rigorous approach to research did allow for extension of the conclusions from the sample to the general; nonetheless, they took up the issue in a June 2004 follow-up study to test this criticism. Entitled, "Do Affordable Housing Mandates Work? - Evidence from Los Angeles County and Orange County", this study reaffirmed the conclusions of the earlier work. Specifically, the June study separates the wheat from the chaff in its concluding remarks: "Inclusionary zoning should only be enacted if the goal is to make housing more expensive and decrease the quantity of new housing. Our findings in Los Angeles County and Orange County are consistent with the experience of the San Francisco Bay Area. Inclusionary zoning hurts homebuyers and will price out most low-income families. Despite the good intentions of those who support inclusionary zoning, economics tell us that price controls on new housing will have the unintended consequence of reducing the quantity of new homes built. Rather than helping, inclusionary zoning will actually make the affordability problem worse."

⁹ The Town of Truckee put such an employee-generating housing mandate into their General Plan Housing Element Update, which states that, "...Housing Program H-1.3.4 - non-residential projects must provide affordable housing for at least 50% of their projected very low, low, and moderate-income workforce." Bay Area Economics (BAE) was commissioned by the Council to study the financial feasibility of actually imposing such a mandate on all new 'non-residential' construction projects. They concluded, in pertinent part, that, "...we have found through conversations with developers who are active with development projects in Truckee, that local developers appear willing to undertake projects on relatively slim profit margins. ...results of this analysis could be sensitive to swings in the marketplace. For example, if developers' view of the market changes to a perception that the market will soften in the future and thus increase risk, they will likely require higher profit projections in order to proceed with development. In this case, a developer's ability to incorporate inclusionary housing requirements would likely be reduced. In addition to higher employment densities, the office and retail developments' lower profit margins result in the inability of office and retail commercial developments to support the construction of low-income affordable units for 37.5 percent of all employees. Both the differences in the employment densities and capitalization rates will result in lower profit margins for office and retail developments relative to industrial developments." (BAE Inclusionary Housing Policy Pro-forma Analysis - Commercial Projects, May 9, 2007) Even with bracketing in relation to the point-in-time during which this analysis was performed, namely during one of the most aggressive periods of appreciation on record in combination with historically low interest rates and ease of access to qualify, the finding made it abundantly clear that a 50% employee housing requirement was a de-facto moratorium upon new commercial development because such projects would actually lose money. Turning down the spigot to reflect a 37.5% employee housing requirement did little to ameliorate matters, resulting in Office Commercial remaining infeasible, Retail Commercial retaining its status as infeasible, and Industrial wavering at

a marginally feasible level. With the recent market downturn and economic slowdown, these findings are all the more dire.

The BAE findings should serve as your wake-up call to discontinue the unproductive practice by some local governments to foist such matters onto a small segment of the community. The viability of the local/regional economy is at stake.

¹⁰ Mandatory inclusionary housing policies related to residential development projects are equally flawed. Financially, the burden is being placed on a small segment of the community, and in so doing, focusing on one industry, which seemed ill-informed during the robust market of the not-too-distant past; in today's economic climate the impact on housing starts has been clear, record lows. Interestingly, Truckee also imposed a mandatory inclusionary requirement upon new residential construction in its General Plan. In consideration of its potential impacts upon housing overall, the Council commissioned Bay Area Economics to engage in a pro-forma analysis of financial feasibility of this mandate. Again, though conducted in the best of times (report dated July 12, 2006), the impact upon housing starts and market rate housing costs did not bode well for the program. The BAE memo concludes, "This memo has provided financial feasibility analysis for three different residential development prototypes. As discussed below, our research and calculations suggest that certain types of projects can successfully incorporate the proposed affordable housing requirements, while others may not due to the reduced profit associated with constructing housing that must be made available at restricted prices or rent levels." Looking at a 15% inclusionary mandate, low-density residential would still be profitable, high-density residential was wavering at the marginal level, and multi-family rental projects were infeasible. Again, this snapshot was taken during unprecedented market highs and still found the mandatory requirement to be challenging; in today's situation the risk profile increases dramatically, the profit margin shrinks considerably, and the likelihood of significant numbers of new units coming on-line appears bleak.

With neighboring jurisdictions having imposed such mandates one might have been led to the erroneous conclusion that mandatory inclusionary and employee-generating housing requirements are the principle method by which local governments in California are addressing the affordable housing shortage. This is simply not the case. Cities and counties have by-and-large not embraced these draconian methods to address their "fair share" regional housing allocation. In 2005 TSBOR brought this matter to the attention of the County Supervisors (dated 23 Nov. 2005), in which it was stated, "The opening pages of the Housing Element sets the stage for a well-reasoned incentive-based series of tools to generate additional housing opportunities: 'the Housing Element has incorporated a number of *comprehensive, community-based* (as opposed to governmental regulation based) programs to *facilitate housing production in all income categories*' (bolding and parentheses commentary added). We urge you to retain and redouble your incentive-based efforts to generate additional housing, as some 419 ± cities and counties within California have elected to pursue." While our call to reconsider the push to develop mandatory inclusionary and employee housing ordinances went unheeded at the time, the message remains valid, while its urgency has become all the more pressing as the housing market and overall economy slows. Some two-thirds (2/3rds) of California's cities and counties have not embraced such mandates. Anyone who touts the number of cities or counties in California that have mandatory inclusionary policies in place is presenting a partial and perhaps disingenuous line of reasoning in support of Placer County going down this same road, for most jurisdictions do not utilize such punitive measures.

¹¹ It seems fair and reasonable to count the Redevelopment Agency's 20% set-aside for the provision of affordable housing as *the* local contribution towards addressing the affordable housing shortage. With the incremental tax increase hold-back that the Redevelopment Agency enjoys, it is already in effect collecting significant money from each and every property owner in the affected area. Demanding more in the from folks in the same geographical area, whether it be in the form of additional fees, land, or construction has the appearance of a "double-dip" of the taxpayer for the same objective, affordable housing production.

¹² It should also be noted that the development fees pass-through assumption is only made possible if the developer sells the homes at or near the price point envisioned when deciding to propose the project. This is another 'hidden' risk to which the builder is exposed, with no shared potential liability on the part of the County. If the market is altered in some way during the course of construction, the builder can find him/herself without any profit potential remaining; or if the shift is severe enough, the builder could find him/herself "upside down" on the property. The County must remain cognizant of this fact when setting fees, raising them, or entertaining the creation of new fees.

¹³ The fact that the affordable housing shortage has been referred to as a state-wide crisis is not surprising if similar logic prevails. The "going with the crowd" lemur approach, looking to hide out in the middle of a distribution curve is not the way for best management practices in government to evolve. The "a lot of the kids are doing it these days" argument didn't win the day with our parents, and should not form the basis for accepting or continuing on a given course.

¹⁴ A substantive stand-alone voluntary incentive-based inclusionary housing and/or workforce housing program would provide an expansive "menu" of options from which the project proponent could select. Fortunately, the same expert analytical group used by the Town of Truckee to consider the impacts of their mandated programs, Bay Area Economics (BAE), has been retained by other jurisdictions to analyze the feasibility of voluntary incentive-based measures (Affordable Housing Incentive Programs, Prepared for Growth Management Planning Council King County, WA, 2001). This analytical product opens with a discussion of existing voluntary program in places such as Pleasanton, California, and voluntary programs throughout the State's of Washington and Oregon. These examples illustrate the range of specific approaches that local governments have used to encourage the production of affordable housing by using incentives designed to appeal to private, for-profit developers. These programs tend to work, and to produce affordable units..." (bolding added). The report continues, "Another key ingredient for success is the appropriate mix of affordable units coupled with a density bonus, so that the net loss to a developer of incorporating an affordable unit can be almost or completely offset by the profit margin on each additional market rate unit allowed through the density bonus." (bolding added). Their summary conclusions, "...feasible combinations of AMI levels for the affordable units, percent of units included as affordable, and market rate density bonuses that, in combination, can support feasible projects." And in some site specific conditions/scenarios, "...feasible combinations of AMI levels, affordable units, and market rate density bonuses are close to baseline profits, suggesting that with refined project-specific assumptions, these combinations may also prove feasible." It concludes with, "The analyses in this report has been prepared to illustrate how these types of programs can work, but each jurisdiction must fine-tune these findings to fit its own marketplace and developer needs." In some

instances, just increasing the allowable Density Bonus for additional market rate units was sufficient motivation for developers to incorporate an affordable component into their projects; these bonuses must be more than mere token gestures, and might require density increases of 25% and higher to offset the economic burden associated with restricted occupancy units.

A robust menu of options should be made available to the project proponent, with a wide range to meet differing project desires and/or site constraints, and with the economic significance to the private developer to strongly encourage participation in the creation of affordable housing. These might include:

- a) Density bonuses ranging far above what is provide by state law (SB 1818).
- b) Reductions in parking requirements, for both market-rate units when appropriate, and for all affordable units.
- c) Reductions or waivers of development impact fees and related exactions.
- d) Offering raw land at no or reduced cost, that allows for both market-rate and affordable residential development on site.
- e) Reductions in aesthetic requirements, internal and external, that do not compromise the health and safety of the occupants.
- f) Providing low interest or no-interest development/construction loans for projects that choose to include an affordable component to their project proposal.
- g) Establish a "silent second" program for mortgage downpayment, to get moderate and above-moderate income families into existing market-rate housing stock, without the imposition of deed restrictions upon future sales, but requiring that the fund be made whole upon sale so that the monies can be 'recycled' into the housing market as these sellers move up the housing ladder.
- h) Land-lease agreements, in which the land is owned/retained by a governmental or non-profit entity, while the low-to-no cost long-term lease of the land allows for construction of affordable housing on-site.
- i) Promotion of "mixed-use" development projects, via zoning flexibility.
- j) Provide free technical assistance to those interested in developing a mixed-use project.
- k) Offer additional FAR to commercial-type projects that would provide affordable housing on-site (such as in mixed use proposals), off-site, or for contributing to a fund dedicated to affordable housing uses (silent second programs, land purchases, construction loans...).
- l) Establish more "build-by-right" type ordinances that ensure that a project that meets all zoning and design criteria are not subject to discretionary (and often arbitrary) conditions. This would both promote equity of treatment while reducing NIMBY pressures to reject or radically modify otherwise compliant uses.
- m) Remove impediments to the creation of second units, so-called "granny flats", on existing improved parcels. Such impediments include deed restriction mandates. If anything, floor space (i.e., size) limitations should provide adequate assurances that market forces will continue to keep such second units affordable.
- n) Make low or no interest loans available to renovation projects, without entangling deed title via imposing restrictions on sales.
- o) Increase the local/regional definition of "above moderate-income" to exceed the national definition of up to 120% of Area Median Income (AMI), perhaps as high as 210% of AMI in acknowledgement of the extraordinarily high costs associated with our region's housing market.

- p) Work with County employee unions, and collectively with other governmental entities such as school, fire, and special districts, to establish a mortgage assistance program. GAP and GAP-Plus type housing assistance programs have proven successful in places such as the City of Ripon, California.
- q) Facilitate innovative public-employee incentive programs that allows for a redirection of a portion of the retirement fund to be utilized to assist these same public servants, essential service providers, in purchasing market-rate homes in the region. Over time, these 'silent seconds' can be 'bought-down' or 'forgiven' as length of service increases.
- r) Seek out banking and other lending institutions to establish public/private partnerships to promote access to affordable housing, and to make market-rate housing more affordable to qualified buyers that can demonstrate need. Various financial instruments could be jointly promoted to address different needs throughout the County, from rehabilitation of owned units, to purchase of existing housing stock, to the development of new housing stock.
- s) Streamlining the project approval process, offering expedited priority processing to those who choose to participate in the provision of affordable housing in the region.
- t) Leveraging Redevelopment funds both inside of and in the areas surrounding the Redevelopment Project area by making such funds available to those who are willing to create affordable housing.

¹⁴ Acknowledging that local government is also facing the prospect of hard fiscal times ahead, providing incentives might appear all-the-less attractive. It is understood, indeed it is right and just, that the larger community take on the societal problem identified as inadequate housing opportunities. By deploying a incentive-based system would require, in some instances, that funds from the County General Fund be used to "backfill" resources utilized in the service of promoting the creation of additional affordable housing. Nevertheless, such an encumbrance is more correctly borne by the County, and thus by default by the citizens that reside within that county; than to conversely take the current expedient but wholly inequitable approach envisioned in the shifting of responsibility to the private sector (and in the case of Redevelopment, to the small but essential public service providing special districts). Government, in no small measure, is the genesis of much of the housing affordability challenges we face at present. Through restrictive land use zoning, high fee/exaction rates, long turn-around times for projects to be considered – holding costs, demanding that large tracts of land be permanently retired as 'open space', development standards that drive up the cost per unit, and so forth have created many of the impediments to housing opportunity expansion across the income / price point spectrum. At a minimum, government should simply "get out of the way" and allow market forces to operate. If the political philosophy under which you operate compels you to secure additions to the affordable housing stock through government intervention, then that intervention should take the form of government-backed incentives, not mandates imposed upon the private-sector, or worse still, one segment of the private sector, namely new development. It will be difficult, perhaps economically painful, for the County to develop and back a functional suite of incentives that motivate the private sector to voluntarily participate in the provision of additional affordable housing for the County's citizenry, but it is the correct method from which to proceed. The old saying rings true for the County and its elected officials in regard to incentive-based vs. mandated housing... "doing what's right isn't always easy, but doing what's easy is rarely right". Mandates are easy for County government to impose, but they are fundamentally wrong in both form and content.

¹⁵ This same deed restriction in perpetuity provision is applied to second unit 'granny flats' on a single previously improved parcel, what has resulted in much the same lack of enthusiasm to participate.

¹⁶ Given the "world-famous", or perhaps "infamous" level of governmental control imposed upon private property in the Tahoe Basin via TRPA, this makes the imposition of additional mandated burdens such as inclusionary or employee housing provisions all the more untenable. Whether inside of or outside of the North Tahoe Redevelopment Areas, the addition of yet another burdensome overlay of mandates is contrary to the objective of reducing constraints.

¹⁷ Page 138 has an opening paragraph discussing the County's ongoing partnership with the Workforce Housing Association of Truckee Tahoe (WHATT). It also discusses the development of an MOU with WHATT for services. This entire paragraph is outdated, in that as of June of 2008 WHATT will, for all practical purposes, cease to exist. The organization has announced its current spin-down towards dormancy. Perhaps the draft Report should strike this paragraph in total; alternatively, this turn of events could be explored and expanded upon as representative of yet another indication of just how difficult the task of increasing the housing supply can be. In fact, WHATT's demise could be viewed as yet another impediment to the realization of more affordable housing on the ground.

¹⁸ Projects requiring a Specific Plan to be submitted for review and approval are often large and unique proposals. During the 'give and take' discussions between the project proponents and County staff it should become apparent just what special opportunities and/or challenges are associated with bring the proposal to fruition. The affordable housing component, its feasibility or even its desirability/appropriateness, will vary significantly from project to project. To arbitrarily assign a 10% inclusionary mandate to such proposals will inevitably lead to lost opportunities to promote higher levels of affordable construction in some instances, while inappropriately assigning an affordability liability to other proposals in which the situation does not support such a mandate.

¹⁹ An incentive-based approach should replace the back-door tax on new commercial development that has been doggedly pursued by staff but recurrently rebuffed by the communities that would be affected. Components of endnote # 14 should be embraced to replace the inequitable and unproductive methods of the past.

²⁰ TSBOR does not support, and would have opposed, the inclusionary provisions that appear to have been placed into ordinance in a less-than-open fashion. Questions about the intentions underlying the large/expansive project area boundaries for the three areas in the High Sierra become all the more troubling in the face of the ordinance provisions that were later inserted. At a bare minimum, the Article 15 provisions deserve formal reconsideration (a rehearing) with greater transparency and outreach to ensure that the true will of the people is heard. Clearly, there are some who would support the mandate, but based upon past reactions to similar proposals it seems clear that support would be in the minority.

²¹ This failure to experience any movement in the IPES line over the course of the past decade is due in part to an unanticipated/unforeseen flaw in how the fifth required finding

is derived. The required fifth of five findings contains a sensitive lands protection formula that, when applied to Placer, responded in an unexpected idiosyncratic way. While the formula proved to be suboptimal for each jurisdiction, resulting in significant delays in beginning the incremental process of adjusting the IPES line downward; as applied to Placer, the formula was not simply suboptimal, it has proven to be wholly dysfunctional. While too complex a topic for treatment in this context, suffice it to say that it was unfortunate that the "inventory of land" did not review this failing.

ATTACHMENT I



Reason

April 2004

HOUSING SUPPLY AND AFFORDABILITY: DO AFFORDABLE HOUSING MANDATES WORK?

By: Benjamin Powell, Ph.D and Edward Stringham, Ph.D

Project Director: Adrian T. Moore, Ph.D

Executive Summary

California and many urban areas nationwide face a housing affordability crisis. New housing production has chronically failed to meet housing needs, causing housing prices to escalate. Faced with demands to "do something" about the housing affordability crisis, many local governments have turned to "inclusionary zoning" ordinances in which they mandate that developers sell a certain percentage of the homes they build at below-market prices to make them affordable for people with lower incomes.

The number of cities with affordable housing mandates has grown rapidly, to about 10 percent of cities over 100,000 population as of the mid-90s, and many advocacy groups predict the trend will accelerate in the next five years. California was an early leader in the adoption of inclusionary zoning, and its use there has grown rapidly. Between 1990 and 2003, the number of California communities with inclusionary zoning more than tripled—from 29 to 107 communities—meaning about 20 percent of California communities now have inclusionary zoning.

Inclusionary zoning attempts to deal with high housing costs by imposing price controls on a percentage of new homes. During the past 20 years, a number of publications have debated the merits of inclusionary zoning programs. Nevertheless, as a recent report observed, "These debates, though fierce, remain largely theoretical due to the lack of empirical research."

This study attempts to fill the research void. In this paper we use data from communities in the San Francisco Bay Area region to evaluate the effects of inclusionary zoning and examine whether it is an effective public policy response to high housing prices. We chose the Bay Area because inclusionary zoning is particularly prevalent there; today more than 50 jurisdictions in the region have inclusionary zoning. These communities have various sizes and densities with different income levels and demographics, so they provide a good sample to tell us how inclusionary zoning is probably working nationwide.

These are our findings:

Inclusionary Zoning Produces Few Units

Since its inception, inclusionary zoning has resulted in few affordable units. The 50 Bay Area cities with inclusionary zoning have produced fewer than 7,000 affordable units. The average since 1973 is only 228 units per year. After passing an ordinance, the average city produces fewer than 15 affordable units per year.

Inclusionary zoning cannot meet the area's affordable housing needs. At current rates, inclusionary zoning will only produce 4 percent of the Association of Bay Area Governments' estimated affordable housing need. This means inclusionary zoning will require 100 years to meet the current five-year housing need.

Inclusionary Zoning Has High Costs

Inclusionary zoning imposes large burdens on the housing market. For example, if a home could be sold for \$500,000 dollars but must be sold for \$200,000, the revenue from the sale is \$300,000 less. In half the Bay Area jurisdictions this cost associated with selling each inclusionary unit exceeds \$346,000. In one fourth of the jurisdictions the cost is greater than \$500,000 per unit, and the cost of inclusionary zoning in the average jurisdiction is \$45 million, bringing the total cost for all inclusionary units in the Bay Area to date to \$2.2 billion.

Inclusionary Zoning Makes Market-priced Homes More Expensive

Who bears the costs of inclusionary zoning? The effective tax of inclusionary zoning will be borne by some combination of market-rate homebuyers, landowners, and builders. How much of the burden is borne by market-rate buyers versus landowners and builders is determined by each group's relative responsiveness to price changes.

We estimate that inclusionary zoning causes the price of new homes in the median¹ city to increase by \$22,000 to \$44,000. In high market-rate cities such as Cupertino, Los Altos, Palo Alto, Portola Valley, and Tiburon we estimate that inclusionary zoning adds more than \$100,000 to the price of each new home.

Inclusionary Zoning Restricts the Supply of New Homes

Inclusionary zoning drives away builders, makes landowners supply less land for residential use, and leads to less housing for homebuyers—the very problem it was instituted to address.

In the 45 cities where data is available, we find that new housing production drastically decreases the year after cities adopt inclusionary zoning. The average city produced 214 units the year before inclusionary zoning but only 147 units the year after. Thus, new construction decreases by 31 percent the year following the adoption of inclusionary zoning.

In the 33 cities with data for seven years prior and seven years following inclusionary zoning, 10,662 fewer homes were produced during the seven years after the adoption of inclusionary

zoning. By artificially lowering the value of homes in those 33 cities, \$6.5 billion worth of housing was essentially destroyed. Considering that over 30 years inclusionary zoning has only yielded 6,836 affordable units, one must question whether those units are worth the cost in terms of fewer and higher-priced homes.

Inclusionary Zoning Costs Government Revenue

Price controls on new development lower assessed values, thereby costing state and local governments lost tax revenue each year. Because inclusionary zoning restricts resale values for a number of years, the loss in annual tax revenue can become substantial. The total present value of lost government revenue due to Bay Area inclusionary zoning ordinances is upwards of \$553 million.

Price Controls Do Not Address the Cause of the Affordability Problem

Price controls fail to get to the root of the affordable housing problem. Indeed by causing fewer homes to be built they actually make things worse. The real problem is government restrictions on supply. From 1990 through 2000, the Bay Area added nearly 550,000 jobs but only about 200,000 new homes. The California Department of Finance recommends 1.5 new jobs per new home—the Bay Area produced only 55 percent of the suggested amount of housing.

Supply has not kept up with demand due to artificial restrictions. One recent study found that 90 percent of the difference between physical construction costs and the market price of new homes can be attributed to land use regulation.

The solution is to allow more construction. When the supply of homes increases, existing homeowners often upgrade to the newly constructed homes. This frees up their prior homes for other families with lower income. Inclusionary zoning restricts this upgrade process by slowing or eliminating new construction. With fewer new homes available, middle- and upper-income families bid up the price of the existing stock of homes, thus making housing less affordable for everyone.

Conclusion

Inclusionary zoning has failed to produce a significant number of affordable homes due to the incentives created by the price controls. Even the few inclusionary zoning units produced have cost builders, homeowners, and governments greatly. By restricting the supply of new homes and driving up the price of both newly constructed market-rate homes and the existing stock of homes, inclusionary zoning makes housing less affordable.

Inclusionary ordinances will continue to make housing less affordable by restricting the supply of new homes. If more affordable housing is the goal, governments should pursue policies that encourage the production of new housing. Ending the price controls of inclusionary zoning would be a good start.

Attachment II



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Below-Market Housing Mandates as Takings: Measuring their Impact

November 9, 2007

By: Edward J. Lopez, Edward P. Stringham, Tom Means

INTRO

Housing affordability has become a major issue in recent years. To address the problem, many cities have adopted a policy known as below-market housing mandates or inclusionary zoning. As commonly practiced in California, below-market housing mandates require developers to sell 10–20 percent of new homes at prices affordable to low-income households.

Many developers, however, argue that the program is in violation of the takings clause of the U.S. Constitution because it forces developers to use some of their property to advance a public goal. Nevertheless, in *Home Builders Association of Northern California v. City of Napa* (2001), the court ruled against the regulatory takings argument, saying that belowmarket housing mandates are legal because (1) they offer compensating benefits to developers and (2) they necessarily increase the supply of affordable housing.

This study investigates these claims in the following way: Section 2 discusses the history of regulatory takings and discusses why below-market housing mandates may be considered a taking. Section 3 investigates how much below-market housing mandates cost developers. Section 4 investigates econometrically whether below-market housing mandates actually make housing more affordable.

Our research indicates that the decision by the California Courts of Appeal is on shaky ground. Below-market housing mandates require developers to forego substantial amounts of revenue and they provide little offsetting benefit. A mandate in Marin, California, for example, would require developers to forfeit roughly 40 percent of revenue from a project, and builders are offered almost nothing in return.

We can see how below-market housing mandates affect housing markets by using econometrics to analyze data of price and quantity for California cities in 1990 and 2000. Our regressions show that cities that impose a below-market housing mandate actually end up with 10 percent fewer homes and 20 percent higher prices.

For developers, inclusionary zoning has an effect similar to a regulatory taking. For society in general, affordable housing mandates decrease the supply of new housing and increase prices, which exacerbates the affordability problem.

CONCLUSION

Our research provides answers to two important questions: How much do below-market housing mandates cost developers, and do below-market housing mandates improve housing affordability? After showing that below-market housing mandates cost developers hundreds of thousands of dollars for each unit sold, we discussed how developers do not receive compensation in this amount. Next we investigated how these policies affected the supply of housing. Using panel data and first difference estimates, we found that below-market housing mandates lead to decreased construction and increased prices. Over a ten-year period, cities that imposed a below-market housing mandate on average ended up with 10 percent fewer homes and 20 percent higher prices. These results are highly significant. The assertion by the court in *Home Builders Association v. Napa* that "the ordinance will necessarily increase the supply of affordable housing" is simply untrue.

The justification for the decision that below-market housing mandates are not a taking rests on some extremely questionable economic assumptions. We are not sure about the amount of economics knowledge of Judges Scott Snowden, J. Stevens, and J. Simons. Below-market housing mandates are simply a type of price control, and nearly every economist agrees that price controls on housing lead to a decrease in quantity and quality of housing available (Kearl et al., 1979, p.28). Because these price controls apply to a percentage of new housing, and builders must comply with them if they want to build market-rate housing, price controls also will affect the supply of market-rate housing. Because price controls act as a tax on new housing, we would expect a supply shift leading to less output and higher prices for all remaining units.

New names for price controls, like "inclusionary zoning," make the policy sound innocuous or even beneficial (who can be against a policy of inclusion?), but in reality the program is a mandate that imposes significant costs on a minority of citizens. The costs of below-market housing mandates are borne by developers and other new homebuyers who receive little or no compensation. From this perspective, below-market housing mandates are a taking no different in substance from an outright taking under eminent domain. Below-market housing mandates represent the sort of abuse the Lucas Court forewarned, and they should rightly be considered a taking. In terms of economics, below-market housing mandates only differ from an outright taking in degree—there is not a "total taking" but a partial taking and clearly a diminution of value without any compensation. The amount of harm imposed by below-market housing mandates should inform their status under the law.

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15 June 2008

Mr. Larry Sevison, Chairman
The Planning Commission
The County of Placer
3091 County Center Drive
Auburn, CA 95603

Delivered electronically on Tues., June 17th, 1215 hrs., with 'hard-copy' to follow via U.S. Mail.

Re: Follow-up to oral commentary on the Draft Housing Element Update, submitted during the public comment segment of your workshop of 12 June 2008 [PGPA T2008-0279] – Recasting references to *mandatory* inclusionary and workforce/employee housing policies or programs with a strictly *voluntary incentive-based* approach for both policy objectives.

Dear Chairman Sevison:

I appreciated the opportunity you and the Commissioners provided me to introduce the overarching issues, challenges, and opportunities which are reflective the Tahoe Sierra Board of Realtors® (TSBOR's) reaction to the recently released General Plan Housing Element Update draft. As was alluded to by County Staff, our organization has previously provided the County with extensive commentary on the first set of documents released to the public on this topic, the draft Background Report. The staff-referenced thirty-one page correspondence from TSBOR, dated 05 May 2008, establishes our core concerns, the reasoning for expressing such concern, and offers up alternative policies, programs, and procedures to better address the issues at hand. We believe that the aforementioned commentary concerning the Background Report provides the policy-maker with a well-reasoned, extensively cross-referenced (cited), and solution-based approach to address the concerning aspects introduced in the initial Report. The Background Report obviously became the foundation upon which the draft Housing Element Update was built. As such, the concerns and proposed alternative actions/policies introduced in our initial written remarks remain relevant in your deliberations on the draft Housing Element Update itself. For brevity, and to avoid duplication of facts already in the record, this correspondence is intended to speak directly to the draft Housing Element Update document, under the assumption that our previous commentary (oral & written) on the Background Report serves as the foundation upon which we offer up alternative means to achieve the desired ends (i.e., more housing on-the-ground, with housing affordability improved across the needs/income spectrum). The "findings" needed to revise or remove current policies and programs are embedded in the 05 May 2008 letter provided by TSBOR.

Imperative Pre-Submission Revisions

It is critically important that the proposed revision/amendments to the draft Element be introduced and reflected in the document *prior to* its initial release to the California Department of Housing and Community Development (HCD). The reasoning that drives this proposed in-house 'second cut' set of revisions to the draft is: Once HCD has reviewed the document's content and offered up its initial suggestions to comply with State law to be certified, your "decision space" in which to make amendments outside of the scope of HCD's commentary is severely restricted. While you could introduce amendments beyond those noted in HCD's review, it would both delay the document's acceptance procedurally, and expose the County to still more suggested alterations to conform with the letter and intent of State housing law. We believe strongly that our proposed alterations to the Element meet and/or exceed the requirements of State law; nevertheless, if more stringent (draconian) means are deemed necessary by HCD, our proposed approach affords you the latitude to ratchet down the policies and programs as needed, post initial review and commentary by HCD. As such, we urge you in the strongest terms possible to generate a revised draft that incorporates our amendments before it is subject to HCD's consideration. Again, from a practical perspective, once the State formally certifies the document, our ability to affect substantive change is greatly diminished. Thus, such changes must precede the Board of Supervisors' authorizing the submission of the draft Element for State review and consideration.

Staff Report to Planning Commission

The seven-page Report presented to the Planning Commission by County Staff, dated June 12, 2008, did a excellent job overall of presenting the issues in play, the timeline for acceptance and implementation, and the historical/background information necessary to frame the situation. The sense of urgency we all feel in regard to finalizing a draft Housing Element Update document is well-stated in the Staff Report (ref. p.2 "Failure to secure a certified Housing Element from HCD can result in loss of funding for housing and redevelopment related projects and potential legal challenges. The ramifications of a legal challenge range from court mandated actions to a moratorium on development until the County meets State Housing Element requirements."). No one with a genuine interest in providing additional housing opportunities wants to see this draft document stalled, for the ramifications of such inactivity are profound. This correspondence is intended to facilitate, not impede, the timely submission of the updated Housing Element.

The current iteration of the draft Update contains and carries over many of the policies and programs of the active Element. The majority of the problematic features of the present draft relate to the "carry-over" of a few highly charged failed policies and/or programs. We view the current Housing Element as the "starting point" for the update, not the de-facto "end point" for continued inclusion of a policy or program simply because it currently exists in the planning document. While we challenge the prudence of continuing a few policies and/or programs in their current form, we find much to be praised in the draft. Indeed, it could reasonably be said that many of the components of the proposed Update are progressive, forward-

thinking, innovative, creative, recognizing current and anticipated economic conditions as well as emerging trends, respectful of property rights, and seeking to provide the necessary balance between economic, environmental, and social/community needs. A great deal of work has gone into the formulation of this initial draft, and it shows. With a few substantive changes to fine-tune the document in question we believe it will be both fair and functional.

Page 5 of the Staff Report presents an outstanding set of programs in which the County "steps up" to address the many and significant impediments to the creation of additional housing opportunities. To further refine the six bullet points presented mid-page, bullet three (Program B-3) might be better served by either increasing the percentage reduction from 25% to as high as 75% reductions in open space et al. requirements under certain site/project conditions; alternatively, removing all reference to the amount/level/percentage of reduction of the requirement might prove advantageous to both the County and the project proponent, for it would afford a site-specific case-by-case reduction justified by the situation. Nevertheless, the series of programs as articulated on page five of this report reflect well upon the county and its staff. We especially call out for praise the proposed introduction of Program B-15, to really open up the "build-by-right" provisions of second units (a.k.a. "granny flats") on existing improved parcels.

At the top of page 6 in the Staff Report three additional bullets are offered up with the intention of facilitating the development of affordable housing. Bullets one and two, Programs A-4 and A-5, are truly needed and valuable additions. The third bullet in that series (Policy B-15) is contrary to the overall approach that is being embraced in the previously cited policy/program additions. It states, "Require an affordable housing component for any General Plan or Community Plan amendment which provides an intensification of land use." The requirement is but a shell for a "backdoor" mandatory inclusionary housing provision, which we fundamentally oppose. Secondly, the burden seems counter-intuitive. In principle, we all want more housing stock to be made available to the public. A project proponent requesting an intensification of land use furthers that goal. By linking such a request to a mandated provision of affordable units, it becomes a disincentive to seek such an increase; it serves to impede, not facilitate the creation of additional housing stock. Removing roadblocks is a necessary and worthy goal, proposed Policy B-15 does just the opposite, it establishes new roadblocks to housing production. In short, it should be discarded.

Remaining on page six of the Staff Report, the stand-alone bullet regarding density and Multi-Family (MF) zoned parcels gives us cause for some concern. Proposed Program A-6 states, "Adopt a zoning text amendment setting a density minimum on MF parcels, i.e. 80 percent of base density." It might be well-intentioned to introduce such density "floors" to compliment the already well-established density "ceilings" associated with various zoning designations, but the unintended consequences of such an act include limiting the private property owner's right/ability to best use the land as he/she might see fit, reducing the land's value by this regulation, and setting an arbitrary "build-at-least-to" number that cannot account for site-specific issues

and constraints. Such an approach is too inflexible, too "cookie-cutter", or one-size-fits-all for a document as broad-based and long-range as the General Plan. To retain the spirit and overall intent of proposed Program A-6, while avoiding the pitfalls noted immediately above, it would be preferred to articulate the principle as such: "In recognition of the requirement to maintain an adequate number of sites with appropriate zoning to accommodate the County's current and projected housing needs, as County Staff tracks development projects over time, if it is noted that actual construction densities are, in the aggregate, substantively reducing the housing potential for the region, staff will seek to identify other vacant lands that could be appropriately 'up-zoned' to offset lost density in previously approved projects (Program A-6 as revised)."

Finally, in the Staff Report it is noted that a "Stakeholders Group" has been in place and active for some time in the service of seeking consensus on the issues surrounding the topic of "affordable housing" (ref. P.6, Item 4.). The noteworthy but absent point of clarification regarding the membership of this group is that this was a Western Slope only effort, with an Eastern portion of the County group to be formed at a later date. These Stakeholders' discussions were closed-door meetings, of which we (TSBOR) only became aware of its existence due to the participation of a single High Sierra affordable housing activist group, WHATT. TSBOR protested the apparent exclusivity of this group, given its inclusion of the Workforce Housing Association of Truckee Tahoe. Ultimately, the group in question reaffirmed its Western Slope focus, and WHATT discontinued its participation. To now read in the staff report that, "Based upon the initial work of this group, the Housing Element incorporates several of the ideas the stakeholder group has suggested to help facilitate the development of affordable housing", is disconcerting. Please either clarify that the group was comprised of foothills only folks, and that a High Sierra version of this effort has not been initiated to-date, or simply drop the section and its reference to this partial group and its incomplete effort. Either way, this Stakeholders Group effort should not lead the reader to believe that the issues, participants, or outcomes in any way reflect the sentiments of community leaders in and around Tahoe.

To close this section (Staff Report), it is worth repeating that there are many affirming aspects to both the Staff Report and its accompanying draft Housing Element Update. Your staff, Ann Baker, Christopher Schmidt, John Marin, et al. have been open to new ideas and information, readily accessible and quite responsive to our inquiries and input, with an optimistic attitude that made these proceedings all the more pleasant and productive. Their personable yet highly professional approach to this and other matters speaks volumes for the quality of the personnel that are "the face" Placer County to various publics.

Housing Element Policy Document - Public Review Draft

The forty-two page "Placer County Housing Element Policy Document: Public Review Draft" prepared by Mintier & Associates, dated May 21, 2008, will be the point of reference and referral for the remainder of this correspondence. This draft, which builds upon and refines the 2003 policy document, includes many needed

additions and clarifications. Further, this draft also strikes out (deletes) some areas that were in need of revision or deletion. The '03 Housing Element provided a reasonable "starting point" for the update exercise; the May '08 Public Review Draft provides an important "mid-point" for continued dialogue/discussion and refinement; it is hoped that with the additions, deletions, corrections, and amendments incorporated within the balance of this correspondence, the Final Draft Housing Element Update will be the best it can be, ready for HCD review and certification. To be functional, this needs to be a living document in every sense of the term: Embraced by the policy-makers, implemented by various elements of staff, while keeping the public and communities shaped and served by this plan fully engaged.

Using the modified bullet format employed in our extensive commentary on the Background Report, this correspondence will once again call out noteworthy aspects of the current draft document under consideration by page number. Some points will be noted for their value, others will be the subject of constructive criticism. Any point with which we take issue will not be left wanting for a better option or alternative; proposed action will be included to solve the issue and move the process forward productively.

Page 2 – Goal A and its associated policies are exactly the mindset needed to foster the production of additional housing stock, not "on paper" or "in theory", but on-the-ground where it matters. Policies A-3 and A-5 are particularly important to achieve our mutually desired end-state (i.e., more housing at greater affordability levels).

Pages 3 & 4 – Programs A-2, A-3, and A-4 are well-suited to the changing construction environment in which we find ourselves. Indeed, Program A-4 dovetails nicely with the Tahoe Regional Planning Agency's updated approach to land use planning, utilizing the Transect Model.

Page 6 – Program A-7 is too limiting in regard to land use options, alternatives, and rights. The concept of maintaining overall zoning density is an important one, for it serves to bolster the chances that your housing opportunities objectives are actually achievable. However, to foist a "Minimum Density Standard" upon new projects might not produce the outcome desired, for such a provision simply serves to reduce options, limit individual choices, impact property rights, and in so doing diminish the value of said property thus constrained/regulated. If too proscriptive, it will only serve to reduce interest in new project proposals. Rather than adopting a density "floor" for a type or class of property zoning, it seems vastly preferable (and in keeping with the spirit of State housing law) to develop a monitoring program related to allowed density and actual density; then using the strategy of adaptive management practices when the disparity between projected and achieved density reaches the threshold in which the integrity of the "fair share" accommodation/allocation is in jeopardy, selective "up-zoning" of suitable lands would be pursued to offset the imbalance.

Page 7 – Goal B and related Policies B-1, 2, and 3 serve as a template of how county government should be involved/engaged in the process of expanding housing

opportunities, especially along the affordable (very-low, low, and moderate income) range of the spectrum. Policy B-2 is outstanding, innovative, and might very well prove to be a primary catalyst to getting more low-income housing in place. Underlying high land costs are a central reason, as cited by many a prospective affordable housing developer, for the lack of interest and/or inability to pursue mostly or exclusively affordable projects. Generating a pool of surplus lands to be made available to the affordable housing project proponent removes a major financial hurdle to project realization. Outstanding proposed policy; one in which the County as a whole becomes a partner/participant in the provision of much-needed housing. Program B-1 (page 10) is an excellent tool to further the Policies noted immediately above.

Page 7 - Policy B-4 represents the wrong policy direction for our next planning period. The policy in question introduces mandatory inclusionary housing provisions once again, albeit in a less than forthcoming fashion. It then continues to presume how/where best to implement said requirement (in the most expensive format). Please discard this policy provision in total.

Page 8 - Policy B-5 is fine, with the notable exception of the mention of "...or regulatory programs..." Please remove that phrase from the policy. Policy B-6 presents a similar phrasing issue, it's fine and reasonable until the phrase "...or inclusionary projects..." is introduced. Please strike this phrase from that policy as well.

Page 8 - Policy B-8 is fine insofar as it addresses the Redevelopment Agency's obligations, but then presents the add-on sentence "Furthermore, a portion of all units built in the redevelopment area shall be affordable to very low-, low- and moderate-income households, as required by State law." This statement could be interpreted in at least two ways, one of which we believe is supported by the intent of State law, while an alternative interpretation (one we fear is the intended county interpretation of this statement) could be viewed as yet another backdoor attempt to impose area-wide inclusionary mandates upon residential private property development projects. Clearly, the local Redevelopment Agency is indeed the responsible party to ensure that at least 20% of overall new residential development in a given project area is made available to persons and families representing the very-low, low, and moderate income populations. This is a planning mandate placed upon the Redevelopment Agency by the State. The Redevelopment Agency can comply with this provision without simply passing through the inclusionary mandate to every individual project within the defined area. Over time (over the life of the Redevelopment Agency), some projects may come in with 50% of the units restricted to lower income occupancy, while other projects may contain little or no resale or rent-restricted units in their plan. Again, the goal being to achieve a 20% affordable unit set-aside of new development in the defined Redevelopment project area. So long as the Redevelopment Agency keeps tabs on (tracks) the production of housing overall, and the fraction of all new development of an affordable nature that comes on line over time, it seems more than reasonable to simply acknowledge this policy to track overall residential development within Redevelopment project

areas with an expectation that the affordable component will be closely monitored. If the other policies and programs in place are not generating the numbers of affordable units as required of the Redevelopment Agency, then a range of program improvements could be triggered/deployed to increase the overall percentage of affordable units built. Policy B-8 should either be reworded to reflect an overall project area goal to be realized over time (not be each individual project), or alternatively this tag line second sentence could be stricken from the final draft altogether.

Page 8 – Policies B-9 and B-11 once again demonstrate how the County is making an earnest good faith effort to spur interest in the development of additional affordable housing opportunities. These policies not only show that the County intends to “walk its talk” regarding encouraging increased affordable housing production, they provide real incentives and spread the burden more widely via County-backed concessions which translate into jurisdiction-wide participation in the provision of much-needed affordable housing. Well done.

Page 9 – Policy B-13 is a highly valued voluntary-participation incentive approach, which could and should be augmented with some or all of the twenty (20) previously identified incentive-based options as was articulated in end-note number 14, page 23, of our 05 May 2008 correspondence. Program B-3 (page 11) goes a long way towards providing a substantive set of incentives that not only make the provision of affordable housing less painful, but also serve as compelling reasons for the project proponent to actively pursue and secure these incentives. Well done.

Page 9 – Policy B-14 is especially worthy to be singled out for praise. This effort to keep individuals and families solvent in a housing sense protects not only the distressed property owner / mortgage holder, but also serves to stabilize communities and their sense of place. This policy is to be applauded long and loudly, for it is a cut above the response, or perhaps more accurately stated the lack of response, seen in other jurisdictions across the State in reaction to the economic downturn and emerging lending/foreclosure crisis. Program B-14 (page 19) should prove to be a valuable adjunct to the policy objectives. Outstanding!

Page 9 – Policy B-15 is especially worthy to be called out for critique. How does a proposal to increase the number of residential units to be added to the overall housing stock damage housing affordability? Increasing housing options and opportunities at any price point should serve to make other stock, perhaps older or smaller units, more readily available for rental or purchase as folks move up the ladder of home ownership. From the perspective of the Housing Element, proposed amendments to the General Plan (or Community Plan) land use designation (zoning) to increase the number of residential units to be realized on a given site should be rewarded, not punished via imposing the burden of a mandated inclusionary provision. This is nothing but a backdoor attempt to once again establish a mandatory inclusionary housing program; a “tax” or imposed subsidy upon a subset or class of the population, in this instance to burden those who seek higher density zoning. An unintended consequence of such a provision is to provide

a powerful disincentive to propose an alteration of one's zoning to expand the number of housing units that the site could accommodate. It's more an anti-zoning change policy than an affordable housing development policy. In one breath the document seeks to set density minimums reflective of the underlying zoning (Program A-7, which is also ill-advised), and in the next breath the document proposes to further burden those who seek to Maximize development potential Policy B-15 should be stricken in its entirety from the final draft.

Page 13 – Program B-6 is consistent with State law regarding set-aside of funds to address affordable housing needs. However, the twenty-percent of tax increment monies to be dedicated to increasing affordable housing opportunities is but the base, not the ceiling. Given the importance of adding affordable stock to the market mix, the expansive size (boundaries) of the Redevelopment Areas in the High Sierra, the identified need to house our moderate income essential public servants locally where and when possible (e.g., teachers, firefighters, sheriff's deputies, utility employees...), and the fact that the Redevelopment Agency property tax skim comes in large part directly from these local agencies and special districts revenue pools, perhaps raising the set-aside bar would be appropriate. Rather than simply conforming to the State minimum set-aside of tax increment funds for affordable housing efforts, why not consider a 35%, 55%, or even 70% retention of dedicated funds for the express purpose of augmenting affordable housing options and opportunities within the Redevelopment Areas? A higher percentage set-side for this purpose would mesh nicely with our proposal/interpretation that it is the Redevelopment Agency, not the individual project proponent, that is responsible for the mandated inclusionary numbers. Such an approach would also better serve the implementation of other important programs, such as Program B-7, in high cost areas such as ours. For purposes of setting an objective for the current planning horizon (i.e., this update), establishing a 40% dedicated set-aside affordable housing funds pool should be considered.

Page 15 – The retention of a policy or program with the underlying purpose of establishing a mandatory inclusionary provision in the County Code of Ordinances is out-of-step with current market conditions, fails to recognize or acknowledge the unproductive and highly contentious nature of such proposals, and should not be a part of this Housing Element Update. Program B-10 is ill-conceived, ill-advised, and divisive. Please strike it from the Final Draft. Let the vastly expanded voluntary incentive-based suite of affordable housing measures operate, unfettered by the complicating and adversarial attempts to impose such participation by mandate.

Pages 17 and 18 – The two programs outlined in this section of the policy document are much-needed and deeply appreciated. Program B-12 is especially important in areas such as our High Sierra communities which are inching ever closer to "build-out". While not overtly offered, perhaps some form of "bring your second unit into compliance" program would be of value to both the County and the homeowner. Affording a "grace period" for second units that may not have conformed to Code or procedures for permitting at the time they were established would advance a

number of important goals: ensuring that such structures are sound (safe), achieving a more accurate picture/number of affordable units available in the region, and by legitimizing existing structures of this type would give the owner greater confidence in making it widely known that their second unit is available for rent or lease. Program B-13 is also well-received by our organization. We would ask that bullet number five be removed, for it pre-supposes that a mandatory inclusionary housing program will be in force in this updated Element: which, of course, we are contesting as unnecessarily divisive and unproductive.

Page 19 – Goal C is laudable, if inherently difficult to achieve given the unique, burdensome, multi-layered governmental structure in place in the Tahoe Basin. Policy C-1 is especially important to affect real change, in that so many of the housing affordability hurdles relate to the restrictions, prohibitions, expensive mitigations, and onerous mandates imposed by the Tahoe Regional Planning Agency (TRPA). Second units are a case in point, wherein second units are only allowed on larger parcels, and must include a rental price restriction deed covenant that runs with the property/title in perpetuity. These act as powerful disincentives to even considering participating in the program. We believe that the size of the second unit (i.e., limiting max. floor space) should serve as the price control with market forces dictating that such small units cannot command the high rental/lease rates realized by some large stand-alone rental homes. The imposition of a deed restriction on the title is unnecessary, burdensome, and found to be wholly unacceptable by many a prospective second unit project proponent. The duration of said deed restriction only serves to exacerbate the undesirability of pursuing the development of such units. This is an excellent example of a situation in which if government would just “get out of the way” good things would happen. Urban boundary lines are another example of artificial constraints that reduce opportunities and concurrently drive up the cost/price of available land. Acknowledging that Placer County can only do so much to influence TRPA's policies and practices, strong language urging that such amendments be pursued would provide the County's representatives and the public at-large with a tool to cite in leveraging this needed paradigm shift. Policy C-3 and Program C-1 (page 20) are on the right track, as is Program C-3 (page 21).

Page 19 – Policy C-2 is tantamount to committing economic suicide. Requiring non-residential development projects (i.e., retail, commercial, office...) to provide housing “...equal to at least 50 percent of the housing demand generated by the project” is to essentially double the cost of construction per square foot. The competitive disadvantage this would create makes actual project proposals infeasible. If you want a commercial building moratorium just say so, don't hide it within a wholly unacceptable and inappropriate mandate under the guise of increasing housing. This policy will not increase housing. Contrary to its stated objectives, it will do damage to economic expansion and diversification, driving business interests and jobs out of the region in search of a more reasonable “business friendly” (or at least business neutral) jurisdiction. Recently conducted independent expert analysis of just this type/form of mandate speaks directly and powerfully to this fatally flawed approach. Fortuitously, the study was conducted on behalf of the Town of Truckee,

so its findings are readily applicable to our similar High Sierra situation. The aforementioned study/econ. analysis was performed by Bay Area Economics (BAE), and reported out to the Town in a transmittal dated February 29, 2008. The task, "...analyzing a proposed requirement on commercial developments to incorporate affordable housing units sufficient to accommodate a share of the projected on-site employment. The pro-formas report the impacts of three different policies - a 37.5 percent employee housing requirement, a 25 percent housing requirement, and a 12.5 percent housing requirement. This report includes feasibility analyses for an office commercial project, a retail commercial project, and an industrial development." (p. 2) The study's conclusions, "...the returns on equity and for office, retail and industrial projects are not sufficiently high enough to allow developers to supplement affordable housing development in Truckee." (p. 35) If even a 12.5% employee housing requirement is economically infeasible, then to give serious consideration to retain and/or strengthen a 50% requirement as is seen in Placer County's Policy C-2 is beyond all logic and reason. With this confirming information in hand, please reject and remove Policy C-2 and any other programs or policies related to or associated with it.

Page 21 – To reflect and comport with our urgent call for the removal of Policy C-2, a similar fate should be applied to Program C-2. In short, the program should be stricken in total from the Final Draft.

Page 22 – Given the two previous items discussed, it would be prudent to amend Program C-4, removing all but the investigation of potential amnesty period for non-permitted secondary dwelling units.

Page 24 – Policy D-5 proposes to limit "...demolition of existing multi-family units only when a structure is found to be substandard and unsuitable for rehabilitation." This represents a significant restriction via regulation on one's private property rights. Essentially, this provision would 'lock-in' the existing use in perpetuity; as such it brings into question whether or not this act becomes a "taking" requiring compensation. This policy also appears to be at odds with sections of State housing law (i.e., Costa-Hawkins Act). The best course of action in regard to this policy would be to discard it; allowing Policy D-9 on the same page to provide the guidance needed in such cases.

Page 24 – Policy D-8 sets the appropriate tone and approach to addressing dwellings in need of rehabilitation. Flexibility while not degrading public health & safety is the framework upon which important projects will be pursued. It works.

Page 27 – Policy E-1 seems over-inclusive in its scope, in that striving to preserve *all* at-risk dwelling units sets a policy course that would lead to the unnecessary/inappropriate expenditure of County time and money in an effort to preserve some units that might be better addressed via abandonment and demolition. Perhaps simply replacing the word "all" with the term "functional" would better meet the intent.

Page 27 – Policy E-2 seems to be overly burdensome, in the same vain as previously discussed Policy D-5. Requiring at least two years notice prior to conversion of

affordable-to-market rate should be discarded as an overarching policy; replaced with language that references notice will comply will applicable State and/or Federal law. Bullet number two within this same policy should also be removed/stricken to be consistent with other components of the Final Draft Housing Element Update (i.e., without mandated inclusionary or workforce provisions).

Page 27 – Under Program E-1, we would ask that the phrase “...through local regulations...” be removed.

Page 28 – Program E-2 is unnecessary, burdensome, and acts as a disincentive to becoming involved in such needed affordable projects in the first place. Please discard this policy in total from your Final Draft.

Page 32 – Program F-4 is well thought-out, innovative, creative, and designed to apply to/address the unique needs of our High Sierra communities. This is a great example of how existing State law and adaptive local policies can come together to achieve a mutually desired end-state.

Page 35 – Policy H-1 is fine and in keeping with the general line of reasoning we have advocated for throughout the document. One point just to add emphasis to the importance of word choice and staff interpretation of such language; the policy states, “Retrofitting of existing units shall be *encouraged*.” (emphasis added) If “encourage” is implemented by staff in the form of incentives, rebates, information outreach and so forth, then the policy objective is one we would most definitely embrace. If however staff took “encourage” to mean that a mandatory retrofit was required to implement the intent of this provision, then our organization would find fault (have significant problems) with the approach.

Page 36 – Policy H-3 is yet another fine example of how to shape development by using the “carrot”. It is worthy of your support. Program H-3 (page 37) complements the objectives expressed in the policy. However, immediately following this affirming policy is Policy H-4, which deploys a big “stick” to compel solar orientation. This requirement goes too far, and is not always appropriate or even desirable. In hot summer conditions natural shade and an abundance of tress would be vastly preferable to solar siting, not to mention the such shade would be environmentally sound in that it would reduce energy consumption in the form of air-conditioning requirements.

Page 41 – Program J-3 should be reworded to either remove the mention of an inclusionary plan, or refine it via emphasizing that such a plan is voluntary and incentive-based for private project proposals.

Concluding Remarks

To reiterate our initial assessment of the draft Housing Element Update, there are many points deserving of praise, showing innovation, and responsive to the current economic climate, housing/lending issues, and emerging trends. However, the draft also retains, and at points even attempts to strengthen, some of the worst of current housing policies and practices. Chief among these flawed components are the

mandatory inclusionary housing provisions and the compulsory provision of housing for employees generated by a commercial project. It is in these two heavy-handed, big government, forced subsidy situations that we seek fundamental change. The goals themselves do not need to be rejected, for they are worthy pursuits; however, the approach deployed toward achieving these housing objectives deserves, indeed begs for, a refocused affirming and inviting approach. That fundamental shift is to remove the "mandated" and "required" components, replacing them with substantive voluntary "incentive-based" programs. The past was characterized by the "stick", pushing folks to address a long-standing community-wide (indeed societal) need. It has failed on a number of levels, from political philosophy and public policy, to how government views project proponents, and how project proponents view government. It is equally dubious and debatable as to the effectiveness of such mandates in putting housing on the ground. The future, if the draft Element is amended to reflect our suggested revisions, will be characterized by the "carrot", pulling folks towards an interest in addressing the affordable housing objectives via offering up a compelling set of incentives. Such a shift will enhance the perception and reality that Placer County is business-friendly, economically diverse, with engaged residents in closely knit communities. Project proponents and the County will be allies, rather than adversaries, in the process of improving our communities. High quality commercial, residential, and affordable projects will move forward.

It is of critical importance that these revisions, these fundamental shifts in approach, be introduced into the draft document prior to its initial release to HCD for review, commentary, and possible certification. The actions requested are not designed to, nor do they weaken the policy language. Rather, in refocusing the means to achieve the desired ends the language becomes of greater utility, fair and functional. The vast majority of cities and counties in California have not incorporated mandatory inclusionary housing provisions; even fewer have imposed mandated employee-generation housing linkages. Yet, these no-inclusionary, no-employee mandated General Plan Housing Elements seem to have "passed muster" at HCD. There is no reason to believe that amending our Housing Element to better conform to the policies and practices of the overwhelming majority of cities and counties in the State would be viewed as anything but positive. Mandates are the problem, incentives are the answer.

Thank you for taking the time and effort to review our commentary and consider our input.

All the best,

S/John R. Falk

John R. Falk, Legislative Advocate
for the Tahoe Sierra Board of Realtors®

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June 30, 2008

Placer County Planning Commission
3091 County Center Drive,
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Re: Placer County 2008 Draft Housing Element

Dear Members of the Planning Commission:

“California has been for many years in the midst of a severe housing crisis; there are simply not enough homes for the number of residents who need them. Continued undersupply of housing threatens the State’s economic recovery, its environment, and the quality of life for all residents.”
–Lynn Jacobs, Director, HCD, 12/13/2007

We believe that it is the responsibility of our housing element to create the conditions which will afford all the members of our community an opportunity to obtain adequate housing.

Legal Services of Northern California is the non-profit publicly supported civil legal aid program for Placer County. We represent low income and senior clients in civil cases only. Over the years we have identified housing cases as one of the top priorities for our office, and the lack of affordable housing as one of the greatest needs of our clients. Our clients experience the entire gambit of housing needs from the lack of homeless shelters and transitional housing to the lack of workforce housing and rental assistance. And now many of our clients are facing mortgage foreclosures. We have worked on this issue for decades and participated in the Placer County Housing Element Process on numerous occasions. We believe that the housing element can play an important part in producing adequate housing for all residents. Given our unique perspective, on behalf of our client community, we offer these constructive comments regarding Placer County’s Draft Housing Element for the 2006-2013 planning period.

In 1969, the state legislature passed legislation requiring local governments to update their housing elements every five years in response to a housing crisis in California: the housing market simply was not providing enough housing for everyone, especially those with lower incomes. Achieving the goal of housing for all would require “the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate

the housing needs of Californians of all economic levels.”¹ As the HCD Director’s recent statement indicates, the housing shortage is still with us. In Placer County, fortunately, market forces have been sufficient to meet the housing needs of moderate- and especially above-moderate-income households. The need for housing for low- and very-low-income workers and their families, however, has not been met. While the growth in housing here has exceeded the growth in population,² only a small fraction of the housing needed for lower-income groups in Western Placer County has been built.

Analysis of past housing production.

Placer County continues to be very successful in producing above-moderate-income housing but fails to produce workforce or low income housing.

The Draft Element Background Report more than admirably achieves its first objective, which is to provide sufficient factual data to enable public policy makers to make informed decisions about housing policy for Placer County. The Draft Element shows that Placer County has been a veritable champion of housing production. It experienced rapid growth throughout the second half of the twentieth century, and more recently “has been one of the fastest growing counties in California and in the United States”. (p. 12) In terms of housing units produced, from 2000 to 2007 Placer County grew by an annual average growth of 4.9%, “almost four times the rate of housing growth in California,” and “housing units grew at a higher rate than population” and total households (p. 14).³ Regrettably, however, this Draft Element and past Housing Elements clearly show that almost all of the housing production has been affordable only to moderate and above-moderate income households. The private markets and our government policies have been an utter failure when it comes to the production of housing for low and very-low income households, including Placer County’s workforce.

During the period covering the last element, from 2000-2007, unincorporated Placer County welcomed the construction of 5,355 new housing units. Of those, the vast majority (4,957, or 92.5%) were single-family homes.⁴ Although current figures on the breakdown of those new units by price are not available in the draft element, the available evidence strongly suggests that most of those new units were affordable for purchase only by above-moderate-income families. The 2002 Housing Element stated that by 2,665 of the estimated 2,779 above-moderate income units needed for the planning period had already been planned or started by 2002.⁵ The Draft Element does not tell us how many Low or Very Low income units were produced during this period. Though one must assume there may be more, the only hard numbers of low income units reported are the 12 units at the Sawmill Heights and 15 units at Atwood III (p. 143)⁶

¹ Cal. Gov. Code § 65580 (b).

² Placer County 2008 Housing Element Public Review Draft (*hereinafter* “Public Review Draft”), Table 2.

³ Since 1990 the number of households increased by 10,633, but housing units increased by 11,281, Table 2.

⁴ Public Review Draft, 27.

⁵ 2002 Housing Element draft, table 3-13. Compare this with the RHNA of 2,264 for very-low-income units, of which 35 were started or approved by 2002.

⁶ By comparison, Placer County has produced a large number of vacation homes. The Draft Element tells us that in 2000 there were 11,099 vacant units, comprising 22.9% of the total number of units. Of these, 87.3% were seasonal or recreational. (P. 20, and Table 6).

In addition, the current Draft Element provides the following assessment of recent unit prices and concludes that these units are not affordable to the average Placer County worker:

- In unincorporated Placer County (excluding the Tahoe Basin), the **median** sale price for a home from January, 2006 to October, 2007 was \$618,750.⁷
- For two-bedroom homes, the median price between was \$399,330.⁸
- In 2007, a family making 120 percent of the median income for a family of four could afford \$225,606 for a two-bedroom home.⁹

According to the most recent Draft Element, the vast majority of these units were affordable only to some of the above moderate income households. For the average worker in Placer County: "These median home prices are not affordable to most of the workers listed in Table 26...Even in the case of households that have two wage earners the average prices are not generally affordable." (P. 53)

This abundance of above-moderate-income housing contrasts sharply with the paucity of production of workforce or low income housing. This has been a feature of local housing for decades, not merely during the exuberant housing boom of the last few years that has recently given way to a slump.

- From 1984 through 1988, the unincorporated County had no fair share allocation. The County as a whole yielded 14,652, or about 114% of its total housing goal, while only producing 1,305, or 14%, of its goal for low income housing. Of this amount 1,262 low income units were in Roseville.¹⁰
- From 1990 to 1999, the number of above-moderate units actually started was 4,608 (244.6% of the RHNA), and moderate income production was 2,481 (217% of the RHNA). Compare this to 29 units of very low income housing (2.4% of RHNA) and 104 units of low income (11.3% of RHNA).¹¹

Despite the large quantities of housing being produced, working families with lower incomes cannot afford to live here.

- In 2003, a Placer County firefighter's starting salary was \$27,000 – less than 50 percent of median income, placing him in the very-low-income group. The firefighter's maximum affordable home purchase price, with a mortgage taking up 30 percent of his monthly income, would be under \$100,000.¹²
- Even if he were willing to raise the amount he would pay for a home to \$150,000, incurring a high cost burden, only 1,741 units county-wide (including the cities) were valued in that range, and only a fraction of those were up for sale. Approximately **22,434**
-

⁷ Placer County 2008 Housing Element Background Report, table 28.

⁸ *Id.*, table 29.

⁹ 2008 Public Review Draft, table 24.

¹⁰ 1992 Housing Element, p 87.

¹¹ 2003 Housing Element draft, table 6-1.

¹² In 2007, the maximum affordable home purchase price for a household earning \$30,250 was \$94,132.

- households (including the cities) had income levels at or below the firefighter's and needed housing in that price range.¹³
- Other occupations with similar incomes¹⁴ in 2003 included:
 - Teacher: \$34,000
 - Sheriff Dispatcher: \$33,400
 - Fast Food Asst. Mgr.: \$27,000
 - Auburn Police Officer: \$38,000
 - Auburn Faith Nursing Assistant: \$28,700

Many households in this income group rent rather than own housing, but rental prices were out of reach for many as well:

- In Western Placer County, the average rent (plus utilities) for a two-bedroom apartment was \$940 in 2003. A teacher's aide could afford \$475; a child care provider, \$448; a grocery store clerk, \$470; and the firefighter, \$675.¹⁵
- In October of 2007 the County received 1,500 pre-applications to be on the waiting list for Section 8 rental subsidy vouchers. The county has only 251 funded vouchers.¹⁶

One important consequence of the lack of housing suited to lower incomes is that families incur a cost burden by paying more for housing than they can afford. This depletes the resources they have available for other necessities such as savings, childcare, transportation, and healthcare, and it reduces the discretionary income they can spend with local businesses.

- In 2000, almost 3 in 5 households with low or very low incomes devoted more than 30 percent of their income to housing costs. A third of lower-income households spent upwards of 50 percent of their income on housing costs.
- Among moderate- and above-moderate income households, only 16 percent had housing costs above 30 percent of their income. 4 percent paid more than half their income toward housing costs.¹⁷

It is time for Placer County to adopt new affordable housing policies.

State housing element law requires the County to evaluate its performance under previous housing elements and identify prospective policies and programs with specific objectives to meet the future housing needs of the County. The current Draft Element available at the time of this writing fails to provide a complete evaluation of the 2003 Housing Element, (see Section IV of the Draft Element, starting at page. 140). It does, however, contain a fairly thorough evaluation of the programs and policies in the Background Report. It also evaluates these policies in the context of whether they should be continued or modified for the future in the document entitled: Public Review Draft Policy Document (5/08).

¹³ U.S. Community Survey, 2006.

¹⁴ Average starting salaries in Western Placer County, Placer Redevelopment Agency 2003 Survey.

¹⁵ Placer Redevelopment Agency 2003 Survey.

¹⁶ Draft Element, p. 155.

¹⁷ Placer County 2008 Housing Element Public Review Background Report, Table 21.

As shown above, despite being chocked full of many of the standard affordable housing programs of the day, the previous Placer County housing elements, can fairly be considered failures in terms of their ability to facilitate the production of even a modest number of Low and Very Low Income housing units during the planning periods.

Over the years, as far back as 1984, the housing elements included measures such as density bonuses for affordable units; a development agreement ordinance to fast-track starts on specific projects; higher-density zoning in areas where infrastructure and services were already accessible; innovative subdivision design; mixed use zoning programs; housing trust funds; and numerous other programs to facilitate construction of affordable housing. The 2003 Housing Element lists 18 policies and 28 affordable housing programs.

The current 2008 Public Review Draft Policy takes these 2003 policies and programs as its starting point. With very few exceptions, the new policies and procedures are the same failed policies contained in the previous housing elements, and the new draft element makes only modest modifications of the policies, or in some cases, weakens the policy further. In and of themselves, these are generally good policies and should be included in the element, but the question becomes: Can we really expect different results in the future from the same old, or slightly tweaked, policies? We think that it is time to try something different.

An inclusionary housing policy will produce additional affordable housing.

This paper will not get into a presentation of a specific inclusionary policy, but instead will focus on the concept generally. An inclusionary housing policy is a policy which requires that certain housing development projects include a specified amount of affordable housing, or in lieu thereof, contribute land or funding toward the development of affordable housing. This is not a new tool. It has been in use for more than thirty years. As of March 2003, one-fifth of all localities in the state reported using inclusionary policies, roughly a 50% increase since 1994, and it had created over 34,000 affordable housing units. By 2006 it was in use had increased to about 170 different jurisdictions.¹⁸

Contrary to the position taken by some opponents of inclusionary housing, there is little or no evidence that it has resulted in a decrease of housing production or loss of housing development revenues. Specifically, the Reason Foundation reports critical of inclusionary policies have not passed the critical muster of academic review, which found, among other things, that the Reason Institute's findings were "pre-ordained" by its philosophical bias; the Reason's study is based upon false assumptions, especially those concerning the availability of density bonus incentives attached to 95% of the inclusionary policies and their effects on land costs; and faulty assertions

¹⁸ See the California Inclusionary Housing Policy Database, at California Coalition of Rural Housing, (<http://calruralhousing.org/housing-toolbox/inclusionary>).

of housing production decline by failure to compare to similar trends in non-inclusionary jurisdictions.¹⁹

In addition, the Reason report did not study Placer County specifically. Placer County, however, commissioned such a study in 2004 to ascertain the effect of an inclusionary policy on the County. In brief, Seifel Consulting, Inc. concluded that if the proposed inclusionary ordinance was adopted at that time, developers of ownership housing would still be able to earn a profit, and they would therefore continue to produce housing. Also, regardless of the Reason Institutes objections to inclusionary policies in general, the County is free to create its own unique inclusionary policy tailored to the needs and circumstances of Placer County. Such a policy could contain sufficient incentives and flexibility to fairly spread any burden created by an inclusionary policy. An inclusionary policy would also enliven the other affordable housing programs by motivating developers to use them and to contribute to the housing trust funds and housing land trust.

Creation of a Housing Coordinator position.

One new policy proposed in the Public Review Draft Policy Document is the creation of a housing coordinator/point-person to oversee the implementation of Housing Element policies and programs, facilitate permit processing of affordable housing developments, and oversee workforce housing programs.

In short, we think that this is not just a capital idea, but that it is absolutely essential for any effective affordable housing program. We have heard repeatedly of the need for such a position during our discussions with the Placer Affordable Housing Stakeholder group, as well as from numerous developers, both for profit and non-profit. It would demonstrate the commitment on the part of the county, and facilitate the adoption and implementation of the Housing Element programs.

In conclusion, thank you again for the opportunity to comment on the draft element. We appreciate the hard work that went into the drafting of the document, the difficulty of the review process, and also the enormity of the ultimate task contemplated: the production of an adequate supply of affordable housing for all of our community. While the task may be difficult, it is not impossible, and it is absolutely critical that we do not lose our resolve. We hope that these comments are helpful, and we stand ready to assist further in any way that we can.

W. H. Whitaker
Managing Attorney

¹⁹ See "Policy Claims with Weak Evidence: a Critique of the Reason Foundation Study on Inclusionary Housing Policy in the San Francisco Bay Area (June 2004)" by Dr. Victoria Basolo, Associate Professor of Planning, Policy, and Design at the U. of California-Irvine and Dr. Nico Calavita, Professor in the Graduate Program of City Planning at San Diego State U., (<http://www.nonprohthousing.org/knowledgebank/policymemos/default.aspx>); and See David Rusk, "Rebuttal to Reason Foundation's anti Inclusionary Zoning study in Orange County, Ca., (June 2005), (<http://www.gamaliel.org/DavidRusk/Reason%20anti-I2%20rebuttal.pdf>)

Christopher Schmidt

From: Ann Baker
Sent: Thursday, July 03, 2008 2:19 PM
To: Christopher Schmidt
Cc: Loren Clark; Michael Johnson
Subject: FW: Housing Element

FYI, ann

From: Suzi deFosset [mailto:sdefosset@surewest.net]
Sent: Tuesday, July 01, 2008 12:23 PM
To: Ann Baker
Subject: Housing Element

This note is in support of Legal Services of Northern California letter written in response the Housing Element.

Suzi deFosset, MA,CADCII
Executive Director
916-791-9355
www.thegatheringinn.com

Ann Baker

From: Christopher Schmidt
Sent: Tuesday, July 08, 2008 3:34 PM
To: Ann Baker
Subject: FW: July 10 meeting!

-----Original Message-----

From: cepsc@juno.com [mailto:cepsc@juno.com]
Sent: Tuesday, July 08, 2008 6:44 AM
To: Christopher Schmidt
Subject: July 10 meeting!

How can this meeting take place in Auburn when it affects so many here at North Shore Tahoe? We do need housing, but NOT time-shares and second homes to be called "workforce housing"!! Thanks for your efforts on behalf of residents, C. Pretzer, Tahoe Vista, cepsc@juno.com

DATE: July 9, 2008
TO: Placer County Planning Commission
FROM: Pat Davison, Executive Director, Contractors Association of Truckee Tahoe
RE: Update of County Housing Element

Dear Chair Sevison and Commissioners:

Please accept these informal comments as part of the record for your proceedings tomorrow on the County's Housing Element. I am not traveling in to Auburn for the meeting and hope that some day, those of us in the hinterlands can participate via web conferencing.

For your June workshop, I had emailed a copy of the Town of Truckee's February 2008 Economic Analysis regarding the impacts of an employee housing mandate on several different types of commercial projects. The analysis looked at three variations of an employee housing mandate: 37.5%, 25%, and 12.5%. The analysis used as close-to-actual costs and expectations to determine the impacts such a mandate might produce. No commercial retail, office, or industrial "proforma" project could pencil with a mandate added in. The results are sobering and have relevance for you as finders of fact and decisionmakers.

The Contractors Association of Truckee Tahoe is opposed to mandatory requirements for affordable housing. The Association does support the voluntary provision of affordable housing as part of the development review process. Affordable housing is a community benefit, much like trails or open space, and encouraging a project to provide affordable housing through incentives, relaxed standards, reduced fees, or other mitigation is a better process, in our opinion. **The bottom line is that if a project is not feasible, no affordable housing will be provided.**

Specific to that point, I am requesting that you eliminate Policy C-2 ("The County shall require new development in the Sierra Nevada and Lake Tahoe areas to provide for employee housing equal to at least 50 percent of the housing demand ...") and the companion Program C-2 which speak to a 50% mandate. We think the new Implementation Program J-1 to dedicate a staff position as a "Housing Coordinator" is a practical and positive action. That coordinator should be given the priority of encouraging/partnering with/assisting developers to provide affordable housing as part of a project application.

Thank you for continuing to work with TRPA on improving their treatment of affordable housing. I am cautiously optimistic on that front. Now if only we could change the State defined County median income levels to reflect reality!!!

Please do not hesitate to contact me if you have any questions. Thank you for considering our concerns. We look forward to your favorable action.

Pat Davison
Executive Director
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