

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**



STAFF REPORT

TO	Members of the Alameda County Planning Commission
HEARING DATE	July 6, 2009

GENERAL INFORMATION

The following is an overview of the Housing Element documents to be discussed.

STAFF RECOMMENDATION

Staff requests that the Commission review and provide comments on the Draft Housing Element and Sites Inventory, and direct staff to submit draft to the State Housing and Community Development Department for their preliminary review.

STAFF ANALYSIS

This meeting will provide the Commission with the opportunity to review and comment on the entire draft of the Housing Element before it is transmitted to the State Department of Housing and Community Development for their review and comments.

The current Alameda County Housing Element was adopted by the Board of Supervisors on October 2, 2003. State Housing Element Law requires that every five years local jurisdictions must outline their housing needs, the barriers or constraints to providing housing, and actions proposed to address those concerns over a designated planning period. The State of California allocates, through local Councils of Government, each locality's share of the Regional Housing Needs Allocation (RHNA), which the jurisdiction is to plan for in the development of the Housing Element. The RHNA for the 2007-2014 planning period is provided below.

Table 1: Regional Housing Need Allocation (January 1, 2007 - June 30, 2014)

Very Low < 50% AMI	Low < 80% AMI	Moderate <120% AMI	Above Moderate >120% AMI	Total
536	340	400	891	2,167

AMI=Area Median Income

The Housing Element must demonstrate that the County has identified land that may accommodate the development of housing units as specified in the County's RHNA allocation. The draft under consideration shows that the County has the capacity for 2,410 additional units of housing in the unincorporated areas, at a variety of income levels. The RHNA is not a production quota, but the County must show that it has the capacity to accommodate those housing units. There is no requirement that the units specified in the RHNA be constructed, nor is it expected that they would.

The Housing Element update was initiated in January 2009 with the creation of a Housing Element

project team consisting of staff from both the County's Planning Department and its Department of Housing and Community Development. The update process was proposed to the Commission at its January 20th meeting. At that meeting the Commission established a Subcommittee to oversee the creation of the Housing Element update. Since that initial kick-off, the Subcommittee has met on March 2, April 6, May 4, June 1 and June 15 to discuss working drafts of the major sections of the Housing Element. In addition, the Housing Element has been discussed at a meeting of the Transportation and Planning Committee and most recently at the Unincorporated Services Committee of the Board of Supervisors on June 24, 2009.

Key Requirements

Housing Elements must accomplish the following:

- Describe the community's current and anticipated housing needs
- Evaluate potential constraints to the development of housing
- Identify adequate land via the site inventory process to facilitate the development of housing for various income levels
- Establish a five year plan to address housing needs and barriers to the development of housing
- Provide "Quantified Objectives" relating to the construction, preservation, or rehabilitation of housing
- State opportunities for energy conservation

In addition, the Housing Element must consider changes in California State Law, and those are summarized in Attachment B - Changes in Housing Element Law

Key Issues

Sites Inventory and Capacity Analysis

This Housing Element requirement is a planning process undertaken by the County every 5-7 years, and generally the most difficult part of that process is to complete the site inventory as required by State law. In order to meet this requirement staff began with the parcels that were identified in the 2003 Housing Element, and those parcels that were rezoned as part of the Housing Element implementation in 2005 and 2006. None of the parcels identified in this planning period will require a rezoning as the existing zoning in place is sufficient to yield the needed number of RHNA units.

The County's land inventory was developed with the use of a combination of resources including the County's GIS database, updated Assessor's data, field surveys, and review of the County's various plans and Zoning Ordinance. The inventory includes both small and large residentially and non-residentially zoned parcels, as well as parcels which are substantially vacant or underutilized which could be developed for more intense residential uses. The compilation resulted in not only an identification of sites, but also an estimate of potential development capacity for these sites. The majority of the land available for residential development is located in: (1) areas currently served by public transit, (2) within specific plan areas that are zoned R-S, R-2, R-3, and R-4 that allow duplexes and multi-family residential development, and (3) within planning areas that provide for mixed use development.

In accordance with AB 2348, (Mullin, 2004) the County is required to provide an inventory that states the parcel's location, size, zoning, and provides an analysis of the site's existing conditions and potential barriers to the development of housing. These data are to be used to determine the site's realistic

development capacity. It is believed that this level of evaluation will provide greater certainty about the development potential for parcels contained in the Sites Inventory.

From the initial list of over 1,200 parcels staff screened parcels based on their current development status and potential environmental constraints. Following this initial screening, the County considered current zoning standards for residential development to determine an approximate unit yield. These standards included parking requirements, building height limitations, setbacks, open space requirements, driveways, and pedestrian access. These estimates were further refined with data from recent developments in the unincorporated areas. Staff has determined that the average residential development density is over 80% of the maximum permitted by zoning. A summary of these data are provided below.

Table 2: Recent Development Trends

Project	Acreage	Zone	Maximum Units	Actual Units	Resulting du/acre
16100 Maubert	0.70	R-S-D-3/PD	10	10	16
19505 Meekland	0.54	R-S-D-3/PD	8	9	16
1168 Elgin	0.39	R-S-D-20	8	5	13
Liberty Point	0.96	R-S-D-15/PD	29	24	25
20560 Forest	1.61	R-S-D-20/PD	35	28	19
334 Cherry Way	0.50	R-S-SU	4	3	6

Source: Alameda County Planning Department, Dyett and Bhatia, and Khan Mortimer and Associates

Also underway is a County program to develop Illustrated Design Guidelines which may limit the development potential on the identified opportunity sites. In anticipation of these changes, staff has chosen to calculate the realistic development capacity for parcels listed within the Sites Inventory at 75% of their maximum development capacity as permitted by zoning. Although the outcome of the Design Guidelines process is months away, as an added measure to consider their potential impact on the inventory, staff believes the 75% number is adequate to address any reduction in unit yield that may result.

At Subcommittee meetings on June 1 and 15, 2009 the Commission had expressed some concern that the development potential of all sites was over 3,100 units; however, that table included some duplicate data that has now been removed. Upon screening these tables again, staff revised its capacity projections to 2,850 housing units. These revised tables were presented to the public at a meeting of the Unincorporated Services Committee on June 24, 2009. During this meeting there was a lengthy discussion about ways that the County could further reduce its capacity projections, particularly in Cherryland which had the greatest number of parcels in the inventory. It was also noted that the County had the greatest excess capacity in sites that may be presumed to be affordable to moderate income households. Based on this request staff revised the Sites Inventory to its current configuration. Reductions were achieved in the following manner:

Lot consolidations were no longer considered as part of the inventory analysis: Many of the sites in Cherryland and Hayward Acres were identified as possible candidates for lot consolidation. Under Density Variable (DV) zoning, parcels that are greater than 20,000 square feet and median lot width of 100 feet may be developed at 21.78 du/acre. Parcels not meeting that threshold may only be developed at 12.45 du/acre. Staff revised the inventory so that the potential merger of smaller parcels is not included.

Sites that yielded fewer than 2 units were removed: This criteria applies only to Sites that were zoned at densities suitable for the development of housing affordable to moderate income households, 13-19 du/acre.

Potential Excess Capacity

The County's urban unincorporated area is generally built out and most communities believe new development should be limited. Questions have also been raised about how much, if at all, the County's development capacity as reported to the State should exceed its RHNA allocation. At the Unincorporated Services meeting on June 24, 2009, staff was directed by Supervisor Lai-Bitker to produce a summary of what has been reported by other jurisdictions to the State. This table is provided below.

Table 5: Comparison of Development Capacity vs. RHNA, Selected Jurisdictions 2009

	RHNA	Capacity	Difference	% of RHNA
Contra Costa County	3,508	7,200	3,692	105%
Alameda	2,046	3,708	1,662	81%
Albany	276	281	5	2%
Berkeley	2,431	In process	-	-
Dublin	3,330	9,474	6,144	185%
Emeryville	1,137	Not Online	-	-
Fremont	4,380	6,821	2,441	56%
Hayward	3,393	5,084	1,691	50%
Livermore	3,394	6,803	3,409	100%
Newark	863	1,993	1,130	131%
Oakland	14,629	23,583	8,954	61%
Piedmont	40	In process	-	-
Pleasanton	3,277	In process	-	-
San Leandro	1,630	In process	-	-
Union City	1,944	2,038	149	8%
Unincorporated Alameda County	2,167	3,268/3,046	1,101/879	50%/41%

Source: ABAG, Local Planning Departments

Note: Capacity was calculated based on Sites Inventory Capacity, RHNA credits as reported by the jurisdiction, and pending or anticipated development if reported. Not all jurisdictions applied pending development in their totals given the lack of certainty of approval or actual construction of the units.

Table 5 demonstrates that the County's Sites Inventory projections are not atypical of those proposed by other jurisdictions within the County or in a comparable County such as Contra Costa County. Furthermore, staff contends that the proposed inventory provides an equitable distribution of units throughout the unincorporated areas, and makes prudent use of existing zoning to provide housing development opportunities for residents at various income levels. In addition, staff believes that this buffer is necessary given a Housing Element law requirement for "no net loss" of sites (California Government Code Section 65863). A copy of the statute has been included in your package.

This law states that an inventory of adequate sites must be maintained throughout the planning period. Furthermore, prohibitions against down-zoning are identified in Government Code Section 65863(b), as well as the down-zoning of sites identified in the certified Housing Element unless it is found that the down-zoning will create no net loss in capacity and the local jurisdiction can still maintain "adequate sites" pursuant to Housing Element law. This law is very important when one considers the uncertainty of the housing market and the potential impact of other County planning processes underway such as the Illustrated Design Guidelines for multi-family dwellings. This buffer provides sufficient sites to cover any potential losses resulting from development where the net unit count is far less than the capacity as determined in the inventory analysis. Moreover, the State Department of Housing and Community Development recommends that jurisdictions produce an inventory with a buffer of at least 20% more than

its calculated regional housing need (RHNA). Their website provides direction on this issue and states, “Over zoning compensates for urban land left vacant due to ownership and development constraints and creates a real surplus. A sufficient supply of land beyond the time frame of the element helps prevent land shortages from bidding up land costs.”¹

Mixed Use Zoning

In our recent inventory analysis, opposing points of view have been expressed, with some members of the community (and the Planning Commission) wanting to preserve the County’s commercial corridors to the extent possible. This would require placing all of our potential housing development in existing residential areas, and other members of the community have concerns with this prospect, expressing their desire to limit new development in their neighborhoods as well. Since neither of these choices is possible given our mandate to complete a realistic inventory, staff believes the best approach is a reasonable distribution of units throughout the entire urban unincorporated County. There may be some shifting or moving of sites to address specific concerns around preserving commercial land and neighborhood impact, but that option should be approached cautiously given the importance of the inventory, and the lack of other available housing sites. Table 6 provides an analysis of the Sites Inventory with and without the use of parcels currently zoned for a mixed commercial and residential use.

Table 6: Sites Capacity vs. Low/Very-Low RHNA numbers

	Capacity with Commercial	Capacity without Commercial
RHNA, Low/Very Low	876	876
Credits, Low/very Low	242	242
Capacity	738	229
Difference (Buffer)	104	(415)

According to the data presented in Table 6, the County will not be able to achieve its low/very-low income housing needs without mixed use/commercial parcels. The County’s RHNA numbers calls for 876 units of housing affordable to low and very- low income households. At present staff has identified parcels to accommodate 738 units of housing, plus we have already constructed 242 units of housing during the planning period, for a total capacity of 980 units. Commercial/mixed use properties account for all but 229 units of housing affordable to low/very-low income households. Without the use of these mixed use sites the County would have a deficit of 415 units, or about 20% of the overall RHNA.

There is also an inaccurate assumption about the parcels that have been identified in the Sites Inventory as being exclusively commercial or being rezoned as a part of the Housing Element process, when in actuality the parcels identified are defined as mixed use per their respective specific plans. Staff has compiled a summary of references to these mixed use standards, as well as their guidelines for development. The mixed use zoning districts referenced in the Housing Element Sites Inventory are the Ashland Cherryland Business District Specific Plan (ACBD), Transit Access (TA); Castro Valley Central Business District Specific Plan (CVCBDSP), Subarea 10; and the San Lorenzo Village Center Specific Plan (SLVCSP).

¹ http://www.hcd.ca.gov/hpd/housing_element/screen31_sites_program.pdf

Table 7: Mixed Use Zoning Guidelines by Specific Plan

Plan	Density	Development Guidelines
ACBD, Transit Access	50 du/ac (Page 3-29)	A “significant portion” must be for commercial use and no less than 50% of ground floor space (Page 3-28)
CVCBDSP, Subarea 10	Varies, subject to Site Development Review (Page 77)	Residential must be to the rear or above commercial (Page 66)
SLVCSP	19.66 (Page 30)	Permitted where part of a project that includes commercial development. (Page 30)

CONCLUSION

At today’s hearing the Commission will review the draft document, and take public testimony and provide comments to staff. These comments will be incorporated into a draft that will be transmitted to State HCD for an initial 60 day review period. It is expected that those comments will be returned to the County in September, 2009, or later if State HCD requires additional review time. Once comments have been received by State HCD, Planning staff will prepare another draft to be considered for adoption. That draft will be brought before the Planning Commission for another public hearing prior to hearings by the Board of Supervisors.

During the HCD 60 day comment period, an Initial Study will be prepared per the requirements of the California Environmental Quality Act (CEQA). Please review the attached timeline for more information.

ATTACHMENTS

- A-Draft Housing Element and Sites Inventory [[The Housing Element and Sites Inventory are posted as separate documents on the webpage](#)]
- B-Changes in Housing Element Law
- C-Housing Element Timeline
- D-Housing Element Review Worksheet
- E-No Net Loss Statute

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REVIEWED BY:	Albert Lopez, Planning Director

ATTACHMENT B

Changes in Housing Element Law

The Housing Element must also address compliance with recent changes to housing element law which include:

Provisions for transitional housing, supportive housing, and SRO housing for the Homeless: SB 2 (Cedillo, 2007) requires local jurisdictions to strengthen provisions for addressing the housing needs of the homeless including the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit and allowing transitional and supportive housing types as residential uses.

Anti-NIMBY Regulations: AB 2511 (Jones, 2006) amended several sections of general plan and housing laws. It includes provisions strengthening Anti-NIMBY protections; specifically, requires no-net loss of housing sites. The bill also added potential penalties for non-reporting of the annual General Plan progress report.

Housing for Extremely Low Income Households: AB 2634 (Lieber, 2006) requires quantification and analysis of existing and projected housing needs of extremely low income households. Elements must also identify zoning to encourage and facilitate supportive housing and single room occupancy SRO units.

Water and Sewer Provider Notification: SB 1087 (Florez, 2005) requires local governments to provide a copy of the adopted housing element to water and sewer providers. In addition, water and sewer providers must grant priority for service-allocations to proposed developments that include housing units affordable to lower-income households.

Timely Implementation of the Housing Element: AB 1233 (Jones, 2005) requires sites to be rezoned within the first year of the new planning period when a jurisdiction fails to adopt an adequate housing element or fails to implement programs a timely manner in its housing element to identify adequate sites. This is in addition to the new projected need or RHNA.

Adequate Sites Analysis: AB 2348 (Mullin, 2004) requires a more detailed inventory of sites to accommodate projected housing needs and provide greater development certainty.

Second-Units: AB 1866 (Wright, 2002) amends two sections of Government Code to encourage the creation of second-units. In relation to Housing Element law, the amendments clarify existing housing element law to allow identification of realistic capacity for second-units in addressing a locality's share of the regional housing need.

Housing for Persons with Disabilities: SB 520 (Chesbro, 2001) requires the Housing Element to address constraints to housing for persons with disabilities.

ATTACHMENT C

Housing Element Timeline July 6, 2009

Action	Date
Planning Commission review of draft Housing Element	July 6, 2009
Transmittal of draft Housing Element to State HCD	Mid July
HCD review of draft	To be completed mid September
Release of CEQA Document	Mid July
CEQA Review period	TBD
Staff editing	To be completed late September
Release of draft for adoption	Late September
Planning Commission adoption	October
Board of Supervisors adoption of 2009 Housing Element and CEQA	November
Transmittal of adopted Housing Element to State HCD for certification	TBD
State HCD 90 day review of adopted element and certification	TBD

HOUSING ELEMENT REVIEW WORKSHEET

Locality _____ Draft _____ Adopted _____ HCD Receipt Date _____
 Contact Person _____ Phone # _____ Coastal Zone _____

Did the jurisdiction use the *Building Blocks*' website? Yes No

Section numbers refer to the Government Code (Article 10.6).

I. Public Participation (GC 65588(c))

- | | Page # |
|---|--------|
| A. Diligent efforts to achieve public participation of all economic segments of the community in the development and adoption of the element. | _____ |
| B. Description of how public input was or will be considered and incorporated in the element. | _____ |

II. Review and Revision (GC 65588(a) & (b))

- | | Page # |
|---|--------|
| A. Evaluation and revision of the previous element: | _____ |
| 1. "Effectiveness of the element" (Section 65588(a)(2)): A review of the actual results of the previous element's goals, objectives, policies, and programs. The results should be quantified where possible (i.e., number of housing units rehabilitated). | _____ |
| 2. "Progress in implementation" (Section 65588(a)(3)): An analysis of the significant differences between what was planned in the previous element and what was achieved. | _____ |
| 3. "Appropriateness of goals, objectives and policies" (Section 65588(a)(1)): A description of how the goals, objectives, policies and programs of the updated element incorporate what has been learned from the results of the previous element. | _____ |
| B. Adequate sites implementation/rezone program (GC Section 65584.09); if needed. | _____ |

III. Housing Needs Assessment (GC 65583(a))

	Owner	Renter	Total	Page #
A. <u>Population and Employment Trends</u>				_____
B. <u>Household Characteristics</u>				_____
1. Number of existing households	_____	_____	_____	_____
2. Total households overpaying for housing	_____	_____	_____	_____
3. Lower income households overpaying	_____	_____	_____	_____
4. Total number of existing extremely low-income households	_____	_____	_____	_____
5. Total number of projected extremely low-income households			_____	_____

	Owner	Renter	Total	Page #
C. <u>Housing Stock Characteristics</u>				
1. Housing conditions: number of units needing rehabilitation/replacement			_____	_____
2. Overcrowded households	_____	_____	_____	_____
3. Housing costs (for sale and rental)	_____	_____	_____	_____
4. Housing units by type			_____	_____
5. Vacancy rates	_____	_____		_____

	Owner	Renter	Total	Page #
D. <u>Special Housing Needs Analyses</u>				
1. Persons with disabilities			_____	_____
2. Elderly	_____	_____	_____	_____
3. Large households				
4. Farmworkers (seasonal and permanent)	_____	_____	_____	_____
5. Female headed households			_____	_____
6. Homeless			_____	_____
7. Other _____	_____	_____	_____	_____

E. Analysis of opportunities for energy conservation in residential development [provide incentives to encourage green building practices, promote higher density, compact infill development and passive solar design].				Page # _____
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F. Analysis of existing assisted housing projects at-risk of converting to non-low income uses.				Page # _____
1. Inventory of at-risk units				
2. Assessment of risk				
3. Estimate of replacement vs. preservation costs				
4. Identify qualified entities				
5. Identify potential funding				

G. Projected housing need, including the locality’s share of the regional housing needs as determined by the COG or HCD.

Income Category	New Construction Needs
Very low- (0-50% of area of median-income)	
Other lower- (51-80% of area median income)	
Moderate- (81-120% of area median income)	
Above-moderate (over 120% of area median income)	
TOTAL UNITS	

IV. Sites Inventory and Analysis and Zoning for a Variety of Housing Types (GC Sections 65583(a)(3), 65583(c)(1) and 65583.2)

A. Sites Inventory (GC 65583.2(a) and (b))

- 1. Listing of properties by parcel number or unique reference (GC 65583.2(b)(1)) _____
- 2. Listing of properties by size (GC 65583.2(b)(2)) _____
- 3. Listing of properties by general plan designation and zoning (GC 65583.2(b)(2)) _____
- 4. For non-vacant sites, description of existing uses (GC 65583.2(b)(3)) _____
- 5. Map of sites (GC 65583.2(b)(7)) _____

B. Sites Inventory Analysis of Suitability and Availability (GC 65583.2)

- 1. Realistic development capacity calculation accounting for site improvements and land-use controls (GC 65583.2(c)(1&2)) _____
- 2. Analysis of non-vacant and underutilized lands (GC 65583.2(g)) _____
- 3. Identification of zoning appropriate for housing for lower-income households (GC 65583.2(c)(3)) _____
- 4. Environmental constraints (GC 65583.2(b)(4)) _____
- 5. Infrastructure including planned water, sewer, and other dry utilities supply (GC 65583.2(b)(5)) _____

C. Zoning for a Variety of Housing Types (GC 65583(c)(1) and 65583.2(c))

- 1. Multifamily rental housing _____
- 2. Housing for agricultural employees (permanent and seasonal) _____
- 3. Emergency shelters _____
- 4. Transitional housing _____
- 5. Supportive housing _____
- 6. Single-room occupancy _____
- 7. Mobilehomes/Factory-built housing _____

V. Constraints on Housing (GC Section 65583(a)(4) and (5))

A. Governmental Constraints (GC 65583)(a)(4))

- 1. Land-use controls (e.g., zoning-development standards, including parking, height limits; setbacks, lot coverages, minimum unit sizes, growth controls) _____
- 2. Codes and enforcement (e.g., any local amendments to UBC, degree or type of enforcement) _____
- 3. On/Off-site improvements (e.g., curbing requirements, street widths, circulation improvements) _____
- 4. Fees & exactions (permit and impact fees & land dedication or other requirements imposed on developers) _____
- 5. Processing and permit procedures (e.g., permit and approval process including discretionary review procedures; description of permitted uses; design review process; planned development, processing times) _____
- 6. To housing for persons with disabilities (reasonable accommodation procedure, zoning and land use, building codes) _____

B. Nongovernmental Constraints (GC Section 65583(a)(5))

- 1. Availability of financing _____
- 2. Price of land _____
- 3. Cost of construction _____

VI. Quantified Objectives (GC Section 65583(b)(1))

Estimate quantified objectives for the number of housing units (by income level) over the time frame of the element:

	Extremely Low	Very Low	Low	Moderate	Above Moderate
Construction					
Rehabilitation					
Conservation/Preservation					
TOTAL					

VII. Other Topics

	Page #
Description of means by which consistency will be achieved and maintained with other general plan elements (GC Section 65583(c)(6)(B)).	_____
Construction, demolition and conversion of housing for lower-and moderate-income households in the coastal zone (GC Section 65588(c) and (d)).	_____
C. Priority water and sewer services procedures for developments with units affordable to lower-income households (GC Section 65589.7).	_____

VII. Housing Programs (GC 65583(c))

Summarize programs from the element below.

Program Purpose	Program Actions	Agency Responsible	Time Frame	Page No.
<p><i>Provide adequate sites (65583(c)(1)):</i></p> <ol style="list-style-type: none"> 1. Programs to provide capacity to accommodate regional need 2. Programs to provide sites to accommodate all income levels 3. Program for a variety of housing types 				<p>_____</p> <p>_____</p> <p>_____</p>
<p><i>Assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households (65583(c)(2)):</i></p> <ol style="list-style-type: none"> 1. Utilize federal, State, and local financing and subsidies 2. Provide regulatory concessions and incentives 3. Describe the amount and uses of monies in the redevelopment agency's L&M Fund 4. Other 				<p>_____</p>
<p><i>Address governmental constraints (65583(c)(3)):</i></p> <ol style="list-style-type: none"> 1. Land-use controls 2. Building codes 3. Site improvements 4. Fees and exactions 5. Processing and permit procedures 6. Housing for persons with disabilities 				<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p><i>Conserve and improve the condition of the existing affordable housing stock (65583(c)(4))</i></p>				<p>_____</p>
<p><i>Program to promote equal housing opportunities (65583(c)(5))</i></p>				<p>_____</p>
<p><i>Preserve units at-risk (65583(c)(6)(d))</i></p>				<p>_____</p>

ATTACHMENT E
NO NET LOSS STATUTE

65863. (a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a) of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate its share of the regional housing need pursuant to Section 65584, throughout the planning period.

(b) No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(1) The reduction is consistent with the adopted general plan, including the housing element.

(2) The remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

(c) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584, the jurisdiction may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

(d) The requirements of this section shall be in addition to any other law that may restrict or limit the reduction of residential density.

(e) This section requires that a city, county, or city and county be solely responsible for compliance with this section, unless a project applicant requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. In that case, the city, county, or city and county may require the project applicant to comply with this section. The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(f) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.

(g) (1) If the local jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3, for purposes of this section, "lower residential density" means the following:

(A) For sites on which the zoning designation permits residential use and that are identified in the local jurisdiction's housing element inventory described in paragraph (3) of subdivision (a) of Section 65583, fewer units on the site than were projected by the jurisdiction to be accommodated on the site pursuant to subdivision

(c) of Section 65583.2.

(B) For sites that have been or will be rezoned pursuant to the local jurisdiction's housing element program described in paragraph (1) of subdivision (c) of Section 65583, fewer units for the site than were projected to be developed on the site in the housing element program.

(2) (A) If the local jurisdiction has not adopted a housing element for the current planning period within 90 days of the deadline established by Section 65588 or the adopted housing element is not in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 within 180 days of the deadline established by Section 65588, "lower residential density" means any of the following:

(i) For residentially zoned sites, a density that is lower than 80 percent of the maximum allowable residential density for that parcel.

(ii) For sites on which residential and nonresidential uses are permitted, a use that would result in the development of fewer than 80 percent of the number of residential units that would be allowed under the maximum residential density for the site.

(B) If the council of governments fails to complete a final housing need allocation pursuant to the deadlines established by Section 65584.05, then for purposes of this paragraph, the deadline pursuant to Section 65588 shall be extended by a time period equal to the number of days of delay incurred by the council of governments in completing the final housing need allocation.